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Suit Challenging Water District's Ad Valorem Property Tax Was Time-Barred Under the Validation Statutes

A challenge to a water district's increase in its ad valorem property tax was untimely under the 60-day statute of limitations in the validation statutes. [Coachella Valley Water District v. Superior Court \(Roberts\)](#), No. E074010 (4th Dist., March 9, 2021). Code of Civil Procedure sections 860-870 provide for accelerated procedures for determining the validity of certain bonds, assessments and agreements entered into by public agencies. Referred



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Coachella Valley Water District adopted a two-cent increase in its ad valorem property tax levied annually to satisfy its contractual obligations to the State Water Project (SWP). Roberts filed suit to invalidate the tax under provisions of the Water Code and the California Constitution (Propositions 13, 26, and 218) and to obtain a refund. The water district argued the entire action was time-barred because the validation statutes required Roberts to present his claims in a "reverse validation action" no later than 60 days after the water district adopted the tax. The appellate court agreed and ordered the case dismissed. The court began its analysis by noting that the validation statutes do not specify the matters to which they apply; rather, their procedures apply to "any matter which under any *other* law is authorized to be determined" under the Code of Civil Procedure. The court concluded that provisions of the County Water District Law empowering water districts to levy and collect taxes on "property within the district" and providing that an action "to determine the validity of an assessment, or of warrants, contracts, obligations, or evidences of indebtedness pursuant to [the County Water District Law] may be brought pursuant to [the validation statutes]" constituted such authorizing law. Roberts argued that this wasn't the case because the word "tax" did not appear in the provisions authorizing a validation action. The court found this focus unduly narrow in light of "the County Water District Law's overarching tax scheme and the obvious interplay [between] provisions authorizing imposition of property taxes and those making the validation procedures applicable to any county water district 'assessment.'" The court relied on another provision of the Water District Law defining an "assessment" in this context as including setting a tax rate based on the value of property. The tax at issue, it concluded, was "clearly such an 'assessment.'" Roberts also contended that even if

his claims were barred under the validation statutes, they were still valid as a taxpayer action under Code of Civil Procedure section 526a because he challenged both imposition of the tax and the act of expending the allegedly illegal funds. The court disagreed, observing that a validation action and a taxpayer action were not mutually exclusive. Both types of claims could be pursued provided they were filed within the 60-day period governing a validation action. The "crux of Roberts' claim," the court said, was "a challenge to the validity of the SWP tax." Roberts' taxpayer claim was based on his allegation that the SWP tax was invalid; hence "Roberts' imposition and spending challenges [were] two sides of the same coin." The court likewise found no merit in Roberts' argument that imposing the 60-day statute of limitations in this setting would effectively immunize the water district's future tax rates from judicial scrutiny. It pointed out that a water district must fix the SWP tax rate anew annually, thereby creating a new "assessment" the validity of which could be challenged under the validation statutes. And in fact, the court noted, Roberts had already filed a timely reverse validation action against the SWP tax rate the water district fixed for the following fiscal year.

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