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California Supreme Court Removes Anti-Tax Measure from November 2024 Ballot

On June 20, 2024, a unanimous California Supreme Court ordered the removal of the self-styled “Taxpayer Protection and Government Accountability Act,” an initiative measure backed by business and taxpayer rights groups, from California’s November 2024 ballot.

The Court took the rare step of striking the initiative before it appeared on the ballot on the grounds that it would have brought about a fundamental revision of California’s Constitution rather than merely amending tax-related provisions within the State’s existing Constitutional framework. The Court held that such fundamental changes could only be submitted to voters if approved by two-thirds majorities in both houses of the State Legislature or through a Constitutional convention.

The initiative would have required virtually any tax imposed by any State or local agency to be submitted to voters (with retroactive effect to January 1, 2022), and it would have narrowed the definition of “exempt charges” to fees which do not exceed the actual (as opposed to reasonable) costs to the local government of providing a service or product to taxpayers. Moreover, the initiative would have shifted the burden to the State and local governments to demonstrate by clear and convincing evidence—a very high legal standard—that an exempt charge met the actual costs standard.

In support of its decision striking the initiative, the Court described a litany of fundamental changes to California’s governing framework that would have resulted from the adoption of the initiative, such as: (i) preventing the State Legislature from responding to emergencies by raising taxes; (ii) subjecting every fee, including overdue book fees and picnic table rental fees, to voter referendum; and (iii) preventing the State Legislature and local governing boards from delegating fee authority to agencies or departments.

The removal of the initiative from the ballot was lauded by local agencies, which asserted that it would have fundamentally altered their ability to budget effectively and provide essential services to citizens. Nonetheless, the demise of the initiative is one battle in a longer-term war and it is certain that business and taxpayer rights groups will try to place additional initiatives limiting taxes on future ballots in California as early as 2026.

