

General Tax Initiative Measure Can Be Submitted to Voters at a Special Election

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Proposition 218 does not preclude cities from submitting to the electorate at a special election an initiative measure that proposes a general tax.

In *California Cannabis Coalition v. City of Upland*, the California Supreme Court considered a challenge to the city's refusal to order a special election for an initiative measure that would, among other things, require medical marijuana dispensaries to pay an annual licensing and inspection fee. After the initiative petition was signed by 15 percent of the city's registered voters, state law compelled the city council to either (1) adopt the initiative without alteration, (2) immediately order a special election, or (3) order an agency report and, once the report was presented, adopt the initiative or order a special election. The city council ordered a report on the initiative and, ultimately, concluded that the proposed fee constituted a general tax that, under Proposition 218, must be submitted to the voters at a regularly scheduled general election for councilmembers.

The Court ruled that the city was required to order a special election for the initiative measure or adopt the initiative without alteration. Based on the text, history, and legal context of the relevant constitutional and statutory provisions, the Court concluded that Proposition 218's requirement that general taxes must be submitted to the voters at a regularly scheduled general election applies only to local governments and not to the electorate's initiative power. The Court reasoned that a contrary conclusion would undermine "our longstanding and consistent view" that the courts should protect and liberally construe the initiative power.

If you have any questions, please contact **Craig Steele** or **Brendan Kearns** in our Public Law Department.