

Measures Adopting Municipal Water Rates Cannot Be Challenged by the Referendum Process

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Measures adopting municipal water rates and other local utility charges are exempt from voter referendum. The California Constitution grants voters the power of referendum, which is the process of approving or rejecting a law enacted by a local agency's elected representatives before the law becomes effective. To prevent the disruption of essential government operations, the California Constitution exempts the adoption of certain kinds of laws, including "statutes providing for tax levies," from the referendum process.

In *Wilde v. City of Dunsmuir* (August 3, 2020), the California Supreme Court concluded that measures establishing municipal water rates and other local utility charges are "statutes providing for tax levies," making them exempt from voter referendum. In 2016, the City of Dunsmuir adopted a resolution to establish water rates to fund a five-year plan for a \$15 million upgrade to the City's water service infrastructure. Leslie Wilde ("Wilde") submitted a referendum petition seeking to overturn the resolution, but the City declined to place the referendum on the ballot. Wilde filed a lawsuit to compel the City to place the referendum on the ballot, arguing that Propositions 26 and 218 make such charges subject to voter referendum.

Propositions 26 and 218 are voter approved amendments to the California Constitution, which strictly limit local agencies' power to impose or increase local levies. As relevant here, Propositions 26 and 218 define taxes to exclude water and other utility charges. For this reason, Wilde argued that such charges are not exempt from the voter referendum process as "tax levies."

The Court disagreed and held that Propositions 26 and 218 do not apply to the referendum process. Therefore, for the purposes of the voter referendum power, measures adopting water and other utility charges are "statutes providing for tax levies" and are exempt from referendum.

If you have any questions about utility charges or how this decision may impact your jurisdiction, please contact **Trisha Ortiz** or **Robin Harris**.