

SUPREME COURT OF CALIFORNIA

Bighorn-Desert View Water Agency v. Verjil

39 Cal. 4th 205, 46 Cal. Rptr. 3d 73, 138 P.3d 220 (2006) · No. S127535 · Decided July 24, 2006

SUMMARY

The California Supreme Court held that article XIII C, section 3 of the California Constitution authorizes local voter initiatives to reduce or repeal a public water agency's water delivery rates and charges. The provision does not authorize an initiative requiring voter approval for future increases in water charges or the imposition of new charges. Because the proposed initiative combined authorized rate reductions with an unauthorized voter-approval requirement, it was properly withheld from the ballot.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Kennard, J.; George, C.J.; Baxter, J.; Werdegar, J.; Chin, J.; Moreno, J.; Corrigan, J.
JURISDICTION	California
DECIDED	July 24, 2006
DOCKET	S127535
DISPOSITION	affirmed
PROCEDURAL POSTURE	The water agency sought declaratory relief barring a qualified local initiative that would reduce its water rates and charges and require voter approval for future increases or new charges. The superior court entered judgment for the agency, and the Court of Appeal affirmed. The Supreme Court granted review after remanding the matter for reconsideration in light of Richmond v. Shasta Community Services Dist.
STANDARD OF REVIEW	De novo review of the validity of the initiative on its face and interpretation of the California Constitution; the relevant facts were undisputed and the issue was decided as a matter of law.
PRECEDENTIAL VALUE	Published California Supreme Court opinion; binding statewide precedent.
PARTIES	E.W. Kelley, Real Party in Interest, Cross-complainant and Appellant v. Bighorn-Desert View Water Agency, Plaintiff, Cross-defendant and

TOPICS

election law municipal law constitutional law statutory interpretation legislative intent

PRACTICE AREAS

constitutional law municipal law election law water law statutory interpretation

QUESTIONS PRESENTED

1. Whether article XIII C, section 3 of the California Constitution authorizes local voters to use the initiative power to reduce a public water agency's ongoing water delivery rates and charges.
2. Whether consumption-based and fixed monthly charges for ongoing domestic water delivery are fees or charges within the meaning of article XIII C, section 3.
3. Whether article XIII C, section 3 authorizes an initiative requiring voter approval before a water agency may increase existing water charges or impose new charges.
4. Whether the initiative could be submitted to voters even though one significant provision was invalid.

HOLDINGS

1. Article XIII C, section 3 authorizes local voters to use the initiative power to reduce or repeal a public water agency's ongoing water rates and other water delivery charges.
2. Both consumption-based water rates and fixed monthly water delivery charges are fees or charges within the meaning of article XIII C, section 3.
3. Article XIII C, section 3 does not authorize an initiative to require voter approval before a public water agency increases existing water delivery charges or imposes new charges. The initiative was therefore invalid in that respect.
4. Because a significant part of the initiative was invalid, the entire measure could not be submitted to the voters.

KEY QUOTATIONS

“Therefore, section 3 of article XIII C establishes that the initiative power “shall not be prohibited or otherwise limited in matters of reducing or repealing” a public agency's water delivery charges.” (39 Cal. 4th 221)

“Nothing in section 3 of California Constitution article XIII C authorizes initiative measures that impose voter-approval requirements for future increases in fees or charges.” (39 Cal. 4th 224)

“When a significant part of a proposed initiative measure is invalid, the measure may not be submitted to the voters.” (39 Cal. 4th 228)

FACTUAL BACKGROUND

Bighorn-Desert View Water Agency provides domestic water service in San Bernardino County and charges customers a consumption-based water rate and fixed monthly charges. E.W. Kelley proposed an initiative to reduce those charges and to require voter approval for any future increase or new water charge. After the initiative qualified, the agency refused to adopt it or place it on the ballot, asserting that its governing board had exclusive authority to set rates sufficient to cover agency costs.

PROCEDURAL HISTORY

Kelley qualified the initiative for the ballot. Rather than adopt it or submit it to voters, the agency sued for declaratory relief. The superior court held that the electorate lacked authority to affect the agency's rates and charges; the Court of Appeal affirmed, initially and again after reconsideration. The Supreme Court affirmed the Court of Appeal's judgment, but on different reasoning.

DISPOSITION

affirmed

CASES CITED

- Richmond v. Shasta Community Services Dist., 32 Cal. 4th 409, 83 P.3d 518 (2004)
- Delaney v. Superior Court, 50 Cal. 3d 785, 798, 789 P.2d 934 (1990)
- DuBois v. Workers' Comp. Appeals Bd., 5 Cal. 4th 382, 388, 853 P.2d 978 (1993)
- People v. Birkett, 21 Cal. 4th 226, 243-244, 980 P.2d 912 (1999)
- People v. Canty, 32 Cal. 4th 1266, 1277, 90 P.3d 1168 (2004)
- People v. Roberge, 29 Cal. 4th 979, 987, 62 P.3d 97 (2003)
- In re Bryce C., 12 Cal. 4th 226, 231, 906 P.2d 1275 (1995)
- Howard Jarvis Taxpayers Assn. v. City of Roseville, 97 Cal. App. 4th 637, 645, 119 Cal. Rptr. 2d 91 (2002)
- Hassan v. Mercy American River Hospital, 31 Cal. 4th 709, 717, 74 P.3d 726 (2003)
- Utility Audit Co., Inc. v. City of Los Angeles, 112 Cal. App. 4th 950, 957, 5 Cal. Rptr. 3d 520 (2003)
- DeVita v. County of Napa, 9 Cal. 4th 763, 775-777, 788, 792-793, 889 P.2d 1019 (1995)
- Committee of Seven Thousand v. Superior Court, 45 Cal. 3d 491, 511, 754 P.2d 708 (1988)
- City of Huntington Beach v. Board of Administration, 4 Cal. 4th 462, 468, 841 P.2d 1034 (1992)
- Cooley v. Superior Court, 29 Cal. 4th 228, 248, 57 P.3d 654 (2002)
- Garcia v. McCutchen, 16 Cal. 4th 469, 476, 940 P.2d 906 (1997)
- Pacific Southwest Realty Co. v. County of Los Angeles, 1 Cal. 4th 155, 167, 820 P.2d 1046 (1991)
- Rossi v. Brown, 9 Cal. 4th 688, 697, 699-705, 889 P.2d 557 (1995)
- Mobilepark West Homeowners Assn. v. Escondido Mobilepark West, 35 Cal. App. 4th 32, 40-41, 41 Cal. Rptr. 2d 393 (1995)
- Howard Jarvis Taxpayers Assn. v. City of Los Angeles, 85 Cal. App. 4th 79, 101 Cal. Rptr. 2d 905 (2000)
- American Federation of Labor v. Eu, 36 Cal. 3d 687, 715-716, 686 P.2d 609 (1984)
- City and County of San Francisco v. Patterson, 202 Cal. App. 3d 95, 105-106, 248 Cal. Rptr. 290 (1988)

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