

OFFICE OF THE ATTORNEY GENERAL
State of California

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OPINION

No. CV 73/253

OF

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The Honorable Ralph B. Jordan, County Counsel,
County of Kern, has requested an opinion on the following
question:

Does the Property Tax Relief Act of 1972, as
amended, authorize a local agency, after annexing territory
where an election is not required to effectuate the annex-
ation, to levy a tax rate in the annexed territory equal to
that within the remainder of the local agency without a tax
rate election?

The conclusion is:

The Property Tax Relief Act of 1972, as amended,
authorizes a local agency, after annexing territory where
an election is not required to effectuate the annexation,
to levy a tax rate in the annexed territory equal to that
within the remainder of the local agency without a tax rate
election.

ANALYSIS

On December 26, 1972, the Property Tax Relief Act of 1972 was enacted into law as Stats. 1972, ch. 1406, effective immediately as an urgency measure. It soon became apparent to the Legislature and many people affected that the act had many defects and omissions. Among the latter was the effect that the act would have on property tax rates when a governmental reorganization, such as an annexation, should occur.

In an effort to provide for such omissions and also to correct any defect in the act as it related to local agencies, the Task Force on Rate Limits and Costs was formed to give recommendations to the Assembly Revenue and Taxation Committee. Portions of Stats. 1973, ch. 358, which was enacted on August 31, 1973, to take effect immediately as an urgency measure were the product of this task force. Stats. 1973, ch. 358, added article 7 of chapter 3 to part 4 of division 1 of the Revenue and Taxation Code. Article 7 consists of the following sections and reads as follows:

"Article 7. Governmental Reorganization: Effect on Maximum Property Tax Rates

"2295. As used in this article 'governmental reorganization' means any formation of, annexation to, detachment from consolidation of, dissolution of, or other territorial adjustment in the boundaries of, a local agency. 'Governmental reorganization' includes those boundary adjustments of local agencies which are not subject to the provisions of Chapter 6.6 (commencing with Section 54773) of Part 1, Division 2, Title 5 or of Division 1 (commencing with Section 56000) of Title 6 of the Government Code, as well as those boundary adjustments of local agencies which are subject to such provisions of the Government Code.

"2296. Except as provided in Section 2263.2, whenever a governmental reorganization occurs, the maximum property tax rate for any local agency whose boundaries are changed by such reorganization shall be determined as provided in this article.

"2297. In the event that the boundaries of a local agency are altered by a governmental reorganization, the maximum property tax rate for such an agency, after the reorganization

has occurred, shall continue to be the maximum property tax rate which had been established, pursuant to the provisions of this article or of Article 4, for such agency prior to the reorganization.

"2298. In the event that a governmental reorganization makes it necessary or desirable for a local agency to exceed the maximum property tax rate provided in Section 2297, the governing body of such agency shall call an election pursuant to the provisions of Article 6 to establish a new maximum property tax rate for such agency. Such an election may be consolidated with any election which may be called on the proposed governmental reorganization.

"2299. In the event that an election is required in order to approve and effectuate a governmental reorganization, the impartial analysis of the governmental reorganization prepared for the ballot pamphlet shall indicate the maximum property tax rate which will be applicable in the event the governmental reorganization is approved."

Section 2295, Revenue and Taxation Code (all references to code sections hereinafter will be to the Revenue and Taxation Code), includes annexations within the meaning of reorganization. Section 2296 provides that except as provided in section 2263.2, which is not applicable here, the maximum tax rate of a local agency whose boundaries have been changed by reorganization shall be determined in accordance with article 7. Section 2296, which is a part of article 7, then literally provides that after a reorganization the maximum tax rate for the reorganized local agency shall be that rate which was in effect for the local agency prior to the reorganization.

The language of section 2297 is clear and unequivocal. There is nothing in the section which even infers that an election by the inhabitants, voters or property owners of the newly annexed territory is a prerequisite to the setting of a new tax rate for the annexed territory. That this result was intended is manifested by the presence in the same article of section 2299, which provides that in the event an election is required to effectuate a reorganization, then the annexation ballot pamphlet shall indicate the maximum property tax rate which would be applicable in the event

the governmental reorganization is approved by the voters. If section 2297 was not meant to cover reorganizations not requiring voter approval and section 2299 to cover reorganizations requiring voter approval, the introductory clause of section 2299 would be meaningless. Moreover, section 2298 provides additional protection for the annexed territory in that the maximum property tax rate therein cannot exceed that which was previously permitted for the annexing local agency where the annexation was accomplished without an election.

That the expressed intent and purpose of the act, as amended, was to establish maximum property tax rates and to give the voters in local agencies a more active role in the fiscal affairs of such agencies is beyond dispute. Section 2226. In carrying out this intent, the Legislature established a taxation plan whereby the tax rate in effect for the years 1971-72 or 1972-73 became the basis for establishing the maximum tax rate. Sections 2261, 2262 and 2263. Article 7, which sets forth the procedure for setting maximum property tax rates where governmental reorganizations have been effectuated, is consistent with the basic legislative policy. It does not permit any increase in the tax rate beyond the basic maximum tax rate without an election, even in the situation where governmental reorganization was effectuated without an election. In enacting section 2297, the Legislature undoubtedly was mindful of the fact that a governmental reorganization could be accomplished without an election under certain circumstances. Furthermore, an apparent salutary effect of the presence of section 2297 would be to encourage governmental reorganizations without an election where an election is not necessary. The obvious result of reorganizations such as consolidation and annexation would be the more effective use of tax revenue by the elimination of duplication or overlap in governmental entities, thereby fulfilling the legislative goals of the act, as amended. Statutory rules of construction require that the scope and purpose of statutory provisions be determined from the ordinary meaning of the language employed in the particular section, Pac. Gas & E. Co. v. Shasta Dam, etc. Dist., 135 Cal.App.2d 463 (1955), and from the whole act rather than from isolated parts or words, Mazza v. Austin, 25 Cal.App.2d 85 (1938). The conclusion stated herein fully embraces these rules of statutory construction.
