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AB-2376 Civil actions: provisional remedies: injunctions. (2017-2018)

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Date Published: 09/10/2018 09:00 PM

Assembly Bill No. 2376

CHAPTER 319

An act to amend Section 526a of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 10, 2018. Filed with Secretary of State September 10, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2376, Mark Stone. Civil actions: provisional remedies: injunctions.

Existing law provides that a citizen resident or corporation who is assessed for and is liable to pay, or within one year before the commencement of the action, has paid, a tax in a county, town, city, or city and county may maintain an action to obtain a judgment restraining and preventing an illegal expenditure of, waste of, or injury to the estate, funds, or other property of the political subdivision, as specified. The California Supreme Court in *Weatherford v. City of San Rafael* (2017) 2 Cal.5th 1241 held that this tax was not restricted to payment of a property tax.

This bill would expand the scope of an action described above by permitting the action to be maintained against a "local agency," defined as a city, town, county, or city and county, or a district, public authority, or any other political subdivision in the state. The bill would allow any resident of the local agency to maintain an action under those circumstances. The bill would further clarify that a tax that funds the defendant local agency is sufficient to confer standing as a taxpayer, including, but not limited to, an income tax, a sales and use tax or transaction and use tax initially paid by a consumer to a retailer, a property tax, or a business license tax. The bill would define "resident" for these purposes to mean a person who lives, works, owns property, or attends school in the jurisdiction of the defendant local agency.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 526a of the Code of Civil Procedure is amended to read:

526a. (a) An action to obtain a judgment, restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property of a local agency, may be maintained against any officer thereof, or any agent, or other person, acting in its behalf, either by a resident therein, or by a corporation, who is assessed for and is liable to pay, or, within one year before the commencement of the action, has paid, a tax that funds the defendant local agency, including, but not limited to, the following:

- (1) An income tax.
- (2) A sales and use tax or transaction and use tax initially paid by a consumer to a retailer.

(3) A property tax, including a property tax paid by a tenant or lessee to a landlord or lessor pursuant to the terms of a written lease.

(4) A business license tax.

(b) This section does not affect any right of action in favor of a local agency, or any public officer; provided, that no injunction shall be granted restraining the offering for sale, sale, or issuance of any municipal bonds for public improvements or public utilities.

(c) An action brought pursuant to this section to enjoin a public improvement project shall take special precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(d) For purposes of this section, the following definitions apply:

(1) "Local agency" means a city, town, county, or city and county, or a district, public authority, or any other political subdivision in the state.

(2) "Resident" means a person who lives, works, owns property, or attends school in the jurisdiction of the defendant local agency.