

Bolt v City of Lansing

459 Mich 152 (1998)

Taken from Michigan Municipal League website, http://www.mml.org/legal/ldf_top25/ldf_3.htm

Background:

A property owner challenged Lansing's newly imposed stormwater utility fee, arguing that the fee was a tax levied without voter approval in violation of the Headlee Amendment to the Michigan Constitution (Mich Const 1963, art 9, sections 25 and 31). Lansing had imposed the stormwater fee on virtually all properties in the city to pay for the city's stormwater and sanitary sewer separation project costs as permitted under state statute.

Why did the LDF get involved?

At issue was whether municipalities could fund certain costs as a fee imposed as a regulation or as a tax requiring voter approval under the Headlee Amendment.

What was the outcome?

The Michigan Supreme Court ruled that the stormwater service charge imposed by Lansing was unconstitutional and void on the basis that it was a tax for which voter approval was required and not a valid use fee. The Court established three criteria for distinguishing between a fee and a tax: 1) a user fee must serve a regulatory purpose rather than a revenue-raising purpose; 2) a user fee must be proportionate to the necessary costs of the service; and 3) a user fee must be voluntary—property owners must be able to refuse or limit their use of the commodity or service. The Court found that the charge failed to satisfy the first and second criteria.