

Nev. court deals setback to commerce tax repeal effort

By Michelle Rindels, AP

An effort to repeal the state's new commerce tax suffered a likely fatal setback on Wednesday after the Nevada Supreme Court ruled a petition that's been circulating for several months isn't fit for the ballot.

Justices said in their order that the summary of the measure's effect, which appears on the signature-gathering material, is inadequate because it doesn't tell voters that the measure could unbalance the state budget by tens of millions of dollars. They ordered that signatures collected so far are invalid.

"By ignoring the significant effect the referendum would have on the balanced budget mandate, the description of effect suggests that no such effect exists and is thus materially misleading," Justice Nancy Saitta wrote in concurring with the full court's ruling. "The petition's signers have been both deceived and misled."

The ruling is a major setback for the RIP Commerce Tax group led by Republican Controller Ron Knecht, even though justices sided with his group on some arguments. RIP Commerce Tax had gathered about 20,000 signatures as of early May, and would have to start over again to collect the more than 55,000 signatures needed by June 21 to qualify the referendum for the ballot.

Knecht said he disagreed with the court's assessment that the repeal would unbalance the state budget. He said the Legislature will pass a budget late next spring that can account for the estimated \$60 million that the state wouldn't collect next summer.

“With all due respect, we believe the Nevada Supreme Court’s decision reflects a misunderstanding of the facts about the effect of a commerce tax repeal,” he said in a statement. “We are evaluating our options for clarifying these matters, resolving the court case and getting the required signatures.”

Defenders of the tax said they were pleased with the decision.

“We’ve argued all along that the RIP Commerce Tax petition would have grave and lasting consequences to the State of Nevada,” said Matt Griffin, an attorney for the Coalition for Nevada’s Future, a group funded by casinos and other business groups. “Nevada’s parents and school children can celebrate today’s decision.”

The commerce tax, which applies to businesses that make more than \$4 million each year in Nevada revenue, passed last year as a way to pay for new education initiatives. Opponents said it was a betrayal after voters in 2014 overwhelmingly rejected a margins tax on businesses.

Supporters of the commerce tax were trying to stop the measure before it qualifies for the ballot because it would have consequences whether or not voters pass it. If voters approved the referendum, the tax would be abolished. But if they rejected it, the tax would be frozen in statute until another statewide vote on it.

Commerce tax proponents said that prevents the Legislature from fixing flaws and adjusting rates. Commerce tax foes contend that’s a good thing and would prevent lawmakers from expanding the tax to smaller businesses.