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**FILED**  
San Francisco County Superior Court

JUN 11 2019

CLERK OF THE COURT  
BY: [Signature]  
Deputy Clerk

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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
13 FOR THE COUNTY OF SAN FRANCISCO

14  
15 RANDALL WHITNEY, )  
16 Petitioner, )  
17 vs. )  
18 METROPOLITAN TRANSPORTATION )  
19 COMMISSION and DOES 1 through 40, )  
inclusive, )  
20 Defendants. )  
21

Case No. CPF 18-516276  
[PROPOSED] ORDER GRANTING  
DEFENDANT METROPOLITAN  
TRANSPORTATION COMMISSION'S  
MOTION FOR JUDGMENT ON THE  
PLEADINGS  
Date: June 11, 2019  
Time: 9:30 a.m.  
Dept.: 302  
Reservation No. 04260523-11

22  
23 On June 11, 2019, Defendant Metropolitan Transportation Commission's ("MTC")  
24 Motion for Judgment on the Pleadings came on for hearing. Having considered the papers filed  
25 in support of and in opposition to the demurrer and the argument of counsel, the Court rules as  
26 follows:

27 Defendant MTC's motion for judgment on the pleadings is granted. The California State  
28 Legislature imposed the bridge toll increase in the San Francisco Bay Area by passing SB 595, of

1 which the Court takes judicial notice. (RJN, Exh. C; *see also* Sts. & Hy. Code §§ 30916, 30923.)  
2 Under Article XIII C of the California Constitution, "impose" means "enact" or "establish" and  
3 does not include the collection of the alleged "tax." (*See Cal. Cannabis Coalition v. City of*  
4 *Upland* (2017) 3 Cal.5th 924, 944 n.17 ["'impose' most plausibly means to establish or enact, and  
5 article XIII C, section 2 applies only if it is the local government doing so."]; *Webb v. City of*  
6 *Riverside* (2018) 23 Cal.App.5th 244, 258 ["A tax is imposed when first enacted."].) By statute,  
7 MTC's responsibility merely consists of overseeing transportation projects funded by the bridge  
8 toll revenues after they are collected and preparing a summary of the expenditure plan under  
9 Regional Measure 3. (Sts. & Hy. Code §§ 30914.7, 30923(d).) Because the Legislature and not  
10 MTC imposed the tax, Article XIII C of the California Constitution is inapplicable as the  
11 Legislature is not a local government. (*See* Cal. Const. art. XIII C, § 1(e) [defining tax as "any  
12 levy, charge, or exaction of any kind imposed by a local government"] [emphasis added].) Thus,  
13 Petitioner Randall Whitney's first three causes of action – predicated on this article's two-thirds  
14 vote requirement – must fail.

15         Petitioner's conflation of MTC with the Bay Area Toll Authority (BATA) does nothing  
16 to aid his argument because even if MTC were charged with BATA's duties, BATA's discretion  
17 in implementing the toll increase was limited to determining the amount of the increase, deciding  
18 when the election would be held, and authoring the ballot question. (Sts. & Hy. Code  
19 §§ 30916(c)(1), 30923(c).) Despite these limited areas of discretion, BATA was required to  
20 carry out the increase enacted by the Legislature; BATA did not itself impose the increase.  
21 (*See id.* § 30916(c)(1) ["[BATA] shall increase the base toll rate for vehicles crossing the  
22 bridges."]. [emphasis added].)

23


24             IT IS SO ORDERED.

25

26 Dated: June 11, 2019

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Hon. Ethan P. Schulman  
Superior Court Judge