

Taxpayer standing in *Taking Offense* and *OSPD v. Bonta*

Overview

The California Supreme Court looks set to resolve a question about taxpayer standing in *Taking Offense v. State of California* (S270535) and *Office of the State Public Defender v. Bonta* (S284496): does the common law recognize taxpayer standing actions against state officials? If not, taxpayers may lack standing to sue state officials at all. Although California grants express statutory permission for taxpayers to sue any *local* entity, there is no parallel statutory grant for suits against state actors. Thus far, most authorities have assumed that common-law taxpayer standing also exists against state officials. But the issue has never been settled with any real analysis, and now the state high court may provide an answer. In this article we explain why it remains unclear whether taxpayers have standing to sue the state, and why we think they should.

Analysis

The standing issue in *Taking Offense* and *OSPD v. Bonta*

The underlying issues in these two cases are unimportant to the standing question we focus on here. The taxpayer standing question arose in *Taking Offense*, where the court directed supplemental briefing on two questions, the first of which frames our standing issue:

- Whether California recognizes a common law taxpayer standing doctrine to bring actions against state officials. In addressing this issue, the parties are asked to address, among other authority that may be relevant, the following: *Gogerty v. Coachella Valley Junior College Dist.* (1962) 57 Cal.2d 727, 730; *Ahlgren v. Carr* (1962) 209 Cal.App.2d 248, 252-254; *California State Employees' Assn. v. Williams* (1970) 7 Cal.App.3d 390, 395; *Chodosh v. Commission on Judicial Performance* (2022) 81 Cal.App.5th 248, 268.

The court has since deferred action in *OSPD v. Bonta* “pending consideration and disposition of a related issue in *Taking Offense v. State of California*, S270535, or pending further order of the court.” Thus, the two cases are linked by the standing issue, and both decisions may turn on it. *Taking Offense* was argued and submitted on May 6, 2025 — so the first week of August is the earliest to expect a decision.

Taxpayer standing against the state remains unclear

The problem stems from the few cases that address the issue of taxpayer standing against state officials: not one is a beacon of clarity. Just two cases provide any analysis of this issue. The only California Supreme Court case on point, *Gogerty v. Coachella Val. Jr. College Dist.*, provides little reasoning and relies on weak authority for its conclusion.^[1] In the other decision, *Ahlgren v. Carr*, the Court of Appeal fares no better.^[2] Yet on this scant authority courts have long assumed that this question is settled law.

The state high court may use *Taking Offense* and *OSPD* to provide a real answer on taxpayer standing to sue state officials. The court should conclude that it does: stare decisis counsels in favor of recognizing this standing, common-law standing is easy to establish, this standing is proper for courts of general jurisdiction like California’s constitutional courts, and maxims of jurisprudence support taxpayer standing against state officials.

The key cases: *Gogerty* and *Ahlgren*

The lack of clarity on common-law taxpayer standing flows from the brisk treatment of the question in the only two cases that discuss it at all.

In *Gogerty* the trial court sustained a demurrer partly on grounds that plaintiff lacked standing as an individual citizen and taxpayer to sue the defendant, a state junior college district. On review, the California Supreme Court reversed, answering: “Yes. . . . A taxpayer may sue a governmental body in a representative capacity in cases involving fraud, collusion, ultra vires, or failure on the part of the governmental body to perform a duty specifically enjoined.”^[3] But the opinion cited a number of cases that did *not* expressly involve state officials or state entities — all

addressed local entities.^[4] Nor did the opinion distinguish between local and state governmental bodies.

The defendants in *Ahlgren* were state officials, so it is the only case that directly confronted the distinction between standing to sue municipal and state entities. The Court of Appeal noted that “whether a taxpayer has a sufficient interest to maintain an action against state officers to enjoin allegedly improper expenditures has never been directly decided in California though actions have been brought by taxpayers and have proceeded through the trial and appellate courts without that question being raised.”^[5] Despite that absence of authority, the court concluded that “the great weight of authority supports the right of a taxpayer to bring an action to enjoin the alleged illegal expenditure of public moneys by a state official.”^[6] Ever since, cases have cited *Ahlgren* for its conclusion on taxpayer standing against state officials.^[7]

This state of the law leaves the California Supreme Court free to reaffirm the existence of taxpayer standing against state officials on the principles of stare decisis, the low bar for common-law standing (especially in general-jurisdiction state courts), and the maxims of jurisprudence. Those principles all reinforce a conclusion that *Gogerty* and *Ahlgren* were right and should be upheld.

Stare decisis favors recognizing taxpayer standing against state officials

Because *Gogerty* has remained undisturbed since 1962, stare decisis counsels against overturning its conclusion favoring taxpayer standing against state officials. “It is, of course, a fundamental jurisprudential policy that prior applicable precedent usually must be followed even though the case, if considered anew, might be decided differently by the current justices.”^[8] This doctrine of stare decisis is based on core structural objectives of securing certainty, predictability, and stability in the law.^[9] In California, “this is especially true of judicial decisions establishing important constitutional rights upon which residents rely to protect their interests or those of others.”^[10] Standing is just such a right.

For over 70 years the state's courts have assumed that *Gogerty* and *Ahlgren* correctly state the law on taxpayer standing, and the principle is now well-established. The California Supreme Court itself has recognized how widespread this form of taxpayer standing is across state court systems: "As a broad proposition, state taxpayers have standing to challenge the legality of the expenditure of public funds by any governmental agency," noting that "unlike federal courts, most states permit such citizen-taxpayer suits even on nonfiscal issues."^[11]

The Court of Appeal has also treated this taxpayer standing issue as black-letter law: "It is settled that a taxpayer can bring suit against governmental bodies in California under either of two theories, one statutory, the other based upon the common law. . . . This common law theory applies not only to municipalities but to all governmental bodies."^[12] Witkin considers this issue settled, explaining that common-law taxpayer actions "could be brought against any government agency or official, state or local."^[13] So well-established is this standing that case law has extended Code of Civil Procedure section 526a to actions against state agencies and officials, "sometimes blurring the line between common law and statutory taxpayers' actions."^[14]

Since 1962 Californians and their courts have relied on taxpayer standing for suits against state officials. That long-established right should abide undisturbed. Its long history has produced no onslaught of taxpayer suits nor overwhelmed government functions. This is not one of those "appropriate and rare cases" where the issue is proper for reexamination and an about-face on decades of precedent.^[15] Stare decisis compels upholding *Gogerty*.

Common-law standing is easy to establish

Even if the court were to examine *Gogerty* anew, it should reach the same conclusion. Under California law, common-law standing is simple to show: the doctrine merely asks whether a plaintiff is sufficiently interested. Our state constitution has no case or controversy requirement imposing an independent jurisdictional limitation on our standing doctrine.^[16] The California concept of

standing contemplates only that the plaintiff show an entitlement to judicial action, separate from proof of the claim's substantive merits.^[17] As a sovereign state, California's power to set jurisdictional requirements for its constitutional courts is unquestioned, and California constitution article VI, section 10 broadly grants the state trial courts "original jurisdiction" in "all . . . causes" other than those reserved to the appellate courts.

Adopting federal-style case or controversy requirements for a state common-law action would be a "significant departure" from existing doctrine.^[18] Even the recent decision in *Limon v. Circle K Stores Inc.* (concluding that a plaintiff must be beneficially interested in the claim to have standing to pursue a damages claim) is consistent with existing California law requiring a measure of the plaintiff's actual personal interest.^[19] But to the extent *Limon* borrows for general use the standard for measuring that interest from federal law — which has an entirely different standing doctrine as explained below — the decision lacks support for doing so and is not informative on the issue of state taxpayer standing.

The fundamental distinction between the federal and California governments drives apart their standing doctrines. The federal government is one of limited, delegated, and enumerated powers, so federal courts are only being faithful to the federal constitution's limits on their jurisdiction when they limit standing to actual controversies and require injury in fact. Not so in California, which is a general government with plenary power to vest its state courts with broad powers to hear citizen complaints against government. So it has done, and so it must be: validating taxpayer standing shows faith to the state constitution. Borrowing federal standing doctrine would violate it.

Taxpayer standing against state officials is proper for state courts of general jurisdiction

Unlike the jurisdictional restrictions on the limited federal courts, California's constitution establishes courts of general jurisdiction with broad powers to hear any dispute cognizable by the common-law. Article VI, section 10 empowers the general jurisdiction superior court to adjudicate any "cause" brought before it.^[20] In contrast,

the limited jurisdiction federal courts require plaintiffs to prove the more onerous “irreducible constitutional minimum” of standing: plaintiff suffered an “injury in fact,” “that is fairly traceable to the challenged conduct of the defendant,” and “that is likely to be redressed by a favorable judicial decision.”^[21] Different courts, different standards.

Because California courts draw their power from the state constitution, in assessing standing they “are not bound by the ‘case or controversy’ requirement of article III of the United States Constitution” — they are instead guided only by “‘prudential’ considerations.”^[22] Accordingly, California courts “have liberally construed the standing requirements for taxpayers.”^[23] A plaintiff need show only a “real interest in the ultimate adjudication” sufficient reasonably to assure that all of the relevant facts and issues will be adequately presented.^[24] In this context, merely being a taxpayer is enough to establish standing. “As a broad proposition, state taxpayers have standing to challenge the legality of the expenditure of public funds by any governmental agency.”^[25] The status of taxpayer itself establishes “a sufficiently personal interest in the illegal expenditure of funds.”^[26] Thus, common-law taxpayer standing against state officials in state court is unlimited by any federal requirements.

California voters have recognized this difference in the state and federal standing doctrines: for example, they intentionally incorporated the federal version of standing in Proposition 64.^[27] That the voters needed to make federal standing apply in a specific instance makes clear that it does not apply by default. Instead, Code of Civil Procedure section 526a was intended to codify the opposite general rule: broad taxpayer standing against municipal officials. Between the more prudential California standard and the restrictive federal rule, generous common-law taxpayer standing against state officials best suits the wide reach of general jurisdiction courts.

Maxims of jurisprudence counsel in favor of taxpayer standing against state officials

Refusing to recognize common-law standing here leaves citizens without a forum to pursue a remedy, effectively reviving sovereign immunity. To say that a general jurisdiction court lacks power under law or equity to redress a grievance is rarely the right answer. “For every wrong there is a remedy.”^[28] Nor should Code of Civil Procedure section 526a be read to limit taxpayer standing to municipal acts — codifying one common-law principle does not eliminate any others.^[29] Neither did section 526a change the common-law rule to impose higher requirements.^[30] California often enacts statutes that are merely declaratory of existing law, codifying already-existing common law or another long-understood state of the law, and that indeed is how the California Supreme Court reads section 526a.^[31]

Recognizing common-law standing here is consistent with separation-of-powers principles. California standing jurisprudence is already sensitive to such considerations that can limit which parties should be entitled to seek relief.^[32] But here that argument proves too much: it would support invalidating section 526a because the legislature could not authorize standing to bring such suits if doing so would violate the divided powers doctrine. It potentially would also violate home rule by overriding charter city power to limit local government liability as a municipal affair. Instead, what governs here is not the interbranch or intergovernmental balance of power, but popular sovereignty: the citizen’s right to challenge government acts.

Finally, acknowledging state taxpayer standing furthers section 526a’s “primary purpose” of enabling citizens to contest governmental acts that otherwise would go unchallenged.^[33] Common-law standing furthers the same interest: “The interest of a taxpayer in suing a school district to enjoin wasteful expenditures is identical to that of the taxpayer suing a county government to enjoin waste.”^[34] Indeed, California courts have long sought to avoid potential obstacles to taxpayer standing.^[35] Thus, there is little reason today to disturb the long-accepted conclusion in *Gogerty*. It was right at the time, common-law taxpayer standing against state officials has proved banal in the intervening 70 years, and no reason exists to abolish it now.

Conclusion

In *Taking Offense*, the California Supreme Court has the opportunity to engage in the rigorous analysis absent from *Gogerty* and *Ahlgren*. Yet the court should reach the same conclusion that state taxpayers have common-law standing to sue state entities. California courts have assumed and applied this principle since 1962, and any court should exercise caution before upending decades of settled law. Common-law standing in state courts of general jurisdiction is easier to establish than the federal court equivalent — as it should be. The maxim favoring remedies, the purpose underlying both section 526a and common-law standing, and the state high court’s inherent power to develop the common law all counsel in favor of upholding the common-law taxpayer standing that has long endured in California. Reaffirming *Gogerty* only maintains the status quo, while overturning it arguably creates a new problem for the courts and the legislature to confront. Common-law taxpayer standing against state officials should be reaffirmed.

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1. (1962) 57 Cal.2d 727. ↑
2. (1962) 209 Cal.App.2d 248. ↑
3. *Gogerty v. Coachella Val. Jr. College Dist.* (1962) 57 Cal.2d 727, 730. ↑
4. *Silver v. City of Los Angeles* (1961) 57 Cal.2d 39, 40–41 (standing to sue a municipality); *Nickerson v. County of San Bernardino* (1918) 179 Cal. 518, 522 (discussing in dicta a court’s power in relation to a local board); *Dunn v. Long Beach L. & W. Co.* (1896) 114 Cal. 605, 609 (standing to sue a municipal board); *Schaefer v. Berinstein* (1956) 140 Cal.App.2d 278, 289 (taxpayer standing to sue in case where defendant was a city); *Pratt v. Security Trust & Savings Bank* (1936) 15 Cal.App.2d 630, 636 (taxpayer standing to sue city and municipal board). ↑

5. *Ahlgren*, 209 Cal.App.2d at 252. ↑
6. *Ahlgren*, 209 Cal.App.2d at 254. ↑
7. *California State Employees' Assn. v. Williams* (1970) 7 Cal.App.3d 390, 395 ("Plaintiff taxpayers have standing to maintain an equity suit to enjoin allegedly illegal expenditures"); *Chodosh v. Commission on Judicial Performance* (2022) 81 Cal.App.5th 248, 268 ("A taxpayer may bring suit against government bodies pursuant to Code of Civil Procedure section 526a and based on common law.") (quoting *California Taxpayers Action Network v. Taber Construction, Inc.* (2017) 12 Cal.App.5th 115, 141). ↑
8. *Moradi-Shalal v. Fireman's Fund Ins. Companies* (1988) 46 Cal.3d 287, 296.
↑
9. *Ibid.* ↑
10. *Cohen v. Superior Court* (2024) 102 Cal.App.5th 706, 717. ↑
11. *Carsten v. Psychology Examining Com.* (1980) 27 Cal.3d 793, 798. See also *California State Employees' Assn. v. Williams* (1970) 7 Cal.App.3d 390, 395 ("Plaintiff taxpayers have standing to maintain an equity suit to enjoin allegedly illegal expenditures.") (citing *Ahlgren*). ↑
12. *Los Altos Property Owners Assn. v. Hutcheon* (1977) 69 Cal.App.3d 22, 26. ↑
13. 4 Witkin, Cal. Proc. 6th Plead § 167 (2025) (citing numerous examples). ↑
14. *Ibid.* ↑
15. *In re Marriage of Shaban* (2001) 88 Cal.App.4th 398, 409. ↑
16. *Weatherford v. City of San Rafael* (2017) 2 Cal.5th 1241, 1247–48; *Grosset v. Wenaas* (2008) 42 Cal.4th 1100, 1117 n.13. ↑
17. *Jasmine Networks, Inc. v. Superior Court* (2009) 180 Cal.App.4th 980, 990.
↑

18. *Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal.4th 1134, 1164 n.13. ↑
19. (2022) 84 Cal.App.5th 671, 700. ↑
20. See *National Paint & Coatings Assn. v. State of California* (1997) 58 Cal.App.4th 753, 761 (rejecting claimed standing requirement based on federal citations; California constitution “contains no ‘case or controversy’ requirement”); *Connerly v. State Personnel Bd.* (2001) 92 Cal.App.4th 16, 29 (following *National Paint*). ↑
21. *Spokeo, Inc. v. Robins* (2016) 578 U.S. 330, 338 (citing *Lujan v. Defenders of Wildlife* (1992) 504 U.S. 555, 560). ↑
22. *Bilafer v. Bilafer* (2008) 161 Cal.App.4th 363, 370. ↑
23. *Torres v. City of Yorba Linda* (1993) 13 Cal.App.4th 1035, 1047. ↑
24. *California Water & Telephone Co. v. County of Los Angeles* (1967) 253 Cal.App.2d 16, 23. ↑
25. *Carsten v. Psychology Examining Com.* (1980) 27 Cal.3d 793, 798. ↑
26. *Harman v. City and County of San Francisco* (1972) 7 Cal.3d 150, 159. ↑
27. *Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 317 and 322. ↑
28. Civ. Code § 3523. ↑
29. See, e.g., *Estate of Duke* (2015) 61 Cal.4th 871, 882 (although the legislature had codified the historical grounds on which courts had authorized the admission of extrinsic evidence, the court “did not perceive its provisions to be a limitation on the continued development of the common law”). ↑
30. *White v. Davis* (1975) 13 Cal.3d 757, 764–65 (explaining that section 526a requires no showing of special damage to the particular taxpayer); *Weatherford v. San Rafael* (2017) 2 Cal.5th 1241, 1245 (taxpayer need only

allege that it has paid the assessed property tax to have standing to challenge that tax). ↑

31. See, e.g., *Crowe v. Boyle* (1920) 184 Cal. 117, 152 (noting that California’s “very liberal” rule permitting taxpayer suits “has now been crystallized” in section 526a); see also Stephen Mains, *California Taxpayers’ Suits; Suing State Officers under Section 526a of the Code of Civil Procedure* (1976) 28 Hastings L.J. 477, 486 (explaining that the California legislature codified in section 526a a court ruling allowing an individual taxpayer to seek injunctive relief against acts of local government officials). ↑
32. *Weatherford v. City of San Rafael* (2017) 2 Cal.5th 1241, 1247-48 ↑
33. *Blair v. Pitchess* (1971) 5 Cal.3d 258, 267-68. ↑
34. *Los Altos Property Owners Assn. v. Hutcheon* (1977) 69 Cal.App.3d 22, 30. ↑
35. See, e.g., *Mock v. City of Santa Rosa* (1899) 126 Cal.330, 345 (court declined to question a taxpayer-plaintiff’s ulterior motives and did not disqualify plaintiff based on a personal or political interest in the lawsuit). ↑