

Has Congress Imposed Unconstitutional Limits on Red States' Power to Cut Taxes?

Left-wing politicians, believing that the only constitutional limit on their power is their own desire to not allow a crisis to go to waste, have now deployed COVID-19 relief as a hostile weapon to deprive red states (conservative, low-tax states) of their sovereign right to lower their tax rates.

Not content with assisting blue state governors to evade the Constitution and to respond to the pandemic with a parade of authoritarianism that includes banning church services, banning singing in church, closing schools and driving businesses into bankruptcy, the left has launched a sneak attack on conservative states.

As the *Wall Street Journal* notes, "Democrats in Congress aren't satisfied with spending \$1.9 trillion to help blue states and union friends."

At the last moment, and without full disclosure and transparency, they have also decided to preclude red states from cutting state taxes.

Without debate and without so much as a "by your leave," Speaker Pelosi and Majority Leader Schumer, as part of increasingly emboldened efforts, now seek to transform America from being a constitutional republic committed to the rule of law into a fiefdom run by autocratic bureaucrats. These elite bureaucrats, who despise working class Americans, wish to prevent conservative states from being havens of common sense. The left is aghast at policies that would include lowering taxes when it makes sense to the state's citizenry or allowing

schools to reopen.

More specifically, as the *WSJ* article points out, a new autocratic provision added at the last minute:

limits how states and localities can use their \$360 billion windfall. States can use the loot to provide government services, cover revenue losses during the pandemic and “respond to the public health emergency” or “its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality.”

Much of the relief will invariably flow to government union pension funds, which are underfunded in states like Illinois, New Jersey and Connecticut [But t]he bill explicitly bars states from cutting taxes.

In essence this provision, which has now been codified and signed into law by President Biden, is designed to hammer red states into submission to the federal government itself and shows that the left has fallen all over itself to bow down to the federal government as the only god they are prepared to recognize and worship.

This outrageous provision is arguably unconstitutional since the Supreme Court has only recognized constrained limits on the taxing power of states. And while the high court has recognized that Congress may impose certain conditions on funds it gives to the states, it may not impose conditions so intrusive that it amounts to coercing the states to do its will.

In addition, this odious provision fails to pass the smell test. Exuding pungency, this provision conclusively shows that the left in Congress, rather than concentrating on helping the American people and focusing on advancing the ongoing medical efforts to deal with the pandemic, is intent on effectively

rewriting the Constitution and any limits on their power to control each and every aspect of our lives.

The American Center for Law and Justice's Government Affairs team is currently working with state and federal leaders to push back against this unconstitutional power grab. In addition, our team of lawyers is working to research the law and file amicus briefs where warranted.

Join with our efforts to ensure that our republican form of government stands against the determined efforts by the left in Congress to drive our republic to the eve of destruction.
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