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O'Brien v. New York State Com'r of Educ.

Supreme Court, Appellate Division, Third Department, New York - November 7, 2013 - N.Y.S.2d - 2013 N.Y. Slip Op. 07223

In 2010, School District's Board of Education approved a district-wide plan to reorganize and upgrade the School District's facilities at an expected cost of $9.9 million. The Board contemporaneously approved a resolution which, subject to voter approval, authorized the issuance of bonds to finance the facilities project and voted to hold a special election to obtain voter approval thereof.

Petitioner filed a petition with Commissioner of Education challenging the School District's approval of the bond resolution.

Petitioner's primary contention was that the facilities project and bond resolution violated the School District's constitutional and statutory debt limit, an argument that turns on how to calculate or classify indebtedness for debt limit purposes. That is, the issue is whether the authorization for bonds to be issued in the future to finance the facilities project are—for purposes of the debt limit calculation—included in the School District's indebtedness at the time they are authorized, as petitioner argued, or when the bonds are actually issued, as respondents contended.

The appeals court concluded that indebtedness is not incurred for purposes of the School District's debt limit until the authorized bonds are actually sold, i.e., issued.

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