

Bond Case Briefs

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UTILITY DISTRICTS - NORTH CAROLINA

City of Asheville v. State

Supreme Court of North Carolina - December 21, 2016 - S.E.2d - 2016 WL 7422422

City brought action against State and sewerage district, seeking injunctive relief and declaration that statute requiring city to transfer public water system to newly created sewerage district was unconstitutional.

The Superior Court granted summary judgment to city. State appealed. The Court of Appeals reversed in part. City filed notice of appeal and petitioned for discretionary review, which was allowed.

The Supreme Court of North Carolina held that:

- Statute was a local law, and
- Statute was related to health, sanitation, and abatement of nuisances, rendering it unconstitutional.

The purpose of the state constitution's prohibition on the enactment of any local, private, or special act or resolution concerning 14 prohibited subjects is to free the General Assembly from the enormous amount of petty detail which had been occupying its attention, to enable it to devote more time and attention to general legislation of statewide interest and concern, to strengthen local self-government by providing for the delegation of local matters by general laws to local authorities, and to require uniform and coordinated action under general laws on matters related to the welfare of the whole state.

Statute requiring one city to involuntarily transfer public water system to metropolitan sewerage district was local law, as required for statute to be unconstitutional local law. Even though legislation appeared to create class of municipalities to which involuntary transfer provisions applied, city was only municipality that would have ever been subject to transfer provisions, and legislation did not explain why every other municipality had right to decide whether to transfer water system or why expected benefits from transfer should not have been made available to other municipal water system customers.

Local statute requiring one city to involuntarily transfer public water system to metropolitan sewerage district had material connection to issues involving health, sanitation, and abatement of nuisances, and thus was unconstitutional local law. Stated purpose of legislation was to provide reliable, cost-effective, high-quality water and sewer services to affected customers, and city was required to comply with Drinking Water Act, located in public health chapter of statutes, and other health statutes regarding water quality.