

Bond Case Briefs

Municipal Finance Law Since 1971

POLITICAL SUBDIVISIONS - MISSOURI

Salamun v. Camden County Clerk

Supreme Court of Missouri, en banc - June 25, 2024 - S.W.3d - 2024 WL 3161573

Owners of property management companies along with their businesses brought separate actions against respective counties, business districts, and various county officials seeking a declaration that statutes creating advisory board and mandating that area business districts transfer tax public money to advisory board, a private nonprofit entity, facially violated section of Missouri Constitution which prohibits a political subdivision from granting public money to a private entity.

Following bench trials, the Circuit Court declared statutes unconstitutional and modified statutes by striking phrase "which shall be a nonprofit entity." Challengers filed separate appeals and briefs in the Supreme Court.

The Supreme Court held that:

- Statutes, on their faces, violated Missouri Constitution, and
- Valid statutory sections were so inseparably connected with and dependent upon void unconstitutional sections thereby precluding severance.

Members of advisory board were not publicly elected nor appointed by public authority, and thus advisory board was a private entity and could not be delegated to disburse public tax money, such that statutes, on their faces, requiring area business districts to grant lodging tax, which was public money, to advisory board, which was a private entity, violated section of Missouri Constitution prohibiting a political subdivision from granting public money to a private entity, even though composition of advisory board was prescribed by statute, and even though advisory board was tasked with spending tax revenue for public purposes.

Valid statutes creating and dissolving lake area business districts were so inseparably connected with and dependent upon void statutes creating a governing body and its ability to impose and use lodging tax, which violated section of Missouri Constitution prohibiting a political subdivision from granting public money to a private entity, that Supreme Court could not presume the legislature would have enacted remaining statutes without void statutes, thereby precluding severance of unconstitutional statutes so that the entire statutory scheme was required to be stricken; without advisory board, there could be no lodging tax or an entity to spend lodging tax, and without the lodging tax to be used to promote tourism in the lake area business districts there was no purpose for creating the lake area business districts and no need for a method to dissolve them.