

# **Bond Case Briefs**

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## **PUBLIC UTILITIES - ALABAMA**

### **Hilgers v. Jefferson County**

**Court of Civil Appeals of Alabama - June 21, 2013 - So.3d - 2013 WL 3155015**

County brought five separate actions to enforce liens for unpaid sewer-service charges against five separate parcels owned by property owners.

The Court of Civil Appeals held that:

- County's power to set sewer-service charges, to collect sewer-service charges, and to impose a lien against a parcel of property serviced by the sewer system for unpaid sewer-service charges was not limited to only that portion of those charges that arose from the repayment of the bonds issued pursuant to the Amendment to State constitution that provided county could incur bonded indebtedness exceeding the then three and one half percent debt limit in order to finance improvements to its sewer system or that arose from the reasonable expenses of extending, improving, operating, and maintaining the sewer system;
- State Act that provided county commission with the right to set sewer-service charges, state that unpaid sewer-service charges were a lien upon the real property to which sewer services were provided, and granted county commission the power to enforce such liens, provided a basis for county to impose a lien for unpaid sewer-service charges on properties provided sewer services;
- Liens for unpaid sewer-service charges against five separate parcels owned by property owners, including any portion that might have been intended to repay Kelly Act indebtedness, were properly imposed under the power provided to county under the Amendment and State Act; and
- Circuit Court was not required to rule on property owners' motion to compel before entering summary judgment in favor of County.

The Supreme Court made it clear in *Lunsford v. Jefferson County* that even after bonds issued under the amendment had been paid, county could continue to level and collect sewer-service charges to cover expenses of needed improvements and extensions and maintenance and operation of sewers and sewerage treatment and disposal plants.