

Bond Case Briefs

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Elizabeth River Crossings OpCo, LLC v. Meeks

Supreme Court of Virginia - October 31, 2013 - S.E.2d - 2013 WL 5833279

City residents and users of tunnel that crossed river between that city and another city filed complaint against private entity and Virginia Department of Transportation (VDOT), challenging constitutionality of a comprehensive agreement between the defendants regarding construction and operation of a new tunnel and other facilities.

The Supreme Court of Virginia held that:

- Tolls to be imposed pursuant to comprehensive agreement were not “taxes,” but, rather, “user fees,” for purposes of claim that General Assembly had unconstitutionally delegated its legislative power by enacting Public-Private Transportation Act (PPTA);
- State Corporation Commission (SCC) does not hold regulatory authority over toll rate setting in projects authorized by the PPTA;
- General Assembly could constitutionally delegate to VDOT, under PPTA, the legislative power to impose and set the rates of user fees;
- General Assembly could constitutionally empower private entity to assist VDOT in exercising legislative power to impose and set rates of user fees;
- Private entity’s involvement in imposing and setting rates of user fees was not an unconstitutional delegation of legislative power by VDOT;
- PPTA satisfied constitutional requirement of providing specific policies and definite standards to guide an administrative agency to which legislative power is delegated; and
- Commonwealth’s police power was not unconstitutionally abridged by VDOT’s entering into comprehensive agreement or by terms of agreement.