

Bond Case Briefs

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MUNICIPAL ORDINANCE - NEW JERSEY

In re Jackson Tp. Administrative Code

Superior Court of New Jersey, Appellate Division - September 8, 2014 - A.3d - 2014 WL 4388283

Mayor and township council brought action against petitioners seeking declaratory judgment that ordinance proposed in initiative petition was unlawful. The Superior Court granted mayor and council summary judgment. Petitioners appealed.

The Superior Court, Appellate Division, held that:

- Trial court had the authority under Declaratory Judgments Act to hear the pre-election challenge to the proposed township ordinance, and
- In a matter of first impression, trial court did not have authority to revise proposed ordinance and order that altered ordinance be placed on ballot.

Trial court did not have authority to revise township ordinance dealing with insourcing of legal department and shared-services agreement with board of education, which ordinance was proposed in citizens' initiative petition, and order that altered ordinance be placed on ballot, even though proposed ordinance contained a severability clause. The Optional Municipal Charter Law (Faulkner Act), mandated minimal judicial interference in initiative process, and the policies underlying the Faulkner Act were not served by the court severing part of the ordinance based on its subjective evaluation of the significance of the school board and severability clauses, then rewriting the ordinance, ballot question, and interpretative statement.