

Bond Case Briefs

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Pilla v. Karnsomtob

Supreme Court, Appellate Division, Second Department, New York - September 26, 2016 - N.Y.S.3d - 2016 WL 5348237 - 2016 N.Y. Slip Op. 06142

Village board of trustees sought judgment declaring that its determination regarding elimination of firefighter positions was not subject to a permissive referendum, or, in the alternative, sought to invalidate referendum petitions.

The Supreme Court, Westchester County, declared that board's determination was subject to permissive referendum and invalidated referendum petitions. Board appealed and respondents cross-appealed.

The Supreme Court, Appellate Division, held that:

- Board's decision to eliminate firefighter positions was subject to permissive referendum, and
- Respondents' failure to include each signer's election district in referendum petitions rendered petitions invalid.

Village board of trustee's decision to eliminate all eight paid firefighter positions in village fire department was subject to permissive referendum, pursuant to Village Law regarding abolition of fire departments, despite reference in Village Law to such "voluntary fire department," and despite fact that board eliminated only paid firefighter positions. First sentence of relevant Village Law indicated that legislature contemplated that village fire departments could consist of both volunteer and paid firefighters.

Respondents' failure to include in referendum petitions, which sought to challenge village board of trustee's decision to eliminate all paid firefighter positions, each signer's election district, rendered referendum petitions invalid under Village Law regarding referendum petitions. Although legislature had evidenced an intent to remove technicalities that deprived citizens of ballot access by removing election district requirement from Election Law, legislature did not make similar change to Village Law regarding referendum petitions.

Respondents' failure to include in referendum petitions, which sought to challenge village board of trustee's decision to eliminate all paid firefighter positions, each signer's election district, rendered petitions invalid under Village Law regarding referendum petitions, which permitted substantial rather than strict compliance with details of form but required strict compliance with matters of prescribed content of petitions. Failure to include signer's election districts was a defect in the prescribed content of the petitions, not in the form of the petitions.

