

# **Bond Case Briefs**

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## **UTILITY FEES - ARKANSAS**

### **Watson v. City of Blytheville**

**Supreme Court of Arkansas - February 6, 2020 - S.W.3d - 2020 Ark. 51 - 2020 WL 581491**

Taxpayer, individually and as a representative of a class of persons similarly situated, brought class-action complaint against city challenging ordinance establishing a monthly fee to repair and upgrade city's sewer system to comply with Consent Administrative Order (COA) entered into with the Arkansas Department of Environmental Quality (ADEQ).

The Circuit Court granted city's motion for summary judgment. Taxpayer appealed.

The Supreme Court held that:

- Fee established by ordinance to raise funds necessary to repair and upgrade city's sewer system was not a tax and thus was not an illegal exaction, and
- Fee was not unnecessary.

Fee established by ordinance enacted by city in order to raise funds necessary to repair and upgrade city's sewer system to comply with Consent Administrative Order (CAO) entered into with the Arkansas Department of Environmental Quality (ADEQ) was not a tax and thus was not an illegal exaction; only those persons who directly benefited from city's sewer services were required to pay the fee, funds collected from the fee were accounted for separately and used only for their designated purpose, funds were designated for use for improvements to the sewer system required by COA and that revenue was only used to fund improvements to city's sewer system, and city's expert opined that fee was fair and equitable.

Fee established by ordinance enacted by city in order to raise funds necessary to repair and upgrade city's sewer system to comply with Consent Administrative Order (CAO) entered into with the Arkansas Department of Environmental Quality (ADEQ) was not unnecessary; city's expert opined that city's sewer department had been experiencing severe financial distress, and city had no choice but to implement some form of sewer-rate adjustment to provide the revenue required to fund the repairs.