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NJ Supreme Court Upholds COVID-19 Emergency Bond Act: Ballard Spahr

The Supreme Court of the State of New Jersey upheld the New Jersey COVID-19 Emergency Bond Act (the Act), authorizing the State to issue up to \$9.9 billion in state borrowing either through general obligation bonds or short-term debt through the federal Municipal Liquidity Facility program to respond to the financial crisis caused by the COVID-19 pandemic. The court made the decision August 12, 2020, in [*New Jersey Republican State Committee v. Philip D. Murphy*](#).

The Act was signed into law by New Jersey Governor Phil Murphy on July 16, 2020. The New Jersey Republican State Committee filed suit against the Governor, arguing that the Act violated the Appropriations Clause and the Debt Limitation Clause of the Constitution of the State of New Jersey.

The appropriations clause requires the State to maintain a balanced budget each fiscal year and requires that all moneys for the support of State government and other State purposes be made in one general appropriation law each fiscal year. The debt limitation clause prohibits the State from creating debt that exceeds 1 percent of the total amount appropriated in the general appropriations law without voter approval. However, the debt limitation clause does not apply to any debt incurred “to meet an emergency caused by disaster.”

The Decision

Subject to the limits imposed by the court, the Act was upheld and found to be constitutional. In reaching this decision, the court addressed whether the act and any borrowing thereunder meets the emergency exception of the debt limitation clause. It was determined that (1) COVID-19 qualifies as a “disaster;” and (2) subject to certain limitations, the State may borrow money to meet the needs of the emergency (i.e. the State’s fiscal shortfall in revenue caused by the COVID-19 pandemic).

by the Public Finance Group

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