

Bond Case Briefs

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Emerson v. Hillsborough County

Supreme Court of Florida - February 25, 2021 - So.3d - 2021 WL 732664

Opponents brought declaratory judgment action, seeking to invalidate amendment to county charter that enacted a one percent sales transportation surtax and directives for allocating the tax proceeds.

The County Court invalidated portions of the charter related to the allocation and use of tax proceeds, but upheld the validity of the surtax itself. Both the county and the opponents appealed.

The Supreme Court held that:

- Provisions of county charter amendment that clashed with surtax statute were unconstitutional;
- Statutory provision that authorized charter limitations on the broad general legislative powers granted to county commissions did not operate to defeat specific provisions of the surtax statute that assigned to county commissions authority to direct the application of surtax revenues to permitted uses; and
- One percent tax levy in amendment to county charter could not be severed from the otherwise unconstitutional provisions that clashed with the surtax statute.

Core provisions of county charter amendment that established both a transportation surtax and directives for allocating the tax proceeds directly clashed with surtax statute's assignment to county commissions of authority to direct the application of surtax revenues to various permitted uses, and thus, were unconstitutional.

Statutory provision that authorized charter limitations on the broad general legislative powers granted to county commissions did not operate to defeat specific provisions of the surtax statute that assigned to county commissions authority to direct the application of surtax revenues to permitted uses; the power to allocate the proceeds of the surtax did not fall within the scope of unenumerated powers of local self-government, but rather, was a specific power conferred directly on the county commission, as distinct from the county, in a statute that authorized the enactment of the surtax, but not the allocation of funds, by charter amendment.

One percent tax levy in amendment to county charter could not be severed from the otherwise unconstitutional provisions that clashed with the surtax statute's assignment of authority to county commissions to direct the application of surtax revenues, and thus, the charter provision was unconstitutional in its entirety; the portions of the amendment that violated the authority of the county commission under the surtax statute was not functionally independent from the portion of the amendment that imposed a transportation surtax, and thus, the unconstitutional provisions were not merely ancillary to the surtax, but were integral to the overall purpose of the surtax initiative.