

Bond Case Briefs

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INSURANCE - MICHIGAN

County of Ingham v. Michigan County Road Commission Self-Insurance Pool

Supreme Court of Michigan - December 21, 2021 - N.W.2d - 2021 WL 6062290

Counties brought action against intergovernmental road commission self-insurance pool for refund of unused portions of prior membership contributions to the pool, following counties' purported withdrawal of their road commissions from intergovernmental agreement and transfer of county road commissions' powers to counties' boards of commissioners.

The Circuit Court granted summary disposition in favor of pool and denied counties' motion for summary judgment. Counties appealed. The Court of Appeals reversed on the ground that counties were eligible for refunds as successors in interest to their dissolved road commissions. Pool applied for leave to appeal. The Supreme Court remanded to Court of Appeals for determination of whether governing documents of pool permitted it to decline to issue refunds of surplus premiums from prior-year contributions. On remand, the Court of Appeals reversed and remanded. Pool applied for leave to appeal.

The Supreme Court held that:

- Withdrawing counties had no right to share in any distribution of surplus equity;
- County which had dissolved its road commission and transferred commission's powers and duties to county's board of commissioners without executing an agreement to withdraw from pool was not eligible for membership; and
- Public policy did not require pool to include former members when distributing surplus equity.

Counties that had withdrawn from intergovernmental road commission self-insurance pool before effective date of resolutions dissolving road commissions had no right to share in any distribution of pool's surplus equity, even if permissive language in pool's declaration of trust on distribution of excess monies imposed affirmative obligation; declaration of trust, by-laws, and inter-local agreements did not mandate terms of any such distribution, declaration allowed pool to treat withdrawing members differently and less favorably than other members, agreements stated that trust, by-laws, rules, and regulations stated responsibility for disposing of surplus funds, and memorandum provided for forfeiture of withdrawing member's right to receive future distributions.

County which had dissolved its road commission and transferred commission's powers and duties to county's board of commissioners without executing an agreement to withdraw from intergovernmental road commission self-insurance pool was not a "county road commission" within meaning of by-laws limiting membership to county road commissions, and, thus, dissolution of road commission did not transfer road commission's membership to county itself; when by-laws were drafted and last revised, County Road Law required every county with a county road system to have a board of county road commissioners, and pool's members rejected resolution that would have allowed membership.

Public policy did not require intergovernmental road commission self-insurance pool to include former members when distributing surplus equity and thus did not require pool to include counties that had dissolved road commissions, even if counties expected amendment of pool's by-laws or change in withdrawal policy to their benefit; excluding the counties from surplus distributions did not deny them insurance coverage, pool's withdrawal policy was not a penalty since pool treated counties as any other former member, and statutory restriction on self-insurance group conditioning a refund of surplus equity on a member's continued participation in the group only applied in the context of worker's compensation insurance.