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CONTRACTS - INDIANA

Performance Services, Inc. v. Randolph Eastern School Corporation

Court of Appeals of Indiana - September 19, 2022 - N.E.3d - 2022 WL 4295425

School corporation brought action seeking declaratory judgment that contact with wind turbine company for construction and operation of wind turbine facility was void, and company asserted counterclaims for breach of contract, suit on account, and equitable entitlement to the reasonable value of services provided, after school failed to pay access fees.

Parties filed cross-motions for summary judgment, and the Circuit Court granted the school's motion. Company appealed.

The Court of Appeals held that:

- Court of Appeals owed no deference to written opinions of State Board of Accounts on legality of contract;
- Contract did not reflect illegal investment by political subdivision;
- Contract was not subject to leasing procedures set forth in Public Leasing Act;
- Public Works Act did not apply to contract; and
- Contract was not void for indefiniteness.

On appeal from grant of summary judgment in favor of school corporation on its action seeking declaratory judgment that school's contract with wind turbine company was void, Court of Appeals owed no deference to written opinions of State Board of Accounts, stating that contract between school and company reflected an illegal investment; Board was in no better position than Court of Appeals to read contract at issue and discern its meaning, and Board's opinions did not state binding legal conclusions on meaning of contract, which spoke for itself.

School corporation's contract with wind turbine company for construction and operation of wind turbine facility never amounted to more than school owing payments for services rendered by company, and thus did not reflect an illegal investment by a political subdivision in a wind turbine, in violation of limited statutory authority of schools to invest money, where school agreed to make semiannual payments to company in exchange for certain access to facility and data, and school had option after five years of such payments to purchase facility by paying off company's construction debt and any capital improvements, which school did not do.

School corporation's contract with wind turbine company for construction and operation of wind turbine facility was not a lease, and thus leasing procedures set forth in Public Leasing Act were not applicable to contract, even though school had unvested option to purchase facility; contract did not create property right of school in facility, which was in all respects owned, managed, and controlled by company, but rather contract right, whereby school was granted access to facility and data in exchange for payments, that company could have revoked based on school's nonperformance.

Public Works Act did not apply to school corporation's contract with wind turbine company for

construction and operation of wind turbine facility, where contract was neither a lease nor paid for out of a public fund or special assessment, but was rather funded by bond agreement between company and bank.

School corporation’s contract with wind turbine company for construction and operation of wind turbine facility was not void for indefiniteness because it called for an indefinite number of semiannual payments from school to company; parties were presumed to have had a reasonable time for payments in mind, and at no point did the school seek to terminate contract, which was a contract at will.

Contract containing no specific termination date is terminable at will, and where the parties fix no time for the performance or discharge of obligations created by the contract they are assumed to have had in mind a reasonable time.

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