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TAX - ALABAMA

Gulf Shores City Board of Education v. Mackey

Supreme Court of Alabama - December 22, 2022 - So.3d - 2022 WL 17843037

City board of education and individual taxpayer in city school district brought action against the Superintendent of the Alabama State Board of Education, county revenue commissioner, and county commissioners, all in their official capacities, for mandamus relief requiring that "local tax" proceeds from special county privilege license tax paralleling the state sales tax be apportioned to include city board of education as a recipient and/or for a judgment declaring that the corresponding local-tax act was unconstitutional.

After county board of education and community college were allowed to intervene and after county district attorney and presiding judge of county juvenile court were joined as defendants, plaintiffs filed an amended complaint, and the Circuit Court dismissed plaintiffs' claims. Plaintiffs appealed.

The Supreme Court held that:

- Portion of taxes that were generated under the local-tax act and that were earmarked for the county board of education were not required or authorized by statute to be allocated to the city board of education;
- City board of education failed to demonstrate the likelihood that its alleged injury would be remedied by a declaration that the local act violated the Alabama Constitution's prohibition on a local act being enacted in a case covered by a general law;
- Individual taxpayer's "equality of taxation" challenge to constitutionality of local act presented a justiciable controversy; but
- The local act did not violate the constitutional principle of equality of taxation.

Portion of taxes that were generated under a local-tax act authorizing a special county privilege license tax paralleling the state sales tax and that were earmarked for the county board of education were not required or authorized by statute to be allocated to a particular city board of education.

"Local tax" proceeds from special county privilege license tax paralleling the state sales tax were not collected for the purpose of participation in a certain state fund for public education, and thus statute governing disbursement of taxes collected for the purpose of participation in that fund could not be a basis to mandate that the "local tax" proceeds be apportioned to particular city board of education; the most recent amendment to the underlying local-tax act did not provide that the taxes were to be collected for such a purpose.

City board of education failed to demonstrate the likelihood that its alleged injury of not having received an appropriation of taxes generated by a local-tax act that authorized a special county privilege license tax paralleling the state sales tax would be redressed by a favorable decision on its claim that the act, which earmarked a portion of the taxes generated to the county board of education, violated the Alabama Constitution's prohibition on a local act being enacted in a case covered by a general law, and thus city board of education lacked standing to maintain the constitutionality challenge; if the act were declared unconstitutional, there would no longer be any

tax proceeds generated under it, and despite argument that the act could be declared unconstitutional only insofar as it allocated proceeds for public education, that would be require the courts to rewrite the act, which the courts were prohibited from doing.

City school district resident's claim that local-tax act that provided for a special county privilege license tax paralleling the state sales tax, that earmarked a portion of the taxes generated to the county board of education, but that did not earmark a portion to a city board of education was unconstitutional since it imposed upon her and other district residents a tax whose proceeds were used completely outside the district presented a justiciable controversy, as required for resident to have standing to maintain constitutional challenge.

Local-tax act that provided for a special county privilege license tax paralleling the state sales tax, that earmarked a portion of the taxes generated to the county board of education, but that did not earmark a portion to a city board of education did not violate constitutional "equality of taxation" principle that prohibited the levying special taxes on citizens of a definite locality while expending the tax proceeds in some other locality; the tax also earmarked tax proceeds for the county juvenile court, the county district attorney's office, a community college, and the county general fund, which were entities that provided services on a countywide basis.

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