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City of San José v. Howard Jarvis Taxpayers Association

Court of Appeal, Sixth District, California - April 29, 2024 - Cal.Rptr.3d - 2024 WL 1855412

Charter city filed a complaint for validation of the issuance of pension obligation bonds and related agreements that were aimed to address unfunded liabilities in city's retirement plans.

Taxpayer advocacy groups filed an answer to the complaint for validation, alleging that the city lacked authority to issue the bonds and seeking a declaration that the resolution approving the bonds and the proposed issuance of the bonds were invalid.

The Superior Court entered judgment validating the resolution, the issuance and sale of the bonds, and related agreements. Advocacy groups appealed.

The Court of Appeal held that:

- Resolution allowing for the issuance of pension obligation bonds did not incur any new indebtedness that required voter approval under the California Constitution, and
- City had statutory authority to issue pension obligation bonds as refunding bonds to refund unfunded pension liabilities.

A municipal bond is not an "indebtedness or liability" within meaning of state constitutional debt limitation applicable to cities—it is only the evidence or representative of an indebtedness, and a mere change in the form of the evidence of indebtedness is not the creation of a new indebtedness within meaning of constitutional debt limitation.

The constitutional debt limitation was enacted for the purpose of curtailing "municipal extravagance" in the form of unchecked capital investments that resulted in large, long-term debt; in contrast to disfavored "municipal extravagance," public policy in California encourages pension plans as a means by which governments may induce and reward long-term public service to a municipality's citizens.

Under California law there is a strong preference for construing governmental pension laws as creating contractual rights for the payment of benefits, and when feasible to do so such laws should be construed as guaranteeing full payment to those entitled to its benefits with the provision of adequate funds for that purpose; actuarial soundness of the pension system is necessarily implied in the total contractual commitment, because a contrary conclusion would lead to express impairment of employees' pension rights.

The phrase "other evidence of indebtedness" in statute defining revenue bonds may include unfunded liability, such as a city's deferred obligation to pay its employees.

The refunding of an unfunded municipal liability using the proceeds from the issuing of refunding bonds converts the debt represented by the unfunded liability into debt in the form of bonds; such refunding does not create new debt for purposes of the constitutional debt limitation applicable to

cities.

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