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California Supreme Court Approves Pension Obligation Bonds: Orrick

In *City of San José v. Howard Jarvis Taxpayers Association* (December 18, 2025), the California Supreme Court unanimously upheld the City of San José's (the "City") authorization of the issuance of up to approximately $3.48 billion in pension obligation bonds ("POBs") to refund the City's unfunded actuarial pension liability ("UAL"), holding that—even if the bonds constitute "new" debt—the issuance falls within the exception to the constitutional debt limitation for an "obligation imposed by law" and therefore does not require two-thirds voter approval under Article XVI, section 18(a) of the California Constitution. The Court concluded that state law and the City's voter-enacted charter obligate the City to maintain its retirement plans on a sound actuarial basis and that the UAL is therefore an obligation imposed by law. Therefore, the Court decided, the constitutional debt limit does not constrain the City's discretion over how to address such obligation, including by choosing to issue POBs without a vote.

Orrick, Herrington & Sutcliffe LLP served as counsel for *amici curiae* the League of California Cities and the California State Association of Counties, filing an amicus brief urging the Court to hold that the obligation imposed by law exception encompasses local governments' use of POBs to address legally mandated pension-funding obligations. The Court's opinion expressly cites amici's point that the City relied on the Retirement Boards' actuarial calculations and did not usurp the Retirement Boards' fiduciary role, as the Court ultimately adopted the obligation imposed by law rationale in affirming the validity of the City's POBs.

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