

June 28, 2024

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Contact

Cyrus Torabi
Irvine
(949) 417-0999
cyrus.torabi@kutakrock.com

Appellate Court Rules in Favor of City of Escondido in Pension Obligation Bond Validation Action

On June 25, 2024, the California Court of Appeal, Fourth Circuit, affirmed a Superior Court judgment in favor of the City of Escondido in connection with Escondido's effort to validate pension obligation bonds. The Fourth Circuit reached the same conclusion that the Sixth Circuit Court of Appeal had reached in late April 2024 with respect to the City of San Jose's effort to validate pension obligation bonds. ([See a previously disseminated Client Alert with respect to the San Jose decision here.](#)) In the Escondido ruling, the Court of Appeal agreed with Escondido's argument that the issuance of pension obligation bonds does not create a new indebtedness or liability for purposes of the California Constitutional debt limit. Instead, the Court of Appeal held that pension obligation bonds merely change the form of an existing indebtedness (pension obligations) from an obligation payable to CalPERS to one payable to bondholders.

San Jose is a charter city and its obligation to fund pension benefits arose out of provisions of its voter-approved charter, while Escondido is a general law city and its obligation to fund pension benefits arose out of the City's voluntary contract with CalPERS. Nonetheless, the Court of Appeal held that Escondido's pension obligations constituted a valid debt that may be refunded from the proceeds of refunding bonds. In doing so, the Court of Appeal turned on its head appellant Howard Jarvis Taxpayers' Association's argument that Escondido's unfunded pension liability was too amorphous to be considered a valid debt, while a pension obligation bond issuance would create a new debt. The Court of Appeal found that, because the Taxpayers' Association never challenged the decades-long incurrence of Escondido's unfunded pension liability as unconstitutional, it failed to argue that such liability could not be transformed from an obligation payable to CalPERS to one payable to bondholders when the Court of Appeal held that such liability was valid debt.

In both San Jose and Escondido, the Taxpayers' Association had lost at trial and sought to appeal the trial court's ruling. It is not known at this time whether the Taxpayers' Association will seek a further appeal of either case at the California Supreme Court. In the meantime, the Court of Appeal, Second Circuit, is considering the Taxpayers' Association appeal in a substantially similar pension obligation bond validation effort by the City of Oxnard. The Oxnard matter has been briefed but oral argument has not yet been scheduled.

Kutak Rock LLP's [public finance group](#) has served on numerous occasions as bond and disclosure counsel to public agencies throughout California and nationwide on pension obligation bond issuances. Please contact [Cyrus Torabi](#) in Kutak Rock's Irvine office for further information about the City of Escondido ruling or pension obligation bonds generally. You may also visit us at www.KutakRock.com.

