

Summary of SC94746, *City of DeSoto, a Political Subdivision of the State of Missouri, and James Acres v. Jeremiah W. Nixon, Governor of the State of Missouri, and Chris Koster, Attorney General of the State of Missouri*

Appeal from the Cole County circuit court, Judge Patricia Joyce

Argued and submitted September 30, 2015; opinion issued January 12, 2016

Attorneys: DeSoto and its resident were represented by James M. Kreitler of the Wegmann Law Firm in Hillsboro, (636) 797-2665; and the state was represented by Solicitor General James R. Layton of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A city and one of its residents appeal a circuit court judgment that a statute exempting a city or town from making certain payments to a fire protection district after annexation is not an unconstitutional special law under the state constitution. In a unanimous decision written by Judge Laura Denvir Stith, the Supreme Court of Missouri reverses the trial court's decision and enters judgment in favor of the city and resident. Missouri's constitution bans the passage of special laws that target a particular political subdivision when a general law is applicable. The statute lays out six characteristics that a city or town must meet to be exempt from the payment methods otherwise required by law. These six characteristics are drawn in such a way that only one city in Missouri meets all six. Based on the difficulty of meeting all six characteristics combined with current population trends, it is improbable that any other political subdivision will fall within the exemption. The statute, therefore, is a special law in violation of the Missouri Constitution. As the state has not put forth a substantial justification for the statute's enactment, judgment is entered for the city and its resident.

Facts: Section 321.322, RSMo, describes how a city is to make post-annexation payments to a fire protection district after the city annexes part of the district. Subsection 4 provides for a different method of payment than those set out in subsection 1 for any city or town that: operates a city fire department, is a third-class city, has more than 6,000 but fewer than 7,000 inhabitants, is located in any county with a charter form of government and with more than 200,000 but fewer than 350,000 inhabitants, and is entirely surrounded by a single fire protection district. The city of DeSoto and one of its residents (collectively, DeSoto) challenged subsection 4 as unconstitutional. In filings made in the circuit court, De Soto showed it is the only city or town in Missouri to meet all six criteria. The court held that these six criteria are "open-ended" because it is possible that other political subdivisions could be included based on political decisions made or changes in population and, for this reason, held that section 321.322.4 is not an unconstitutional special law. De Soto appeals.

REVERSED AND JUDGMENT ENTERED IN FAVOR OF APPELLANTS.

Court en banc holds: (1) The criteria listed in section 321.322.4 are so narrowly drawn that only De Soto meets all six criteria. Despite other cities and towns being similar in size to De Soto, none fall within the exemption. Although, if considered separately, the criteria for the most part

would be considered open-ended, they must be considered as a whole because a political subdivision must meet all six criteria to fall within the exemption in question. As a practical matter, no other city could do so, and the only reason for section 321.322.4's adoption is to target De Soto. The state, therefore, was required to show a substantial justification for use of a special law when a general law could have been made applicable. It failed to do so. Section 321.322.4, therefore, violates article III, section 40(30) of the Missouri Constitution.

(2) Because De Soto and the state rely on the same data and statistics, remanding the case (sending it back) to the circuit court is unnecessary. Judgment in favor of the state is reversed, and judgment is entered in favor of De Soto.