
**IN THE
SUPREME COURT OF MISSOURI**

No. SC87934

STATE OF MISSOURI, et al.,

Appellants,

v.

JACKSON COUNTY SPORTS COMPLEX AUTHORITY,

Respondent.

**Appeal From The Cole County Circuit Court,
The Honorable Byron L. Kinder**

APPELLANTS' REPLY BRIEF

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Reply

None of the Authority's arguments justify affirming the circuit court's erroneous judgment. As shown below, the Authority fails to contend with the fact that it is a political subdivision under Missouri law, a point fatal to its original purpose and single-subject challenges. In addition, its clear-title arguments lack merit, because the term "political subdivision" is not too amorphous under Missouri law to meet Article III, § 23's standards.

A. The Authority's brief does not acknowledge that it is a "political subdivision" under § 64.920 – a point fatal to its original purpose and single-subject challenges.

As the State's opening brief explained, H.B. 58's and S.B. 210's original purpose was the regulation of political subdivisions, and § 64.940.3 did not change that purpose because it imposes a competitive bidding requirement on an entity expressly defined under § 64.940.3 did not cause either bill to have multiple subjects because each bill's core subject is the regulation of political subdivisions, and § 64.920) is so detrimental to its procedural challenges here, the Authority's brief does not once acknowledge that § 64.920 appears on page 25, and there only to state that § 64.940.3 are not germane or do not fairly relate to the regulation of political subdivisions. *See e.g.*, Resp. Br. 25-26, 27-28. But the Court need not, and should not, decide whether the addition of any other provisions to H.B. 58 or S.B. 210 were procedurally infirm.

Section § 1.140, RSMo 2000§ 64.940.3 would therefore be upheld regardless of whether any other provision in either bill was found unconstitutional. *See Allied Mut. Ins. Co. v. Bell*, 185 S.W.2d 4, 8 (Mo. 1945) (only non-germane sections of a bill should be struck for an original purpose violation); *Rizzo v. State*, 189 S.W.3d 576, 581 (Mo. banc 2006) (where bill has single core subject, only portions of bill containing additional subjects should be struck for single-subject violation).

Because of this, the Authority has no legally protectable interest in the outcome of the constitutionality of any other provision of H.B. 58 or S.B. 210. It is thus unnecessary and inappropriate under basic principles of judicial decision-making for the Court to reach out and decide the constitutionality of any other provisions. *See State ex rel. Union Electric Company v. Public Service Commission*, 687 S.W.2d 162, 165 (Mo. banc 1985) (“A court will avoid the decision of a constitutional question if the case can be fully determined without reaching it.”); *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 347 (1936) (Brandeis, J, conc.) (principle of avoiding of constitutional questions includes rule against “pass[ing] upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation.”).

B. The Authority’s clear-title arguments lack merit.

In the clear-title section of the Authority’s brief, the Authority contends that the term “political subdivision” is so amorphous under Missouri law in light of varying statutory definitions that it could never be the title of a bill. *See Resp. Br. 32-34*. But, for

the reasons stated on pages 28-32 of the State's opening brief, this argument fails to persuade.

Furthermore, the Authority is flatly wrong to the extent it contends (Br. 34) that it does not meet the definition of a political subdivision under Missouri law, or under the general definition of a "political subdivision" set out in Black's Law Dictionary. Under § 64.940.7), a quintessentially public function. *See* Black's Law Dictionary 201 (6th ed. 1991) (defining "condemnation" as the "[p]rocess of taking private property for public use through the power of eminent domain"). Moreover, the Authority's *raison d'etre* is for the creation and maintenance of sporting facilities that benefit the public as whole, akin to the establishment and operation of public parks, which has also been considered a governmental function. *See* *Glidewell v. Hughey*, 314 SW.2d 749, 755 (Mo. banc 1958) (citing 63 C.J.S. Municipal Corporations § 907, p. 317, § 1057, p. 686).

Finally, the Authority argues (Br. 36) that the severability analysis in *Rizzo* opinion. *See* § 64.940.3. And that provision is well described by both H.B. 58's and S.B. 210's title. If there are other provisions in one or both bills that are not adequately described by the title "relating to political subdivisions" (a point on which neither the State nor the Court need take a position), then the remedy is to strike the unrelated provisions, leaving § 64.940.3 intact. *See* *Home Builders Ass'n of Greater St. Louis v. State*, 75 S.W.3d 267, 271 (Mo. banc 2002) ("where [a bill's] title is underinclusive, the portions of the bill that fall outside the scope of the title may be invalidated and severed

from the remainder of the bill”).

Conclusion

For the foregoing reasons and those stated in the State’s opening brief, the circuit court’s judgment declaring