Summary of SC97653, *City of Crestwood, et al. v. Fire Affton Fire Protection District, et al.*
Appeal from the Cole County circuit court, Judge Jon E. Beetem
Argued and submitted September 4, 2019; opinion issued April 20, 2021

Attorneys: Crestwood and its residents were represented by William Ray Price Jr. and Laura A. Bentele of Armstrong Teasdale LLP in St. Louis, (314) 621-5070; and James C. Hetlage and Brian J. Malone of Lashley & Baer PC in St. Louis, (314) 621-2939. The fire protection district was represented by James R. Layton of Tueth Keeney Cooper Mohan & Jackstadt PC in St. Louis, (314) 880-3600. The state was represented by Emily A. Dodge of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It is provided by 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 two of its residents appeal from a judgment finding statutes pertaining to payment for fire protection districts do not violate provisions of the state constitution. In a 6-0 decision written by Judge Patricia Breckenridge, the Supreme Court of Missouri affirms the circuit court's judgment. The statutory provisions do not violate the state constitution's prohibition against special laws, the due process clause or the Hancock Amendment.

Facts: Crestwood is a constitutional charter city in St. Louis County. The Affton fire protection district provides services in an unincorporated portion of the county adjacent to Crestwood. In 1997, Crestwood annexed unincorporated territory within the fire district's boundaries. Since then, sections 72.418 and 321.322, RSMo, have required Crestwood to pay the fire district an amount equal to what the fire district would have levied on all taxable property within the annexed area. The fire district has continued to provide services within the annexed area but has not collected its own taxes within that area. In 2017, Crestwood and two of its residents (collectively, Crestwood) sued the fire protection district and the state, alleging sections 72.418 and 321.322 were unconstitutional and seeking to enjoin enforcement of the statutes. The circuit court granted summary judgment (judgment on the court filings, without a trial) in favor of the district and the state, finding the statutes are constitutional. Crestwood appeals.

AFFIRMED.

Court en banc holds: (1) The challenged fire protection district statutes are not constitutionally invalid special laws. There is a unique risk of annexation in St. Louis County, which in turn presents a unique risk to the economic viability of fire protection districts that levy taxes in areas subject to annexation. St. Louis County is the most populous county in Missouri, and, the greater the number of cities, the greater likelihood annexation may occur. Accordingly, St. Louis County's unique circumstances and the economic viability of fire protection districts provide a rational basis for applying sections 72.418 and 321.322 to Crestwood.

(2) Section 72.418.2 does not violate article X, section 11(b) of the Missouri Constitution, which addresses the amount of tax a municipality may levy without voter approval. Because

Crestwood, not its residents, pays the annual fire protection district fee under section 72.418.2, it is not a tax levied against Crestwood resident-taxpayers.

(3) Because the fee Crestwood pays to the fire protection district is not a tax on Crestwood resident-taxpayers and section 72.418.2 does not mandate that any resident pay an amount to the fire protection district, the statute does not deprive Crestwood residents of their life, liberty or property without due process of the law.

(4) Section 72.418.2 does not violate the Hancock Amendment (article X, sections 16 through 24 of the state constitution), which prohibits increasing municipal taxes without direct voter approval. Neither Crestwood nor the fire protection district has levied a tax against residents pursuant to section 72.418.2; therefore, the statute does not subject resident-taxpayers to any financial obligation. Furthermore, section 72.418.2 does not create an unfunded mandate. It does not shift responsibility for financing fire protection services from the state to a local political subdivision; rather, following Crestwood's voluntary annexation of the unincorporated area adjacent to it, section 72.418.2 merely shifts the financial responsibility for financing fire protection services in the annexed area from one local political subdivision (the fire district) to another (Crestwood). This local-to-local shifting does not violate the Hancock Amendment.