

SUPREME COURT OF IOWA

Frank Bowers v. Polk County Board of Supervisors and Polk County, Iowa

638 N.W.2d 682 (Iowa 2002) · No. No. 01-1636 · Decided January 7, 2002

SUMMARY

Frank Bowers challenged the Polk County Board of Supervisors' authorization of up to \$151 million in general obligation bonds for the Iowa Events Center without a referendum. The Iowa Supreme Court held that the statutory petition and referendum requirements did not violate equal protection or due process under the Iowa Constitution. The court affirmed the district court's judgment upholding the Board's action.

CASE DETAILS

COURT	Supreme Court of Iowa
WRITING FOR THE COURT	Lavorato, Chief Justice; Cady, Justice; All remaining justices of the Supreme Court of Iowa
JURISDICTION	Iowa
DECIDED	January 7, 2002
DOCKET	No. 01-1636
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a district court judgment affirming the Polk County Board of Supervisors' authorization of essential county purpose bonds without a public referendum.
STANDARD OF REVIEW	Constitutional issues are reviewed de novo. Statutes receive a strong presumption of constitutionality, and a challenger must prove beyond a reasonable doubt that the statute violates the constitution and negate every reasonable basis supporting constitutionality.
PRECEDENTIAL VALUE	Published Iowa Supreme Court opinion; precedential.
PARTIES	Frank Bowers v. Polk County Board of Supervisors, Polk County, Iowa

TOPICS

- municipal finance
- election law
- equal protection
- procedural due process
- substantive due process

PRACTICE AREAS

constitutional law

municipal finance

municipal law

election law

statutory interpretation

QUESTIONS PRESENTED

1. Whether the statutory ten-day petition period and ten-percent signature requirement violated equal protection under the Iowa Constitution by imposing a greater practical burden on residents of populous counties.
2. Whether the referendum petition procedure violated procedural due process under the Iowa Constitution.
3. Whether the referendum petition procedure violated substantive due process under the Iowa Constitution.

HOLDINGS

1. The petition requirements did not violate equal protection because residents of populous and less populous counties were not similarly situated for purposes of the statute, and the requirements applied uniformly to all counties.
2. The ten-day petition period and ten-percent signature requirement provided all the process constitutionally due and did not violate procedural due process.
3. The statutory petition procedure did not violate substantive due process because it did not infringe a fundamental right and was reasonably fitted to legitimate governmental purposes.

KEY QUOTATIONS

“Sometimes the grossest discrimination can lie in treating things that are different as though they were exactly alike.” (638 N.W.2d at 690)

“In balancing the foregoing three interests, we believe the scales tip in favor of finding no procedural due process violation.” (638 N.W.2d at 694)

“Because no fundamental right is implicated by the challenged petition process, we must review this statutory scheme under a lesser level of scrutiny.” (638 N.W.2d at 695)

FACTUAL BACKGROUND

The Polk County Board of Supervisors proposed issuing up to \$151 million in general-obligation bonds to finance the Iowa Events Center in downtown Des Moines. Because the project was treated as an urban-renewal project, county residents had a statutory right to petition for a referendum by submitting signatures equal to ten percent of the votes cast in the preceding presidential or gubernatorial election. Bowers submitted a petition requiring 17,417 signatures, but the county auditor determined that it was 619 signatures short and returned it. The Board then voted three to two to issue the bonds without a referendum.

PROCEDURAL HISTORY

The Board adopted a resolution proposing up to \$151 million in general-obligation bonds to finance the Iowa Events Center and published notice of the proposed action. Bowers submitted a referendum petition that was 619

signatures short of the statutory requirement, and the Board thereafter voted to issue the bonds. The district court denied Bowers's appeal and his Iowa Rule of Civil Procedure 179(b) motion. The Supreme Court of Iowa affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Morrow, 616 N.W.2d 544 (Iowa 2000)
- Johnston v. Veterans' Plaza Authority, 535 N.W.2d 131 (Iowa 1995)
- Exira Community School District v. State, 512 N.W.2d 787 (Iowa 1994)
- Miller v. Boone County Hospital, 394 N.W.2d 776 (Iowa 1986)
- Blumenthal Investment Trusts v. City of West Des Moines, 636 N.W.2d 255 (Iowa 2001)
- State v. Bell, 572 N.W.2d 910 (Iowa 1997)
- Miller v. Board of Medical Examiners, 609 N.W.2d 478 (Iowa 2000)
- State v. Mann, 602 N.W.2d 785 (Iowa 1999)
- State v. Hall, 227 N.W.2d 192 (Iowa 1975)
- Jenness v. Fortson, 403 U.S. 431 (1971)
- American Party of Texas v. White, 415 U.S. 767 (1974)
- City of Cedar Rapids v. Municipal Fire & Police Retirement System of Iowa, 526 N.W.2d 284 (Iowa 1995)
- Board of Regents of State Colleges v. Roth, 408 U.S. 564 (1972)
- Movers Warehouse, Inc. v. City of Little Canada, 71 F.3d 716 (8th Cir. 1995)
- Owens v. Brownlie, 610 N.W.2d 860 (Iowa 2000)
- Kelly v. Macon-Bibb County Board of Elections, 608 F. Supp. 1036 (M.D. Ga. 1985)
- Spaulding v. Illinois Community College Board, 356 N.E.2d 339 (Ill. 1976)
- Taxpayers United for Assessment Cuts v. Austin, 994 F.2d 291 (6th Cir. 1993)
- Murray v. City of St. Louis, 947 S.W.2d 74 (Mo. Ct. App. 1997)
- State v. Cronkhite, 613 N.W.2d 664 (Iowa 2000)
- Anderson v. Celebrezze, 460 U.S. 780 (1983)
- Reno v. Flores, 507 U.S. 292 (1993)

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