

SUPREME COURT OF INDIANA

Kole v. Faultless

963 N.E.2d 493 (Ind. 2012) · No. No. 94S00-1112-CQ-692 · Decided March 15, 2012

SUMMARY

The Indiana Supreme Court answered a certified question concerning whether political subdivisions may reorganize into a city under Indiana's Government Modernization Act while adopting a nontraditional structure. The court held that the Act permits a reorganization plan providing for an at-large city council and a mayor appointed by that council, notwithstanding statutes governing the usual structure of a second-class city. The court emphasized the Act's broad grant of authority and liberal construction provisions.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Shepard, Chief Justice; Shepard, C.J.; Dickson, J.; Sullivan, J.; Rucker, J.; David, J.
JURISDICTION	Indiana
DECIDED	March 15, 2012
DOCKET	No. 94S00-1112-CQ-692
DISPOSITION	other
PROCEDURAL POSTURE	The United States District Court for the Southern District of Indiana certified a novel question of Indiana law to the Supreme Court of Indiana under Indiana Appellate Rule 64(B) after denying defendants' motion to dismiss for lack of federal subject-matter jurisdiction and abstaining from further proceedings.
STANDARD OF REVIEW	De novo interpretation of Indiana statutes in answering a certified question of law
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Indiana answering a certified question of state law.

TOPICS

- municipal law
- home rule
- statutory interpretation
- appellate procedure
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether a political subdivision may reorganize into a city under Indiana Code Article 36-1.5 in a manner that eliminates voting rights otherwise recognized under Indiana Code sections 36-4-5-2 and 36-4-6-3(i).
2. Whether the Government Modernization Act permits a reorganization plan creating a city with a council elected entirely at large and a mayor appointed by that council.

HOLDINGS

1. Article 1.5 of Title 36, the Government Modernization Act, permits a political subdivision to reorganize into a city even when the reorganization plan provides for a city council elected entirely at large and a city mayor appointed by the city council.

KEY QUOTATIONS

“In light of the Legislature's directives about construing the Act's provisions, we conclude that Article 1.5 does indeed allow a municipality to reorganize into a city even though the reorganization plan provides for a city council elected at large and a city mayor appointed by the city council.” (963 N.E.2d at 498)

“If citizens approve a reorganization plan that describes the membership of new political branches and the manner in which those members will attain office, then the reorganization may proceed along those lines.” (963 N.E.2d at 498)

FACTUAL BACKGROUND

Fishers, Indiana, and Fall Creek Township pursued a reorganization under Article 1.5 of Title 36 of the Indiana Code. The proposed plan would create a nontraditional second-class city with a nine-member city council elected entirely at large and a mayor appointed by the council rather than elected directly by voters. Plaintiffs contended that statutes governing ordinary second-class cities required voters to elect the mayor and council through the standard municipal structure.

PROCEDURAL HISTORY

Fishers residents filed an action in Hamilton Superior Court seeking to compel the Fishers Town Council to schedule a referendum on incorporating the town as a second-class city, voluntarily dismissed that action, and refiled in federal district court. While the federal case was pending, Fishers and Fall Creek Township adopted a reorganization plan under Indiana's Government Modernization Act. The federal district court denied defendants' motion to dismiss, abstained, and certified the state-law question concerning whether the proposed reorganization could create a nontraditional city with an at-large council and an appointed mayor.

DISPOSITION

other

CASES CITED

- Tippecanoe Cnty. v. Ind. Mfrs. Ass'n, 784 N.E.2d 463, 465 (Ind. 2003)
- City of S. Bend v. Chicago, S.B. & N.I. Ry. Co., 179 Ind. 455, 458, 101 N.E. 628, 629 (Ind. 1913)
- Pittsburgh, C., C. & St. L. Ry. Co. v. Town of Crown Point, 146 Ind. 421, 45 N.E. 587 (1896)
- City of Gary ex rel. King v. Smith & Wesson Corp., 801 N.E.2d 1222 (Ind. 2003)
- Snyder v. King, 958 N.E.2d 764 (Ind. 2011)