

SUPREME COURT OF NEW JERSEY

Warren County Community College v. Warren County Board of Chosen Freeholders, 176 N.J. 432

824 A.2d 1073 (2003) · Decided June 19, 2003

SUMMARY

The Supreme Court of New Jersey held that Warren County Community College’s board of school estimate could not compel the county board of chosen freeholders to fund the college’s capital project because the college had been created without the public participation contemplated by the governing statutes. The court concluded that the college retained its status, but its board of school estimate lacked authority to mandate county appropriations. The court also held that the statutory scheme was not unconstitutional when properly followed.

CASE DETAILS

COURT	Supreme Court of New Jersey
WRITING FOR THE COURT	Justice LaVecchia; Chief Justice Poritz; Justice Coleman; Justice Long; Justice Verniero; Justice Zazzali; Justice Albin
JURISDICTION	New Jersey
DECIDED	June 19, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	The College appealed, and the County Freeholders cross-appealed, from an Appellate Division judgment reversing Law Division orders that required the Freeholders to issue bonds and appropriate funds certified by the College's Board of School Estimate. The Supreme Court granted certification limited to the constitutionality of N.J.S.A. 18A:64A-15 and -19 as applied to Warren County and the legal status of the College.
STANDARD OF REVIEW	De novo review of statutory interpretation and constitutional validity as applied; review of the legal effect of undisputed formation procedures and funding certifications.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of New Jersey
PARTIES	Warren County Community College v. Warren County Board of Chosen Freeholders

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QUESTIONS PRESENTED

1. Whether Warren County Community College's Board of School Estimate had statutory and constitutional authority to compel the County Freeholders to appropriate funds or issue bonds for a capital project when the College was created without the public-hearing, publication, and voter-participation procedures required for a county college.
2. Whether N.J.S.A. 18A:64A-15 and -19 are unconstitutional as applied to Warren County merely because a mixed board of elected freeholders and nonelected college trustees could certify appropriations by a vote opposed by a majority of the elected freeholders.
3. Whether the procedural defect in the College's formation required the College to lose its legal status or other statutory powers.

HOLDINGS

1. Because Warren County Community College was created without the public participation contemplated by the county-college statutes, its Board of School Estimate lacked authority to compel the County Freeholders to appropriate funds or issue bonds based on the Board's certifications.
2. N.J.S.A. 18A:64A-15 and -19 are not unconstitutional merely because a mixed Board of School Estimate may compel expenditures contrary to the position of a majority of the elected freeholders, provided the statutory formation process includes the required opportunity for public input.
3. The College retains its legal status and other statutory powers despite the irregularity in its formation; the defect limits only the Board of School Estimate's power to bind the County Freeholders through funding certifications.

KEY QUOTATIONS

"Because the college was established without an opportunity for public input as contemplated by the legislative scheme, and because the statutory power to mandate appropriations through the certification authority of the college's board of school estimate impacts the freeholders' authority to levy local taxes, we hold that the board of school estimate here does not—and constitutionally cannot—mandate county appropriations to the college." (824 A.2d at 1074)

"Only after complying with the statutory procedures for formation, including a public hearing as well as the opportunity for public input contemplated by the petition process, does the board of school estimate obtain the power to mandate appropriations by the county freeholders." (824 A.2d at 1080)

"Absent the opportunity for public initiative and referendum on the creation of the county college, the certifications issued by the Board of School Estimate may not bind the County Freeholders." (824 A.2d at

FACTUAL BACKGROUND

Warren County established a community college commission in 1981, and the Board of Higher Education later authorized the commission to convert into Warren County Community College without requiring the statutory procedures for creating a new county college. The County Freeholders never adopted a resolution approving the College's creation, although they provided funding for several years. After voters rejected a nonbinding referendum concerning a proposed community center, the College's Board of School Estimate certified \$4,140,720 for the project, but the Freeholders declined to issue bonds or appropriate the certified funds.

PROCEDURAL HISTORY

The Law Division initially ordered the Freeholders to issue bonds and later granted summary judgment requiring appropriation of the certified funds. After the Freeholders failed to comply, the trial court ordered bonding to proceed and entered contempt-related orders. The Appellate Division reversed the orders compelling bonding and invalidated the contempt orders. The Supreme Court affirmed the Appellate Division judgment as modified, holding that the Board of School Estimate lacked authority to compel appropriations because the College had not been created through the statutory public-participation process, while preserving the College's status and other powers.

DISPOSITION

affirmed

CASES CITED

- Warren County Community College v. Warren County Board of Chosen Freeholders, 350 N.J.Super. 489, 796 A.2d 257 (App. Div. 2002)
- Silverman v. Berkson, 141 N.J. 412, 417, 661 A.2d 1266 (1995), cert. denied, 516 U.S. 975 (1995)
- Township of Bernards v. Allen, 61 N.J.L. 228, 236, 39 A. 716 (E. & A. 1898)
- Gualano v. Bd. of Sch. Estimate of Elizabeth Sch. Dist., 39 N.J. 300, 305, 188 A.2d 569 (1963)
- Bd. of Educ. of Garfield v. City of Garfield, 147 N.J.Super. 146, 149, 370 A.2d 890 (App. Div. 1977)
- Donadio v. Cunningham, 58 N.J. 309, 325-26, 277 A.2d 375 (1971)
- 172 N.J. 359, 798 A.2d 1272 (2002)

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