
From: Bramwell, Tim [/o=foleylaw/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Bramwell, Timothy J.869]
on behalf of Bramwell, Tim
Sent: 7/10/2019 2:19:28 PM
To: Hyde, Kevin E. [KHyde@foley.com]; Lever Jr, Chauncey W. [CLever@foley.com]
Subject: RE: State v. City of Orlando

No, but invalid for several other reasons. That Orlando case is most applicable in this instance because the Court looked at the overall purpose the bond issue and not necessarily just the literal use of the proceeds.

What is the public purpose or project being "financed" with these "bonds"? Neither are provided in term sheet, and the amount is relatively small when compared to JEA's normal borrowing activities for power and water facilities. JEA is borrowing \$300K-\$400K to finance what? The primary purpose of this "bond" seems to be to serve as a vehicle for paying deferred/alternative compensation to employees, and a court would view the primary purpose of the instrument as such.

An instrument that pays a premium at a rate that fluctuates in direct proportion to the value of the company is not a bond. A bond pays interest as compensation for borrowing money. Interest is either fixed or variable and established based on some external measure of the time-value of money.

This premium that fluctuates in proportion with the value of JEA is closer to some sort of a profits interest. In that case, it would appear to violate Article VII, Section 10 of the Florida Constitution which provides, "Neither the state nor any county, school district, municipality, special district, or agency of any of them, shall become a **joint owner** with, or stockholder of, or **give**, lend or **use its** taxing power or **credit to aid any** corporation, association, partnership or **person**."

Tim

From: Hyde, Kevin E. <KHyde@foley.com>
Sent: Wednesday, July 10, 2019 1:55 PM
To: Lever Jr, Chauncey W. <CLever@foley.com>
Cc: Bramwell, Tim <TBramwell@foley.com>
Subject: RE: State v. City of Orlando

Thanks. Based on the facts we discussed during the call – do you think the idea of paying a premium to the bondholders based on increased value of JEA – would be deemed as "lending the proceeds with the intention of making a profit" and thus be invalid?

-Kevin E. Hyde

Foley & Lardner LLP
One Independent Drive | Suite 1300
Jacksonville, FL 32202-5017
P 904.359.8786
C 904.613.1437

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FOLEY & LARDNER LLP



From: Lever Jr, Chauncey W. <CLever@foley.com>

Sent: Wednesday, July 10, 2019 1:37 PM

To: Hyde, Kevin E. <KHyde@foley.com>

Cc: Bramwell, Tim <TBramwell@foley.com>

Subject: State v. City of Orlando

Kevin, here is a case that deals with public purpose. Facts and circumstances are different of course because there will not be a case similar to the facts we are discussing.

Chauncey

Chauncey W. Lever, Jr.

Foley & Lardner LLP
1 Independent Drive | Suite 1300
Jacksonville, FL 32202-5017
904.359.8774 (D)
904.993.0304 (M)

[Visit Foley.com](http://www.foley.com)

