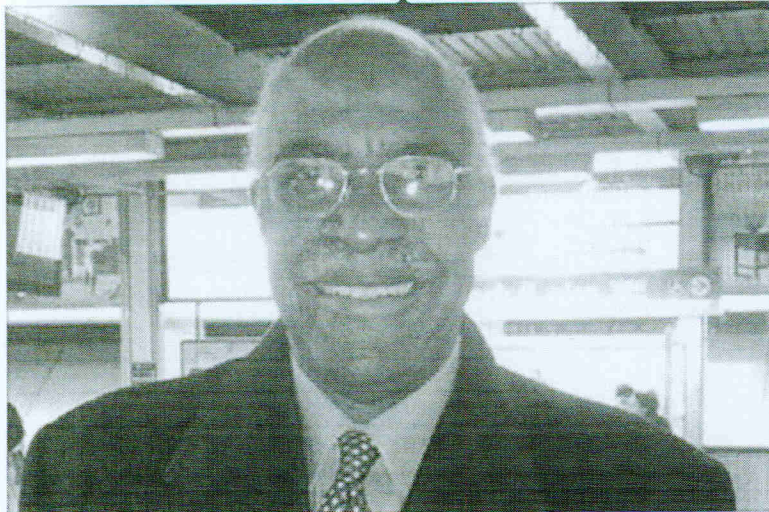


Alabama Court Upends JeffCo Refunding Bill



ATTORNEY Calvin Grigsby

BY **SHELLY SIGO**
DEC 15, 2015 3:12pm ET

BRADENTON, Fla. – An Alabama court has struck down a state law that would have allowed Jefferson County to return to the bond market.

Circuit Judge Michael G. Graffeo **ruled on Monday** that a local act signed by Gov. Robert Bentley in May is unconstitutional because House Bill 573 was not passed by three-fifths of a quorum of representatives that were present when a vote was taken.

Thirty-five legislators abstained from voting on the bill, while 13 voted to approve it and three voted against it. The county had argued that under a House rule, the law was validly passed by the number of lawmakers who actually voted.

Graffeo ruled that the state constitution controlled in this circumstance because the vote on the bill occurred before the Legislature approved the budget, requiring the quorum to be determined by the number of legislators present for the vote, even if they abstained.

"The county respectfully disagrees, and notes that hundreds of other local acts affecting cities and counties throughout the state have been adopted using the same procedure," Commissioner David Carrington said Monday night. "We are currently reviewing our legal options, including appealing the court's ruling to the Alabama Supreme Court."

HB 573 would have allowed Jefferson County to refund about \$595 million of limited obligation school warrants.

The existing warrants are structured so any tax revenues in excess of debt service requirements are used for early redemptions.

The planned refunding authorized by HB 573 would have allowed Jefferson County to enact a replacement sales tax, and use the proceeds to pay debt service on the refunding warrants as well as to fund various capital expenses.

The county had hoped to bring what would have been its first deal since its 2013 bankruptcy exit financing to market before this year ended.

As the county attempted to validate the refunding bonds, two separate cases called the constitutionality of the bill into question.

One challenge was brought by county tax assessor Andrew Bennett, state Reps. John Rogers and Mary Moore, and county resident William Muhammad, who are also appealing the county's bankruptcy exit plan.

"My clients, who are looking out for the best interests of the schools and public at large, are very, very happy with the ruling because this ruling allows [Jefferson County] to reduce taxes," attorney Calvin Grigsby, a former broker-dealer, told The Bond Buyer Tuesday.

Grigsby said the outstanding school warrants could be paid off in about eight years if the county applies excess revenues to redeem the debt early, allowing the one-cent sales tax to expire.

The county could also do an economic refunding, and reduce the amount of the sales tax by about half, he added.

The second challenge of the validation was brought by county resident Keith Shannon, who was among the plaintiffs that challenged a 2009 law that authorized Jefferson County to enact an occupational tax that supported the county's general fund budget.

The court struck down the occupational tax because lawmakers failed to advertise it properly.

In Alabama, counties do not have home rule and new revenue sources, such as taxes, must be authorized by the Legislature.

The loss of the occupational tax revenue, along with high sewer system debt costs, pushed the county into bankruptcy in 2011.

Graffeo said once he determined that HB 573 did not receive the correct number of votes to pass, there was no need to address three other constitutional issues raised by the challengers.

If Jefferson County appeals the ruling and wins, Grigsby said that his clients likely would challenge the bill on the remaining issues cited in their case.

Grigsby said Jefferson County should go back to the Legislature and obtain a bill that meets the requirements of the law, which would ultimately require voter approval.

In addition to losing the validation case, the county could be ordered to pay the legal fees of the challengers.

Commission President Jimmie Stephens has said that revenues from existing sources available to the county are improving, but the additional revenue from the refunding was needed to address deferred maintenance and capital needs.