

MEMORANDUM

TO: Board of County Commissioners, Hillsborough County, Florida

FROM: Alan S. Zimmet, B.C.S., Bryant Miller Olive, P.A.

CC: Christine Beck, County Attorney

DATE: February 25, 2021

RE: *Robert Emerson, et al. v. Hillsborough County, Florida*, No. SC19-1250
Florida Supreme Court Opinion Issued February 25, 2021

Today, Chief Justice Canady wrote an opinion for the Florida Supreme Court invalidating Article 11 of the County's Charter, which was based on a citizen's initiative. Based on a 4-1 decision (Justice Labarga dissenting and Justices Couriel and Grosshans not participating), the Court struck down Article 11 in its entirety as unconstitutional, concluding it impermissibly transgressed the authority reserved to the county commission by the Florida Legislature in the surtax statute.

As a result, the Court reversed the declaratory judgment and the bond validation judgment, both entered by Judge Barbas, to the extent that they upheld any portion of Article 11. The Court concluded that the provisions of Article 11 setting specific limitations governing distribution and use of the tax, which the Court found were in conflict with the surtax statute, were an integral part of the citizen's initiative presented to the voters. Therefore, those unconstitutional provisions could not be severed from Article 11.

The opinion will become final if no motion for rehearing is filed by March 12, 2021. If a motion for rehearing is filed, the decision will not become final until after the motion for rehearing is determined.