



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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I – 24-008

COUNTIES:

Provision of Information Technology Services
for the Veterans Assistance Commission

The Honorable J. Hanley
State's Attorney, Winnebago County
400 West State Street, Suite 619
Rockford, Illinois 61101

Dear Mr. Hanley:

We have your letter inquiring whether the county may pay for information technology services and equipment and other supplies for its veterans assistance commission (Commission) from the proceeds of a tax levied pursuant to section 5-2006 of the Counties Code (55 ILCS 5/5-2006 (West 2022)) or from the county's general corporate fund. For the reasons stated below, the proceeds of a tax levied pursuant to section 5-2006 of the Counties Code may not be used to pay for information technology services and equipment for the Commission's office. Accordingly, expenses for information technology services and equipment for the Commission must instead be paid from the county's general corporate fund.

BACKGROUND

Commissions are organized pursuant to the Military Veterans Assistance Act (the Act) (330 ILCS 45/0.01 *et seq.* (West 2022)) to provide financial assistance and services to veterans whose last discharge from the service was honorable or was general under honorable conditions, their families, and the families of deceased veterans. 330 ILCS 45/2 (West 2022). The Act authorizes the organization of a Commission in any county having two or more veteran service organizations. 330 ILCS 45/9(a) (West 2022). A Commission is comprised of delegates

and alternates from each qualifying veteran service organization within the county. 330 ILCS 45/9(a) (West 2022). The delegates, together with the Commission superintendent, are charged with administering the provisions of the Act. 330 ILCS 45/9(a), (b), 10(a) (West 2022).

Commissions do not have the authority to levy taxes. Funding for Commissions may be derived from three sources, if applicable: (1) a special property tax levied pursuant to section 5-2006 of the Counties Code and section 12-21.13 of the Illinois Public Aid Code (the Public Aid Code) (305 ILCS 5/12-21.13 (West 2022));¹ (2) appropriations from the county's general corporate fund; and (3) State funds from the Department of Human Services.² 330 ILCS 45/2(1)(A)(i) through (1)(A)(iii) (West 2022). The minimum amount of funds to be provided annually to the Commission is set out in section 12-21.13 of the Public Aid Code, unless the delegates of the Commission "determine that a lesser amount covers the just and necessary sums." 330 ILCS 45/2(1)(B) (West 2022); *see also* 330 ILCS 45/2(3) (West 2022) (money shall be drawn in the manner provided under section 5-2006 of the Counties Code and section 12-21.13 of the Public Aid Code).

According to the information you have provided, Winnebago County's Commission is seeking information technology services and equipment and other supplies from the county.³ The Commission has requested that these expenditures be funded through the county's general corporate fund and not the tax levy authorized by section 5-2006 of the Counties Code. You have inquired whether the county's general corporate fund or revenue from the tax levied pursuant to section 5-2006 of the Counties Code is the proper funding source for the requested services.

¹State funding under section 12-21.13 of the Public Aid Code is only available to Commissions located in counties where the county board levied the Commission-related tax authorized by section 5-2006 of the Counties Code. Section 12-21.13 provides, in pertinent part:

In a county of less than 3 million population in which there is created a County Veterans Assistance Commission, the county shall levy for assistance to military veterans and their families, within the time that such levy is authorized to be made, a tax of an amount which, when added to the unobligated balance available for such purpose at the close of the preceding fiscal year will equal .02% of the last known assessed value of the taxable property in the county, or which will equal .03% of such assessed value if such higher amount is authorized by the electors of the county, as provided in Section 5-2006 of the Counties Code.

²With respect to the third source of funding, counties that levy the Commission-related property tax may qualify to receive State aid from the Department of Human Services under section 12-21.13 of the Public Aid Code to fund the activities of the Commission. *See* 55 ILCS 5/5-2006 (West 2022); 305 ILCS 5/12-21.13 (West 2022). We have not been provided with information indicating whether the Commission receives State funding.

³You have not specified the "other supplies" to which you are referring. We will assume for purposes of your inquiry that "other supplies" falls within a category of information technology equipment.

ANALYSIS

The primary purpose of statutory construction is to give effect to the intent of the General Assembly, the most reliable indicator of which is the language of the statute, given its plain and ordinary meaning. *People v. Casler*, 2020 IL 125117, ¶ 24. In determining the plain meaning of a statute, one must consider the statute in its entirety, the subject it addresses, and the apparent intent of the General Assembly in enacting it. *Midwest Sanitary Service, Inc. v. Sandberg, Phoenix & Von Gontard, P.C.*, 2022 IL 127327, ¶ 24.

Section 10 of the Act (330 ILCS 45/10 (West 2022)) addresses the county's provision of funding for the Commission's office and related services and provides, in pertinent part:

(a) The executive powers of the Commission shall be vested in a superintendent selected or appointed by a vote from a majority of the full Commission membership and who shall have received an honorable discharge from the armed forces of the United States.

* * *

(d) The designated superintendent of the Veterans Assistance Commission of the county shall, under the direction of the Commission, have charge of and maintain an office in the county building or a central location within the county, to be used solely by the Commission for providing the just, necessary, and needed services mandated by law.

(e) The county shall provide for the funding of the office and provide all necessary furnishings, supplies, and services as passed by the county board in its annual appropriation, and *the county shall provide or fund services, including, but not limited to, human resources and payroll support; information technology services and equipment; telephone services and equipment; printing services and equipment; postage costs; and liability insurance.* (Emphasis added.)

Subsection 10(e) of the Act (330 ILCS 45/10(e) (West 2022)) thus requires the county to "provide for the funding" of the Commission's office and to "provide or fund services, including, but not limited to, * * * information technology services and equipment[.]" However, section 10 of the Act does not explicitly indicate the proper funding source for information technology services and equipment.

Section 5-2006 of the Counties Code, which authorizes a special tax levy to fund a Commission's operations, provides, in pertinent part:

The proceeds of any tax so levied shall be used exclusively for the assistance purposes authorized thereunder, and a portion thereof may be expended for the salaries of any officers or employees of the Veterans Assistance Commission, for the authorized reimbursement of any officer or employee of the Veterans Assistance Commission, as provided in Section 10 of the Military Veterans Assistance Act, or for any other expenses incident to the administration of such assistance.

Section 5-2006 further provides that counties that levy the Commission-related property tax may qualify to receive State aid to fund the activities of the Commission:

If a county has levied the tax herein * * * or otherwise meets the conditions set out in Section 12-21.13 of the Illinois Public Aid Code, to qualify for State funds to supplement local funds for public purposes * * * and otherwise meets the conditions * * * for receipt of State aid, the Illinois Department of Human Services shall allocate and pay to the county such additional sums as it determines to be necessary to meet the needs of assistance to military veterans and their families in the county and expenses incident to the administration of such assistance.

Section 5-2006 thus provides that the proceeds of the special tax levy for providing assistance to military veterans and their families must be used "exclusively for the assistance purposes authorized [under the Act]," including "the salaries of any officers or employees of the Veterans Assistance Commission, for the authorized reimbursement of any officer or employee of the Veterans Assistance Commission, as provided in Section 10 of Military Veterans Assistance Act, or for any other expenses incident to the administration of such assistance."

In informal opinion No. I-16-002, issued February 25, 2016, this office was asked to determine whether a county may pay rent for office space to house its Commission in a privately-owned building from the proceeds of the tax levied pursuant to section 5-2006 of the Counties Code (55 ILCS 5/5-2006 (West 2014)). Informal opinion No. I-16-002 concluded that rent for private office space for a Commission's office could not be funded by the proceeds of the property tax or the supplemental State public aid funds pursuant to section 5-2006 of the Counties Code and section 12-21.13 of the Public Aid Code. In reaching this conclusion,

informal opinion No. I-16-002 noted that section 10 of the Act (330 ILCS 45/10 (West 2014)) imposed a mandatory obligation on the county to provide office space for the Commission.⁴ Ill. Att'y Gen. Inf. Op. No. I-16-002 at 3-5.

Next, with regard to the proper source of funding for rental of office space, informal opinion No. I-16-002 examined the language of section 5-2006 of the Counties Code, which was substantially similar to the language set out above. Because section 5-2006 of the Counties Code did not contain "specific language * * * referencing" costs of rent and using the proceeds for rent "would reduce the amount of funds available" for assistance to veterans and their families, informal opinion No. I-16-002 concluded that neither the proceeds from the special tax under section 5-2006 of the Counties Code nor the State public aid funds under section 12-21.13 of the Public Aid Code could be used for the cost of rent for the Commission's office.⁵ Ill. Att'y Gen. Inf. Op. No. I-16-002 at 5.

Subsequent to the issuance of informal opinion No. I-16-002, the General Assembly amended several provisions of the Act and section 5-2006 of the Counties Code. First, Public Act 102-732, effective January 1, 2023, amended section 2 of the Act to explicitly reference the three sources of funding available to the county for Commissions and to expressly define the minimum amount of funding required to be provided annually to a Commission.⁶ Public Act 102-1132, effective February 10, 2023, further amended section 10 of the Act, in pertinent part, to require the county to "provide or fund services" to the Commission "including, but not limited to * * * information technology services and equipment[.]"⁷ Additionally, Public

⁴After informal opinion No. I-16-002 was issued, the Illinois Appellate Court similarly noted that section 10 "mandates that the county provide the office for the [Commission] and furnish it with all the necessary supplies." *Veterans Assistance Comm'n of Grundy County v. County Board of Grundy County*, 2016 IL App (3d) 130969, ¶ 48. In 2022, the General Assembly amended section 10 of the Act to require the county to "provide for the funding of the office[.]" (Emphasis added.) See Public Act 102-732, effective January 1, 2023. The legislative debates for House Bill 5184, which as enacted became Public Act 102-732, provide no rationale for the change from the county's obligation to "provide the office" to "provide for the funding of the office[.]"

⁵In *Lavite v. Dunstan*, 2019 IL App (5th) 170114, ¶ 66, the Illinois Appellate Court similarly indicated that the proceeds raised from this annual tax levy "must be used exclusively for the veterans assistance purposes authorized under the Act." In an unpublished opinion issued after informal opinion No. I-16-002 and *Lavite*, the Illinois Appellate Court cited section 5-2006 of the Counties Code to suggest that the cost of office space could be considered "expenses incident to the administration of such assistance[.]" *Tangen v. Lake County*, 2022 IL App (2d) 200634-U, ¶ 70.

⁶Specifically, Public Act 102-732 amended section 2 of the Act by providing that the minimum amount to be provided annually by counties to the Commission was to be determined under the standards of section 12-21.13 of the Public Aid Code, unless the delegates of the Commission "determine that a lesser amount covers the just and necessary sums." Public Act 102-1132 also amended section 2 of the Act, but those changes are not relevant to the instant inquiry.

⁷Section 10 of the Act was also amended by Public Act 102-732 and by Public Act 102-056. However, none of the changes made by these enactments are relevant to the instant inquiry.

Act 102-1132 amended section 5-2006 of the Counties Code to include the "authorized reimbursement of any officer or employee of the Veterans Assistance Commission, as provided in Section 10 of the Military Veterans Assistance Act" as an authorized use of proceeds.⁸

None of the recent enactments change the analysis applied in informal opinion No. I-16-002.⁹ While subsection 10(e) of the Act now places an affirmative obligation on the county to provide funding for information technology services and equipment for the Commission, the General Assembly did not amend section 5-2006 of the Counties Code to explicitly permit the proceeds of the special tax levy to be used to pay these expenditures. Because the Act places a mandatory obligation on the county to provide or fund information technology services and equipment, such costs do not fall under the "expenses incident to the administration of such assistance" in section 5-2006 of the Counties Code.¹⁰ Further, using proceeds from the tax levy to pay for services not explicitly authorized by section 5-2006 would "reduce the amount of funds available for the primary purpose of funding assistance to veterans and their families[.]" Ill. Att'y Gen. Inf. Op. No. I-16-002 at 5.

Based upon the foregoing, the county may not use proceeds from the tax levied pursuant to section 5-2006 of the Counties Code to fund information technology services and equipment. Accordingly, the county must pay for these services from the county's general corporate fund.

CONCLUSION

Section 10 of the Military Veterans Assistance Act imposes an affirmative duty on counties to provide or fund information technology services and equipment for veterans

⁸Section 5-2006 of the Counties Code was also amended by Public Act 102-732, but none of those changes are relevant to the instant inquiry.

⁹The specific source of funding for the specified items was not discussed during the legislative debates on either enactment. Rather, the legislative sponsors in each chamber made general remarks indicating that both enactments were intended to clarify the role of counties with respect to Commissions. *See* Remarks of Rep. Kifowit, January 10, 2023, House Debate on House Bill No. 2369 (which upon enactment became Public Act 102-1132), at 71-72 ("[w]hat this culminates is a lot of legislative intent * * * in addition to a lot of court cases * * * with the legislation that goes back decades, multiple decades, * * * stat[ing] * * * that the VAC[] is * * * a bit of a separate entity from the county. And that still maintains today"); Remarks of Sen. Wilcox, March 31, 2022, Senate Debate on House Bill No. 5184 (which upon enactment became Public Act 102-732), at 14 ("House Bill 5184 * * * reiterates rulings out of the court systems establishing that the VAC's are the administrators of * * * military assistance and reduces some rub between VAC's and county boards").

¹⁰Rather, the only additional authorized use for proceeds from the property tax levied under section 5-2006 after the issuance of informal opinion No. I-16-002--"for the authorized reimbursement of any officer or employee of the Veterans Assistance Commission as provided in Section 10 of the Military Veterans Assistance Act"—does not address information technology services and equipment.

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assistance commissions. The cost for such services and equipment should not be paid from the proceeds of the property tax levied pursuant to section 5-2006 of the Counties Code and must be paid from the county's general corporate fund.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,



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