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Mr. Michael McCreery
United Counties Council of Illinois
217 East Adams Street, Suite 101
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**Re: Property Tax Extension Limitation Law
Our File: UNITCC-0601**

Dear Mike:

Question:

Is a county subject to the restrictions of the Property Tax Extension Limitation Law required to conduct a referendum prior to levying the Veterans Assistance Tax?

Analysis:

The Property Tax Extension Limitation Law ("PTELL") is designed to limit increases in tax extensions and the amounts levied by a taxing district in counties where the law is applicable. Under PTELL, a taxing district may only levy and extend taxes in excess of the previous year's extension by a rate of 5% or the percentage increase in the Consumer Price Index, whichever is less. If a taxing district wishes to levy taxes at a rate in excess of the limitation, it is required to have the increase approved by voters at a referendum pursuant to the guidelines of PTELL. PTELL applies only to the "aggregate extension" of the taxing district which is defined to include the annual corporate extension for the taxing district and any special purpose extensions that are made annually for the taxing district except certain specified special purpose extensions.¹

¹ 35 ILCS 200/18-185.

A county board in counties with a population of less than 3 millions in which a Veterans Assistance Commission has been formed may levy a tax at rate not to exceed 0.03% of the assessed value annually on all taxable property in the county.² The funds will then be used to provide assistance to military veterans and their families pursuant to the Military Veterans Assistance Act. The language of the statute authorizing this tax states that the tax will not be included in any tax limitation of the rate upon which taxes are required to be extended, instead it will be excluded from such limitations and in addition thereto.

When interpreting statutes, the primary purpose is to ascertain and give effect to the intent of the General Assembly.³ When determining legislative intent, a statute should be read as a whole, and each provision thereof should be construed with reference to every other provision.⁴ When statutory language is clear, the statute will be given effect without resorting to aids of construction and the court should give effect to the plain language and meaning of the statute.⁵ The Court must not read limitations, exceptions, or conditions into the statute that the legislature did not express.⁶

The Illinois Supreme Court has held that where a limitation is placed on the rate a county may tax for general county purposes, the authorization of a tax in addition to the maximum taxes authorized by law for county purposes does not remove the limitation.⁷ The Court believed that the grant of authority for an additional tax was not a grant of authority for an addition to the limitation.⁸ However, the Court did additionally recognize that a tax may be expressly excluded from such a limitation by clear language in the authorizing statute.⁹ While the language of a statute can remove a tax from certain rate limitations, the Illinois Supreme Court has looked specifically at the language of the Veteran's Assistance Tax and held that the language of the tax levy did not remove it from the application of a statutory rate limitation imposed on the county.¹⁰

Conclusion:

A county which operates under PTELL will be required to include a Veteran's Assistance Tax levy within its aggregate extension. The statute authorizing the Veteran's

² 55 ILCS 5/5-2006.

³ *In re Marriage of Burgess*, 189 Ill. 2d 270, 277 (2000).

⁴ *In re A.P.*, 179 Ill. 2d 184, 197 (1997).

⁵ *Village of Spring Grove v. County of McHenry*, 309 Ill. App. 3d 1010 (2d. Dist. 2000).

⁶ *Id.*

⁷ *Ramey v. Gulf, Mobile and Ohio Railroad Co.*, 15 Ill. 2d 126 (1958).

⁸ *Id.* at 129.

⁹ *Id.*

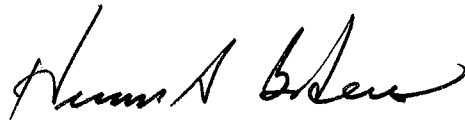
¹⁰ *People v. Central Illinois Public Service Co.*, 48 Ill. 2d 145, 154 (1971).

Mr. Michael McCreery
United Counties Council of Illinois
September 16, 2015
Page 3 of 3

Assistance Commission Tax contains language stating that the tax will not be included in any tax limitation and that the tax is expressly excluded therefrom; however, the Illinois Supreme Court has held that this language is not sufficient to remove the tax from a county tax rate limitation. The Veterans Assistance Act contains no language explicitly removing the tax from the applicability of PTELL and the tax must remain included within the aggregate extension.

Sincerely,

GIFFIN, WINNING, COHEN
& BODEWES, P.C.



Herman G. Bodewes



Steven A. Milburn

HGB:SAM/tem

Disclaimer: This opinion was prepared by Giffin, Winning, Cohen & Bodewes, P.C. at the request of UCCI and is to be used solely by UCCI and its members. The State's Attorney is the attorney for the County. Legal advice, if requested, should be sought from the State's Attorney.