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Mr. Michael McCreery
United Counties Council of Illinois
217 East Monroe Street, Suite 101
Springfield, IL 62701

Re: Decreasing bridge levy to increase general levy without referendum

Dear Mike:

Issue

Can the county board decrease the bridge levy to zero in order to increase the general levy to five percent for a period of time, and then increase the bridge levy back to five percent without a referendum if such is done within a three year period?

Analysis

A referendum is required to establish the maximum tax rate limit for the county.¹ When the taxing district sets a maximum tax rate lower than the referendum set, then the county shall publish an ordinance or resolution indicating the rate in one or more newspapers in the district.² “Questions of public policy which have any legal effect shall be submitted to referendum only as authorized by a statute which so provides or by Constitution.”³ Per statute, a referendum is only required for a “bridge tax” if the county is seeking to increase the five (5%) percent rate by .25%.⁴ In the statute governing taxation for roads and bridges, Section 5-604, Section 5-605, and Section 5-605.2 specifically address the requirement of a referendum; however Section 5-602, which governs the county bridge tax, does not address the referendum requirement when increasing and decreasing the referendum within the tax cap.⁵

¹ 35 ILCS 200/18-120

² *Id.*

³ 10 ILCS 5/28-1

⁴ 605 ILCS 5/5-602

⁵ 605 ILCS 5/5-602,604,605,605.2

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Conclusion

Since the statutes regarding tax levies do not specifically require a referendum if the total amount of the levy tax rate is not being changed, then a referendum would not be required to decrease the bridge levy and increase the general levy so long as the maximum tax rate set by the county is not exceeded by doing so. In addition, the question referred to a three (3) year period. The relevant statutes do not address a three (3) year period; however, a county ordinance may address such a period. Therefore, the statutes do not require a three (3) year period, but the relevant county ordinance may require such a period, and all counties should follow their respective county ordinances.

Sincerely,

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



Herman G. Bodewes



Abby L. Allgire

HGB/ALA:pa

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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.