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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. 84-008

REVENUE:

Entitlement of County Health
Department to an Allocation of
Personal Property Replacement Funds

Fred H. Uhlig, Acting Director
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535 West Jefferson Street
Springfield, Illinois 62761

Dear Mr. Uhlig:

I have your predecessor's letter in which he asked the following question:

"Is a local county health department created pursuant to 'An Act in relation to the establishment and maintenance of county and multiple-county public health departments' (Ill. Rev. Stat. 1983, ch. 111 1/2, par. 20c1 et seq.) a 'governmental body' within the meaning of Section 12 of 'An Act in relation to State revenue sharing with local governmental entities' (Ill. Rev. Stat. 1983, ch. 85, par. 616) and thus entitled to an allocation of personal property replacement revenues levied by its taxing district?"

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For the reasons hereinafter stated, it is my opinion that a county health department is a "governmental body" within the meaning of section 12 of "AN ACT in relation to State revenue sharing with local governmental entites" (Ill. Rev. Stat. 1983, ch. 85, par. 616), and, therefore, that a county health department is entitled to an allocation of personal property replacement funds received by its county.

Section 12 of the aforementioned Act was added by section 3 of "AN ACT in relation to the abolition of ad valorem personal property tax and the replacement of revenues lost thereby, and amending and repealing certain Acts and parts of Acts in connection therewith" (P.A. 81-1st S.S.-1), which was enacted to effectuate the constitutional mandate to abolish all ad valorem personal property taxes and to replace the revenue lost by units of local government and school districts as a result of such abolition. (Ill. Const. 1970, art. IX, § 5(c).) Section 12, which is entitled "Personal Property Tax Replacement Fund", provides in pertinent part as follows:

"

* * *

* * * [T]he Department of Revenue shall allocate to each taxing district as defined in Section 1 of the Revenue Act of 1939, in accordance with the provisions of paragraph (2) of this Section, the portion of the funds held in the Personal Property Tax Replacement Fund which is required to be distributed, as provided in paragraph (1), for each quarter. * * *

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Any taxing district which receives an allocation based in whole or in part upon personal property taxes which it levied for another governmental body or school district in Cook County in 1976 or for another governmental body or school district in the remainder of the State in 1977 shall immediately pay over to that governmental body or school district the amount of personal property replacement funds which such governmental body or school district would receive directly under the provisions of paragraph (2) of this Section had it levied its own taxes.

* * *

(Emphasis added.)

As you know, in opinion No. 81-012, issued May 8, 1981 (1981 Ill. Att'y Gen. Op. 27), my predecessor advised that the term "governmental body", as used in section 12 of "AN ACT in relation to State revenue sharing with local governmental entities", could be construed to be synonymous with the term "unit of local government", as the latter term is defined in section 1 of article VII of the Illinois Constitution of 1970, which provides, in part, as follows:

"* * * 'Units of local government' means counties, municipalities, townships, special districts, and units, designated as units of local government by law, which exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts."

While I agree that the term "governmental body", as used in section 12, includes those entities enumerated in the above-quoted provision of the Constitution, it is my opinion that, in

furtherance of the intent of the General Assembly, the definition of "governmental body" also includes those departments and agencies of government which were the beneficiaries of an additional, special tax levied on all taxable property, including personal property, which may have been in excess of the limit imposed upon the taxing district by statute, at the time of enactment of "AN ACT in relation to the abolition of ad valorem personal property tax and the replacement of revenues lost thereby, etc." (P.A. 81-1st S.S.-1), regardless of whether said tax was levied by the department or agency or by another entity of government.

The cardinal rule in the construction of a statute is that the statute must be construed so as to ascertain and give effect to the intention of the General Assembly as expressed in the statute. (People v. Robinson (1932), 89 Ill. 2d 469, 475; City of East Peoria v. Group Five Development Co. (1981), 87 Ill. 2d 42, 46.) Furthermore, the title of an act or statute is to be considered in construing the act or statute. (People ex rel. Toman v. Illinois Central Hotel Co. (1942), 380 Ill. 203, 205; Merchants National Bank of Aurora v. Olson (1975), 27 Ill. App. 3d 432, 433.) The clear intent of the General Assembly can be ascertained from the titles "AN ACT in relation to the abolition of ad valorem personal property tax and the replacement of revenues lost thereby, etc." and "Personal

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Property Tax Replacement Fund" (section 12 of "AN ACT in relation to State revenue sharing with local governmental entities" (Ill. Rev. Stat. 1983, ch. 85, par. 616)). An examination of section 3 of "AN ACT in relation to the abolition of ad valorem personal property tax and the replacement of revenues lost thereby, etc." reveals that the General Assembly intended that the replacement tax do exactly that which its name implies, i.e., replace the revenues lost by local governments in the abolition of the personal property tax.

Prior to the abolition of the personal property tax, counties were authorized, pursuant to section 11 of "AN ACT in relation to the establishment and maintenance of county and multiple-county public health departments" (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 20c10), to levy a special tax, in excess of the statutory limit, on all taxable property of the county, which tax was to be held in a county health fund and was to be used only for the purposes expressed in said Act, if there had been referendum approval for such tax. Prior to the abolition of the personal property tax, all taxable property included personal property not otherwise exempt from taxation. (See Ill. Rev. Stat. 1977, ch. 120, par. 499.) Consequently, in those counties where the electors approved the creation of the county health department and the levying of a tax to fund the county health department, county health departments were

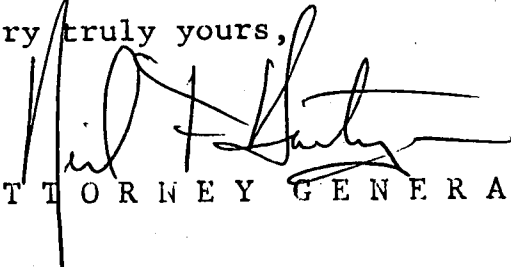
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the beneficiaries of an additional, special tax, which may have been in excess of the limit imposed upon the county by statute, and which was levied against personal property, even though this tax was levied by the county.

Upon the abolition of the personal property tax in 1979, these county health funds and, thereby, county health departments lost revenue. To offset losses of this nature, the General Assembly created the replacement tax. See section 201 of the Illinois Income Tax Act (Ill. Rev. Stat. 1983, ch. 120, par. 2-201).

Therefore, it is my opinion that, in those counties which had a county health department funded by an additional, special tax levied on all taxable property, including personal property, at the time of enactment of "AN ACT in relation to the abolition of ad valorem personal property tax and the replacement of revenues lost thereby, etc." (P.A. 81-1st S.S.-1), the county health department is a governmental body for the purpose of section 12 of "AN ACT in relation to State revenue sharing with local governmental entities" (Ill. Rev. Stat. 1983, ch. 85, par. 616). Thus, such a county health department is entitled to an allocation of personal property replacement funds received by its county.

Very truly yours,



A T T O R N E Y G E N E R A L