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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. 88-002

MENTAL HEALTH:
Power to Increase Community Mental Health Tax to .15% without a Second Referendum

Honorable Nancy W. Owen
State's Attorney, Coles County
Post Office Box 297
Charleston, Illinois 61920

Dear Ms. Owen:

I have your letter wherein you inquire regarding the power of a governmental unit on behalf of its community mental health board to levy the maximum tax rate as set forth in section 4 of the Community Mental Health Act (Ill. Rev. Stat. 1987, ch. 91 1/2, par. 304). You ask whether governmental units which have levied a tax at the rate of .1% pursuant to a referendum held prior to 1975 may increase their levy to .15% without a second referendum.

The Community Mental Health Act (Ill. Rev. Stat. 1987, ch. 91 1/2, par. 300.1 et seq.) was originally adopted in 1963. (Laws 1963, p. 1225, approved June 26, 1963, effective July 1, 1963.) In its original form, section 4 of that Act authorized governmental units to levy an annual tax upon the taxable property of the unit at a maximum rate of .1% of the equalized assessed valuation. Before governmental units were permitted to levy such tax, however, a majority of the electors of the governmental unit had to approve the levy of the .1% tax at a referendum held pursuant to section 5 of the Act. (Ill. Rev. Stat. 1987, ch. 91 1/2, par. 305.)

In Public Act 79-969, effective October 1, 1975, the General Assembly amended the Act by increasing the maximum tax rate from .1% to .15%. In opinion No. S-1118, issued July 1, 1976, Attorney General Scott advised that the .15% rate could be imposed only after it has been authorized by referendum even if a referendum approving the former maximum tax rate of .1% had previously been held. Subsequent to the issuance of opinion No. S-1118, however, the General Assembly enacted Public Act 80-796, effective October 1, 1977, which, inter alia, amended section 3a of the Act (Ill. Rev. Stat. 1987, ch. 91 1/2, par. 303a) by adding the following:

" * * *

> The tax rate set forth in Sec. 4 may be levied by any non-home rule unit only pursuant to the approval by the voters at a referendum. Such referendum may have been held at any time subsequent to the effective date of the Community Mental Health Act."

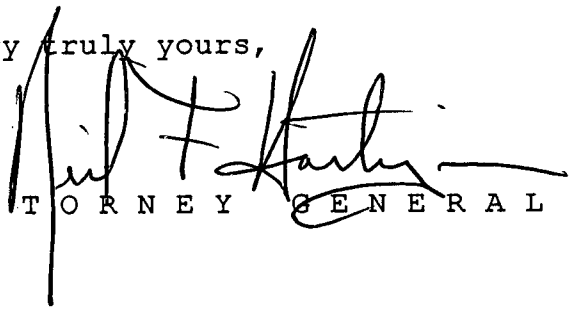
The cardinal rule of statutory construction, to which all other rules are subordinate, is to ascertain and effectuate the intention of the General Assembly. (Stewart v. Industrial Commission (1987), 115 Ill. 2d 337, 341; Maloney v. Bower (1986), 113 Ill. 2d 473, 479.) In determining what that intent is, it is necessary to determine the objective the statute seeks to accomplish. (City of Springfield v. Board of Election Commissioners (1985), 105 Ill. 2d 336, 341; Fitzsimmons v. Norgle (1984), 104 Ill. 2d 369, 373; Department of Revenue v. Smith (1987), 150 Ill. App. 3d 1039, 1047.) Furthermore, it is presumed that every amendment to a statute is for some purpose; an amendment to an unambiguous statute indicates a legislative intention to change the law. (People v. Youngboy (1980), 82 Ill. 2d 556, 563; In re Estate of Skoufes (1985), 138 Ill. App. 3d 954, 956; Kosoglad v. Porcelli (1985), 132 Ill. App. 3d 1081, 1086.) Statutes should be construed so that no clause or sentence thereof is rendered superfluous or meaningless. People v. Wick (1985), 107 Ill. 2d 62, 67.

With these rules of statutory construction in mind, it appears that the intent of the General Assembly in amending section 3a of the Community Mental Health Act by Public Act 80-796 was to authorize local governments which, prior to October 1, 1975, had received referendum approval to levy a tax at .1%, to increase the tax rate as set forth in Public Act

79-969 without a second referendum. Construing Public Act 80-796 as not authorizing the tax rate increase without a second referendum would be contrary to the presumption that every amendment is meant to change the law. Clearly, in absence of the language added to section 3a by Public Act 80-796, a unit of local government would not have the authority to increase its tax rate from .1% as established prior to Public Act 79-969 to .15% without a second referendum. Therefore, Public Act 80-796 must be presumed to change the law so as to allow such an increase. If section 3a as amended by Public Act 80-796 were not so construed, the language added by Public Act 80-796 would be superfluous and meaningless, contrary to the rules of statutory construction.

Consequently, it is my opinion that those units of local government which have levied a tax at the rate of .1% pursuant to a referendum held under section 5 of the Community Mental Health Act prior to October 1, 1975, may increase their levy to a maximum of .15% without a second referendum.

Very truly yours,



ATTORNEY GENERAL