2014-064

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June 12, 2014

Honorable Ronald Robertson
Clay County Revenue Commissioner
Post Office Box 367
Lineville, Alabama 36266

Revenue Commissioners – Compensation – Health Insurance – Employees, Employers, Employment – County Commissions

The costs of the employee portion of the health insurance premiums and family coverage of employees in the appraisal and mapping department of the Clay County Revenue Commissioner's Office may be properly chargeable to the reappraisal budget if the county personnel policy specifically provides that the county will pay those employees' portions.

Dear Mr. Robertson:

This opinion of the Attorney General is issued in response to your request.

QUESTION

May the employee portion of the health insurance premiums and family coverage of employees in the appraisal and mapping department of the Clay County Revenue Commissioner's Office be paid with funds from the county's reappraisal budget?

FACTS AND ANALYSIS

It is well settled that "Code, § 11-91-1 authorizes city and county governing bodies to provide insurance for the officers and employees of the

city and county, while § 11-91-4 provides that the governing body may pay all or part of the premiums of its employees and officers." Opinion to Honorable Bobby M. Junkins, Judge of Probate, Etowah County, dated April 11, 1996, A.G. No. 96-00180 at 5. *See also*, opinion to Mr. W. C. Helveston, Administrator, Mobile County Commission, dated October 10, 1984, A.G. No. 85-00009.

A local act applicable to Clay County providing for the office of county revenue commissioner is determinative on the issue of whether the revenue commissioner's employees are county employees. This act is codified in section 45-14-240, *et seq.*, of the Code of Alabama. ALA. CODE §§ 45-14-240 to 45-14-240.07 (2007). The employees are appointed with the approval of the Clay County Commission. ALA. CODE § 45-14-240.02 (2007). The county provides the commissioner's necessary office space and equipment. ALA. CODE § 45-14-240.04 (2007). These employees are employees of the county. Opinions to Honorable Lesley Vance, Member, House of Representatives, dated February 28, 2002, A.G. No. 2002-156; Honorable Kristie C. Allums, Henry County Revenue Commissioner, dated September 22, 2003, A.G. No. 2003-251. Accordingly, the county may pay the whole premium of the employees in the reappraisal program.

As to whether insurance may be paid out of the county's reappraisal budget, the provisions regarding statewide property reappraisals are set forth in sections 40-7-60, *et seq.*, of the Code of Alabama. ALA. CODE §§ 40-7-60 to 40-7-75 (2011). Section 40-7-68 states as follows:

> The cost of any program for the equalization of ad valorem taxes shall be prorated by each county governing body to each agency therein on the basis of the proportion of the moneys received by each agency in the county to the total amount received by all agencies of such county.

ALA. CODE § 40-7-68 (2011).

This Office has explained the statute as follows:

> Entities that receive money from the ad valorem tax collections in a county are required to contribute a pro rata share back to the county in order to pay the costs of administering the ad valorem tax program. State law requires that these entities contribute a pro rata share of the cost of the county's equalization program in accordance with section 40-7-68 and a pro rata share of the salaries of the officials who assess

> and collect the ad valorem taxes pursuant to section 40-6A-2.

Opinion to Honorable Nikki Owen Smallwood, Cleburne County Revenue Commissioner, dated June 28, 1999, A.G. No. 99-00237 at 3.

"Section 40-7-64 provides that the Department of Revenue [("Revenue")] establish procedures, standards, forms, etc., to implement the program. ALA. CODE § 40-7-64 (1993)." Opinion to Honorable James E. Turnbach, Attorney for Etowah County Commission, dated December 11, 1997, A.G. No. 98-00054 at 2. Revenue has promulgated rules pursuant to this statutory authority.

Rule 810-4-1-.02(4)(a) of Revenue's rules requires county officials charged with the responsibility of carrying out the appraisal and mapping program to develop a budget. ALA. ADMIN CODE r. 810-4-1-.02(4)(a) (2014). The rule further provides for the budget to "include the cost for salaries, ***fringe benefits*** and all other expenses." ALA. ADMIN CODE r. 810-4-1-.02(4)(a)1 (2014) (emphasis added). Revenue has issued a *Property Tax Equalization Plan* that more fully develops the costs embraced by the appraisal and mapping budget. Appendix F, *Property Tax Equalization Plan* (Mar. 1, 2014). Paragraph 1(a)(2) of Appendix F specifically defines "fringe benefits" to include "health/dental insurance." *Id.* at F-1.

This Office understands that the county has a personnel policy but that the policy does not address health insurance of employees. If the county chooses to cover the employee portion of the health insurance premiums of the employees in the reappraisal program, the policy should be amended to specifically provide for such coverage. In that case, the costs become legitimate costs of and properly chargeable to the cost of the program.

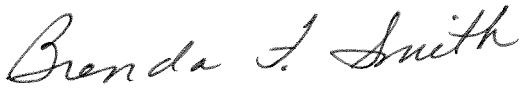
CONCLUSION

The costs of the employee portion of the health insurance premiums and family coverage of employees in the appraisal and mapping department of the Clay County Revenue Commissioner's Office may be properly chargeable to the reappraisal budget if the county personnel policy specifically provides that the county will pay those employees' portions.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Ward Beeson of my staff.

Sincerely,

LUTHER STRANGE
Attorney General
By:



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