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FILE NO. 85-024

REVENUE:

Requirements for Motor Fuel Tax
Allocations for Park Districts,
Forest Preserve Districts, and
Conservation Districts

Harry R. Hanley, Secretary
Department of Transportation
2300 South Dirksen Parkway
Springfield, Illinois 62764

Dear Secretary Hanley:

I have your predecessor's letter wherein he inquired whether park districts, forest preserve districts, and conservation districts are required to levy a tax for road purposes at the statutorily specified rate, or make an equivalent transfer to the road and bridge fund, in order to receive allocations from the motor fuel tax fund, as is required for other "road districts", as defined in section 8 of

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the Motor Fuel Tax Law (Ill. Rev. Stat. 1984 Supp., ch. 120, par. 424). For the reasons hereinafter stated, it is my opinion that the answer to that question is in the affirmative.

Section 8 of the Motor Fuel Tax Law provides that all money received by the Department of Revenue under that Act shall be deposited in the State motor fuel tax fund to be used as specified. Section 8 further provides for the allotment of motor fuel tax funds to road districts:

" * * *

As soon as may be after the first day of each month, the Department of Transportation shall allot to the several counties their share of the amount apportioned for the use of road districts. * * * After July 1 of any year, no allocation shall be made for any road district unless it levied a tax for road and bridge purposes in an amount which will require the extension of such tax against the taxable property in any such road district at a rate of not less than .08% of the value thereof, based upon the assessment for the year immediately prior to the year in which such tax was levied and as equalized by the Department of Revenue. If any road district has levied a special tax for road purposes pursuant to Sections 6-601, 6-602 and 6-603 of the 'Illinois Highway Code', as the same may from time to time be amended, and such tax was levied in an amount which would require extension at a rate of not less than .08% of the value of the taxable property thereof, as equalized or assessed by the Department of Revenue, such levy shall, however, be deemed a proper compliance with this Section and shall qualify such road district for an allotment under this Section. If a township has transferred to the road and bridge fund money which, when added to the amount of any tax levy of the road district would be the equivalent of a tax levy requiring

extension at a rate of at least .08%, such transfer, together with any such tax levy, shall be deemed a proper compliance with this Section and shall qualify the road district for an allotment under this Section.

As used in this Section the term 'road district' means any road district, including a county unit road district, provided for by the 'Illinois Highway Code'; and the term 'township or district road' means any road in the township and district road system as defined in the 'Illinois Highway Code'. For the purposes of this Section, 'road district' also includes park districts, forest preserve districts and conservation districts organized under Illinois law and 'township or district road' also includes such roads as are maintained by park districts, forest preserve districts and conservation districts. The Department of Transportation shall determine the mileage of all township and district roads for the purposes of making allotments and allocations of motor fuel tax funds for use in road districts. (Emphasis added.)

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Section 2 of Public Act 83-12, effective August 1, 1983, added the sentence underscored in section 8 of the Motor Fuel Tax Law, thereby expressly amending (1) the definition of "road district" to include park districts, forest preserve districts, and conservation districts for purposes of this section; and (2) the definition of "township or district road" to include "such roads as are maintained by park districts, forest preserve districts and conservation districts".

Statutes should be interpreted and construed so as to ascertain the legislative intent and render it effective.

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(Certain Taxpayers v. Sheahan (1970), 45 Ill. 2d 75, 84.) In People ex rel. Scott v. Schwulst Building Center, Inc. (1982), 89 Ill. 2d 365, 371, the court stated:

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* * *

Legislative intent is to be derived primarily from a consideration of the legislative language itself. 'There is no rule of construction which authorizes a court to declare that the legislature did not mean what the plain language of the statute imports.' (Western National Bank v. Village of Kildeer (1960), 19 Ill. 2d 342, 350.) Moreover, when an act defines its terms, those terms must be construed according to the definitions contained in the act. (Krebs v. Thompson (1944), 387 Ill. 471, 478.) * * *

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With respect to amendments, the rule is well stated in People v. Youngbey (1980), 82 Ill. 2d 556, 563:

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* * * It is presumed that every amendment to a statute is made for some purpose, and effect must be given to the amended law in a manner consistent with the amendment. McLaughlin v. People (1949), 403 Ill. 493, 501.

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Public Act 83-12 expressly added park districts, forest preserve districts, and conservation districts to the definition of "road districts" in section 8 of the Motor Fuel Tax Law. Thus, park districts, forest preserve districts, and conservation districts, like all other "road districts", must either levy an .08 percent road purpose tax, or make an equivalent

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transfer to the road and bridge fund, in order to qualify for the motor fuel tax allotment.

The requirement of the .08 percent tax levy and extension for roads and bridges, or its equivalent as specified in section 8 of the Motor Fuel Tax Law, is uniform for all "road districts" as now defined in section 8. Park districts, forest preserve districts, and conservation districts, however, are not authorized to levy a tax for road purposes at a rate of .08 percent. (See Ill. Rev. Stat. 1983, ch. 105, par. 5-6; ch. 96 1/2, pars. 6324, 6425, 7114; Ill. Rev. Stat. 1984 Supp., ch. 105, par. 333.19.) Moreover, these districts cannot look to transfers from a township to supplement a levy, as permitted by section 8.

The plain language of section 8 of the Motor Fuel Tax Law, however, provides that if moneys are transferred to a road and bridge fund so that this amount, when added to a tax levy for road purposes, is equivalent to a tax levy requiring extension at a rate of at least .08 percent, the road district is deemed to be eligible for an allotment from the motor fuel tax fund. Although the statutory language refers to transfers of funds from townships, it is the amount of supplementary funds, and not their source, which is determinative. Therefore, it is my opinion that park districts, forest preserve districts, and conservation districts, in order to receive allocations from

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the motor fuel tax fund, are required to transfer to a road and bridge fund an amount which, when added to their respective levies for road purposes, would be equivalent to a tax levy at a rate of at least .08 percent.

Very truly yours,


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