



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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File No. 01-005

REVENUE:

Application of the Property Tax
Extension Limitation Law to a
Combined School District

The Honorable Gary W. Pack
State's Attorney, McHenry County
2200 North Seminary Avenue
Woodstock, Illinois 60098

Dear Mr. Pack:

I have your letter wherein you pose several questions regarding the application of the Property Tax Extension Limitation Law (35 ILCS 200/18-185 (West 1999 Supp.)) to a school district that was created pursuant to the passage of a referendum to combine two existing school districts. Specifically, you have inquired: (1) whether the Property Tax Extension Limitation Law is applicable to the levy authority of the school district; (2) if so, whether the school district should be considered a "new taxing district" or a "consolidated taxing district", for purposes of the Property Tax Extension Limitation Law; and (3)

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whether the Property Tax Extension Limitation Law requires the establishment of a new aggregate extension for the school district. For the reasons hereinafter stated, it is my opinion that: (1) the Property Tax Extension Limitation Law is applicable to the levy authority of the school district beginning with its first levy year; (2) where two school districts are combined pursuant to the provisions of article 11B of the School Code (105 ILCS 5/11B-1 et seq. (West 1998)), the resulting district is a "consolidated taxing district" which is subject to the provisions of section 18-215 of the Property Tax Extension Limitation Law; and (3) the school district must establish a new aggregate extension by combining the last preceding aggregate extensions for the two school districts which formed the consolidated taxing district.

According to the materials you have provided, at the nonpartisan primary election held on March 21, 2000, voters residing in two elementary school districts in McHenry County, Spring Grove School District No. 11 and Richmond Consolidated School District No. 13, voted on a proposition to combine the two school districts pursuant to the provisions of article 11B of the School Code (105 ILCS 5/11B-1 et seq. (West 1998)). As set out on the ballot, the proposition read:

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"PROPOSITION TO COMBINE SCHOOL DISTRICTS
11 AND 13

Shall a combined district with authority to levy taxes at the rate of 2.200% for educational purposes, .375% for operations and maintenance purposes and the purchase and improvements of school grounds, .120% for pupil transportation purposes, and .025% for fire prevention and safety purposes each upon all the taxable property of the district at the value thereof, as equalized or assessed by the Department of Revenue, be established?

YES

No

* * *

"

The proposition was passed by the voters, resulting in the formation of Nippersink School District No. 2. Because McHenry County is subject to the provisions of the Property Tax Extension Limitation Law, questions have arisen regarding how the Law should be applied to the newly-formed district. In responding to your specific inquiries, it is helpful to review the provisions of the Property Tax Extension Limitation Law.

As its title suggests, the Property Tax Extension Limitation Law (hereinafter referred to as the "Tax Limitation Law") limits increases in tax extensions and amounts levied by taxing districts in counties in which the Law is applicable. (35 ILCS 200/18-195 (West 1998), as amended by Public Act 91-859, effective June 22, 2000.) Counties in which the limits are

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automatically applicable include those that are contiguous to a county of 3,000,000 or more inhabitants, including McHenry County. (35 ILCS 200/18-185 (West 1999 Supp.).) In counties in which the Tax Limitation Law is applicable, non-home-rule units of local government, such as townships and counties, and school districts, which possess the authority to levy taxes, are subject to the statutory limitations. (35 ILCS 200/1-150 (West 1998); 35 ILCS 200/18-185 (West 1999 Supp.).)

Under the provisions of the Tax Limitation Law, a taxing district may ordinarily extend taxes at a rate that exceeds the previous year's extension by more than 5% or the percentage increase in the Consumer Price Index, whichever is less, only with referendum approval. (35 ILCS 200/18-205 (West 1999 Supp.).) The limiting rate is calculated as a fraction, the numerator of which equals the amount of the last preceding aggregate extension base multiplied by an amount equal to one plus the extension limitation, and the denominator of which equals the current year's equalized assessed value, without including new property or the recovered tax increment value. (35 ILCS 200/18-185 (West 1999 Supp.).)

You have inquired, firstly, whether the Tax Limitation Law applies to the levy authority of the newly-formed school district. Section 18-195 of the Tax Limitation Law (35 ILCS

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200/18-195 (West 1998), as amended by Public Act 91-859, effective June 22, 2000) provides, in pertinent part:

" * * *

For those taxing districts that have levied in any previous levy year for any funds included in the aggregate extension, the county clerk shall extend a rate for the sum of these funds that is no greater than the limiting rate.

For those taxing districts that have never levied for any funds included in the aggregate extension, the county clerk shall extend an amount no greater than the amount approved by the voters in a referendum under Section 18-210.

* * *

(Emphasis added.)

Sections 18-210 and 18-215 of the Tax Limitation Law (35 ILCS 200/18-210 (West 1999 Supp.); 35 ILCS 200/18-215 (West 1998)), respectively, address the establishment of the aggregate extension for new taxing districts and for merged and consolidated taxing districts:

"* * * Except as provided in Section 18-215, as it relates to a transfer of a service, before a county clerk may extend taxes for funds subject to the limitations of this Law, a new taxing district or a taxing district with an aggregate extension base of zero shall hold a referendum establishing a maximum aggregate extension for the levy year. The maximum aggregate extension is established for the current levy year if a taxing district has held a referendum before the levy date at which the majority voting on the issue approves its adoption. The refer-

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endum under this Section may be held at the same time as the referendum on creating a new taxing district. * * *

* * *

"

"* * * For purposes of this Law, when 2 or more taxing districts merge or consolidate, the sum of the last preceding aggregate extensions for each taxing district shall be combined for the resulting merged or consolidated taxing district. When a service performed by one taxing district is transferred to another taxing district, that part of the aggregate extension base for that purpose shall be transferred and added to the aggregate extension base of the transferee taxing district for purposes of this Law and shall be deducted from the aggregate extension base of the transferor taxing district. * * *"
(Emphasis added.)

As used in the Tax Limitation Law, the term "taxing district" is defined to include "* * * [a]ny unit of local government, school district or community college district with the power to levy taxes." (35 ILCS 200/1-150 (West 1998).) Similarly, the phrase "aggregate extension" refers to "* * * the annual corporate extension for the taxing district and those special purpose extensions that are made annually for the taxing district" excluding certain, specified special purpose extensions. (35 ILCS 200/18-185 (West 1999 Supp.).)

The primary purpose of statutory construction is to ascertain and give effect to the intent of the General Assembly. (In re Marriage of Burgess (2000), 189 Ill. 2d 270, 277.) When

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ascertaining legislative intent, a statute should be read as a whole, and each provision thereof should be construed with reference to every other provision. In re A.P. (1997), 179 Ill. 2d 184, 197.

Section 18-210 sets out a procedure by which a new taxing district or a taxing district with an aggregate extension base of zero may establish a maximum aggregate extension by referendum, which "* * *" may be held at the same time as the referendum on creating a new taxing district." Similarly, section 18-215 provides that "* * *" when 2 or more taxing districts merge or consolidate, the sum of the last preceding aggregate extensions for each taxing district shall be combined for the resulting merged or consolidated taxing district". When these provisions of the Tax Limitation Law are construed together, it is clear that regardless of whether a school district is newly-organized or is created through a consolidation or merger of existing districts, the district is subject to the provisions of the Tax Limitation Law from its inception. Consequently, it is my opinion that Nippersink School District No. 2 is subject to the provisions of the Tax Limitation Law and, therefore, its tax levy, beginning with its first levy year, must be extended in compliance therewith.

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Secondly, you have inquired whether Nippersink School District No. 2 should be considered a "new taxing district", which is subject to the referendum provisions of section 18-210 of the Tax Limitation Law, or a "merged or consolidated taxing district", which is governed by the provisions of section 18-215 of the Tax Limitation Law. Neither the phrase "new taxing district" nor the term "merged or consolidated taxing district" is defined in the Tax Limitation Law or in the Property Tax Code (35 ILCS 200/1-1 et seq. (West 1998)) generally. It is well established, however, that undefined statutory terms must be given their ordinary and popularly understood meaning. (Gem Electronics of Monmouth, Inc. v. Department of Revenue (1998), 183 Ill. 2d 470, 477-78.) The term "new" means "* * * never existing before; appearing, thought of, developed, made, produced, etc. for the first time. * * *" (Webster's New World Dictionary 957 (2d coll. ed. 1976).) Conversely, the term "consolidate" commonly means "* * * to unite or unify into one mass or body, as to consolidate several small school districts into a large district, or to consolidate various funds. * * * The term means something more than to rearrange or redivide. * * *" Black's Law Dictionary 308 (6th ed. 1990); see also Independent District of Fairview v. Durland (1876), 45 Iowa 53, 56; Petition

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for Division into Wards of Scott Township, Allegheny County (Pa. 1957), 130 A.2d 695, 697.

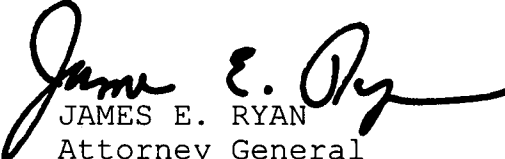
Under the provisions of article 11B of the School Code, a "combined school district" is "* * * any [school] district resulting from the combining of 2 or more entire elementary school districts or 2 or more entire high school districts." (105 ILCS 5/11B-1 (West 1998).) In these circumstances, two elementary school districts, Richmond Consolidated School District No. 11 and Spring Grove School District No. 13, have been combined into one elementary school district. Article 11B of the School Code contemplates that a combined school district will assume certain financial obligations of the school districts that were consolidated (105 ILCS 5/11B-11 (West 1998)) and provides for the transfer of funds between the new school district and the districts from which the new district was formed (105 ILCS 5/11B-9(7), (8) (West 1998)). Based upon this relationship between the new school district and the districts from which the new district was formed, the act of combining or uniting school districts to create a single school district falls squarely within the commonly understood meaning of the term "consolidate". Consequently, although the district is "new" in the sense that it did not exist, in its current form, prior to the referendum creating it, it is my opinion that Nippersink School District No. 2 is

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properly deemed a "consolidated taxing district", which is therefore subject to the provisions of section 18-215 of the Tax Limitation Law.

Lastly, you have inquired whether the Tax Limitation Law requires the establishment of a new aggregate extension for Nippersink School District No. 2. As previously determined, Nippersink School District No. 2 is a consolidated taxing district, for purposes of section 18-215 of the Tax Limitation Law, which provides that "* * * when 2 or more taxing districts merge or consolidate, the sum of the last preceding aggregate extensions for each taxing district shall be combined for the resulting merged or consolidated taxing district. * * *" Where statutory language is clear and unambiguous, it must be given effect as written. (People v. Whitney (1999), 188 Ill. 2d 91, 97.) Based upon the plain language of section 18-215, it is my opinion that Nippersink School District No. 2 is required to establish a new aggregate extension which will be calculated by adding the last preceding aggregate extension for Richmond Consolidated School District No. 11 to the last preceding aggregate extension for Spring Grove School District No. 13.

Sincerely,


JAMES E. RYAN
Attorney General