County Surcharge -- Court Facilities

Number: INFORMAL

Date: September 24, 2013

Mr. Frank A. Baker
4431 Lafayette Street
Marianna, Florida 32446

Dear Mr. Baker:

On behalf of the Board of County Commissioners of Jackson County, Florida, you have asked whether, with respect to the funds generated under section 318.18(13)(a)1, Florida Statutes, the special expenditure approval process set forth in section 29.008(2)(c), Florida Statutes, applies solely to the "local requirements under subparagraph (a)2" and, if so, which subparagraph (a)2 is the subject of that process.

Section 318.18, Florida Statutes, authorizes the imposition of penalties for noncriminal traffic infractions or certain criminal violations. Subparagraph (13) provides additional authority for a county commission to impose a surcharge on infractions or violations to fund court facilities. The statute provides that

"[i]n addition to any penalties imposed for noncriminal traffic infractions pursuant to this chapter or imposed for criminal violations listed in s. 318.17, a board of county commissioners or any unit of local government that is consolidated as provided by s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the Constitution of 1968:
1. May impose by ordinance a surcharge of up to $30 for any infraction or violation *to fund state court facilities*. The court shall not waive this surcharge. Up to 25 percent of the revenue from such surcharge may be used to support local law libraries provided that the county or unit of local government provides a level of service equal to that provided prior to July 1, 2004, which shall include the continuation of library facilities located in or near the county courthouse or any annex to the courthouse." (e.s.)

Counties are required to fund the cost of certain aspects of court-related functions which include

"the cost of communications services, existing radio systems, existing multiagency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the circuit and county courts, public defenders' offices, state attorneys' offices, guardian ad litem offices, and the offices of the clerks of the circuit and county courts performing court-related functions."[1]

Because of the county's role in funding state court facilities, you have asked whether the special expenditure approval process described in section 29.008(2)(c), Florida Statutes, applies only to those "local requirements under subparagraph (a)2" and if that is the case, you request assistance in identifying the subparagraph to which the reference is related (section 29.008, Florida Statutes, contains two subparagraphs [a]2.)."[2]

Section 29.008, Florida Statutes, provides for county funding of court-related functions as required by section 14, Article V of the Florida Constitution. As required in section 29.008(2), Florida Statutes, counties must pay the reasonable and necessary salaries, costs, and expenses of the state courts system, which includes associated staff and expenses, to meet local requirements. The statute relates what may constitute a "local requirement:"

"Local requirements are those specialized programs, nonjudicial staff, and other expenses associated with specialized court programs, specialized prosecution needs, specialized defense needs, or resources required of a local jurisdiction as a result of special factors or circumstances."[3]

Local requirements exist within the scope of section 29.008(2), Florida Statutes, when the Legislature imposes them by express statutory directive or, as provided in subparagraph (a)2., when:

"a. The county has enacted an ordinance, adopted a local program, or funded activities with a financial or operational impact on the circuit or a county within the circuit; or
b. Circumstances in a given circuit or county result in or necessitate implementation of specialized programs, the provision of nonjudicial staff and expenses to specialized court programs, special prosecution needs, specialized defense needs, or the commitment of resources to the court(s jurisdiction."

This is the subparagraph (a)2., to which subparagraph (2)(c) appears to relate. Both provisions are contained within subsection (2) of section 29.008, Florida Statutes, and both relate to "local requirements." It is my conclusion that, as related provisions within subsection (2), these two related statutory provisions should be read *in pari materia* because they govern different facets of the same subject matter.[4]

Subparagraph (2)(c) provides a method for determining "local requirements under subparagraph (a)2." and requires the chief judge of the circuit, in conjunction with the state attorney, the public defender, and, on matters impacting their offices criminal conflict and civil regional counsel, to identify the local requirements within the circuit or within each county in the circuit and to identify the reasonable and necessary salaries, costs, and expenses needed to meet these "local requirements." The statute does not extend this requirement to other budgetary items. In the absence of any legislative expression of an expansion to other budgetary requests, it would appear that the terms of the statute are limited to those expressly provided.[5]

Thus, it appears that the process set forth in section 29.008(2)(c), Florida Statutes, for determining "local requirements" is, by its terms, limited in application to those requirements set forth in "subparagraph (a)2." The reference to subparagraph (a)2. appears to relate to section 29.008(2)(a)2., Florida Statutes, which addresses "local requirements."

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

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[1] Section 29.008(1), Fla. Stat.

[2] Section 29.008(1)(a)2., Fla. Stat., relates to equipment and furnishings within the definition of "[f]acility."

[3] Section 29.008(2)(a), Fla. Stat.

[4] *See Wakulla County v. Davis*, 395 So. 2d 540 (Fla. 1981); *Garner v. Ward*, 251 So. 2d 252 (Fla. 1971) (a law should be construed together with any other law relating to the same purpose, such that they are in harmony). *And see* 49 Fla.Jur.2d *Statutes* s. 175 (statutes should be read *in pari materia* when they govern different facets of the same subject matter) and *cf.* Op. Att'y Gen. Fla. 80-60 (1980).

[5] When a law mentions the things upon which it is to operate, or forbids certain things, it is ordinarily construed as excluding from its operation all things not expressly mentioned (the express mention of one thing implies the exclusion of another – *expressio unius est exclusio alterius*. *See Young v. Progressive Southeastern Insurance Company*, 753 So. 2d 80 (Fla. 2000); *Thayer v. State*, 335 So. 2d 815 (Fla. 1976); *Dobbs v. Sea Isle Hotel*, 56 So. 2d 341 (Fla. 1952); *Alsop v. Pierce*, 19 So. 2d 799 (Fla. 1994).