

Schools, payment of workers' compensation premiums

Number: AGO 2009-51

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Subject:

Schools, payment of workers' compensation premiums

Mr. Paul R. Green
Johnson & Green, P.A.
Post Office Box 605
Milton, Florida 32572

RE: SCHOOL DISTRICTS – INSURANCE – WORKERS' COMPENSATION – payment of insurance premiums by school districts. ss. 624.605, 627.403, and 1011.71, Fla. Stat.

Dear Mr. Green:

As attorney for and on behalf of the Santa Rosa County School District, you have asked for my opinion on substantially the following questions:

1. What is a "premium" within the scope of section 1011.71(5)(b), Florida Statutes?
2. Is the Santa Rosa County School District authorized to expend funds available pursuant to section 1011.71(5)(b), Florida Statutes, for workers' compensation insurance premiums?

In sum:

1. A "premium" is the consideration paid for insurance.
2. The Santa Rosa County School District is not authorized to expend funds available pursuant to section 1011.71(5)(b), Florida Statutes, for workers' compensation insurance premiums.

Section 1011.71, Florida Statutes, authorizes each district school board to "levy on the taxable value for school purposes of the district," a local effort millage. The Legislature is required to establish in the annual appropriations act the maximum amount of millage a district may levy.[1]

Subsection (5) of the statute, as amended by section 33, Chapter 2009-59, Laws of Florida, makes specific provision for expenditures by the school district for the following identified purposes:

"(a) The purchase, lease-purchase, or lease of driver's education vehicles; motor vehicles used for the maintenance or operation of plants and equipment; security vehicles; or vehicles used in storing or distributing materials and equipment.

(b) Payment of the cost of premiums for property and casualty insurance necessary to insure

school district educational and ancillary plants. Operating revenues that are made available through the payment of property and casualty insurance premiums from revenues generated under this subsection may be expended only for nonrecurring operational expenditures of the school district." [2]

The statute also recognizes that additional expenditures may include those set forth in paragraphs (2)(a)-(j) which include such things as new construction and remodeling projects; maintenance, renovation, and repair of existing school plants; the purchase or lease of school buses; and the purchase or lease of new or replacement equipment, and software applications. [3]

Question One

Section 1011.71(5)(b), Florida Statutes, authorizes the payment of *premiums* for certain types of insurance purchased by the school district. You have asked what may constitute a "premium" within the scope of the statute. Nothing in section 1011.71, Florida Statutes, defines the term "premium," nor is any direction provided elsewhere in Part II, Chapter 1011, Florida Statutes, providing for the funding of school districts.

The contents of Florida insurance policies must, by statute, conform to the requirements of the Florida Insurance Code, [4] which requires that every policy shall specify the premium to be paid. [5] Section 627.403, Florida Statutes, defines the term "[p]remium" for purposes of insurance contracts issued in Florida:

"Premium' defined.--'Premium' is the consideration for insurance, by whatever name called. Any 'assessment,' or any 'membership,' 'policy,' 'survey,' 'inspection,' 'service' or similar fee or charge in consideration for an insurance contract is deemed part of the premium."

While section 1011.71(5)(b), Florida Statutes, does not define the term "premium" for purposes of that section, it is my opinion that the definition contained in the Florida Insurance Code at section 627.403, Florida Statutes, would control. Both of these statutes relate to insurance and should be read together to achieve a consistent result. [6] Thus, a "premium," within the scope of section 1011.71(5)(b), Florida Statutes, is the consideration paid for insurance.

Question Two

You have specifically asked whether workers' compensation insurance premiums may be paid by the Santa Rosa County School District pursuant to section 1011.71(5)(b), Florida Statutes. The statute authorizes "[p]ayment of the cost of premiums for property and casualty insurance necessary to insure school district educational and ancillary plants."

Pursuant to the "Florida Insurance Code," [7] insurance in this state is classified into the following "kinds of insurance:" life; health; property; casualty; surety; marine; and title insurance. [8] A comprehensive definition of each of these kinds of insurance is provided subsequently in Part V, Chapter 624, Florida Statutes. "Casualty insurance" is defined in section 624.605, Florida Statutes, to include:

"(c) Workers' compensation and employer's liability.--Insurance of the obligations accepted by,

imposed upon, or assumed by employers under law for death, disablement, or injury of employees."

Thus, the Florida Insurance Code considers workers' compensation insurance to be a type of casualty insurance. However, payment of casualty insurance premiums is qualified by section 1011.71(5)(b), Florida Statutes, with the requirement that such payment be used to "insure school district educational and ancillary plants." The statute does not authorize the payment of premiums for casualty insurance for employees of the district, but for physical plants.

Therefore, it is my opinion that the Santa Rosa County School District is limited to expending funds available pursuant to section 1011.71(5)(b), Florida Statutes, on casualty insurance premiums for the physical plants of educational facilities not for workers' compensation insurance premiums.

Sincerely,

Bill McCollum
Attorney General

BM/tgh

[1] Section 1011.71(1), Fla. Stat.

[2] Section 1011.71(5), Fla. Stat.

[3] Section 1011.71(2)(a), (b), (c), and (d), Fla. Stat.

[4] See s. 624.01, Fla. Stat., which provides that "[c]hapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the "Florida Insurance Code."

[5] Section 627.413, Fla. Stat.

[6] See *Wakulla County v. Davis*, 395 So. 2d 540 (Fla. 1981), *Garner v. Ward*, 251 So. 2d 252 (Fla. 1971), *Ideal Farms Drainage District et al. v. Certain Lands*, 19 So. 2d 234 (Fla. 1944); *State v. Haddock*, 140 So. 2d 631 (Fla. 1st DCA 1962).

[7] See s. 624.01, Fla. Stat., which provides that "[c]hapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the "Florida Insurance Code."

[8] See s. 624.6011, Fla. Stat.