Salary of director/coordinator of E911 system in Tazewell County may be paid from county's special tax revenues generated from implementation of system only if his primary function is to dispatch or take 911 calls, even though he may have some supervisory or administrative duties directly attributable to E911 program only.

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April 2, 1996

You ask whether Tazewell County may pay the salary of the director/coordinator of the county's enhanced 911 emergency telephone system ("E911 system") from the taxes imposed pursuant to § 58.13813 of the Code of Virginia. You ask also what costs in connection with the initial implementation of an E911 system constitute a capital expenditure recoverable by the tax.

The provisions of § 58.13813(A) and (D) authorize a locality to impose a special tax on telephone service consumers for the purpose of establishing and maintaining an E911 system. Section 58.13813(D) provides that, in establishing the system, the jurisdiction shall use the taxes imposed under § 58.13813 “solely for the initial capital, installation and maintenance costs of the E911 emergency telephone system." Section 58.13813(D) further provides that, after these initial costs are fully recovered, the locality is to reduce the tax to "the level necessary to offset recurring maintenance, repair, and system upgrade costs, and salaries or portion of salaries of dispatchers or call-takers paid by the locality which are directly attributable to the E911 program only."

Prior opinions of the Attorney General consider the extent to which the taxes imposed under § 58.13813 may be used to pay the costs of establishing the E911 system and the costs associated with maintaining the system. These opinions conclude that the initial capital, installation and maintenance costs necessary to make the system operational are to be recovered first pursuant to § 58.13813(D). Thus, because mapping is an essential element in locating the caller and dispatching the service, the cost of mapping may be paid as an installation cost. The purchase, installation and ongoing maintenance costs of new street name signs which reflect the mapping and enable public safety personnel to respond to 911 calls also may be paid as a cost essential for the successful operation of the system. A recent opinion concludes that the purchase of radio equipment for use by public safety agencies in connection with the establishment of a system that transmits information from the public safety answering point to the public safety agencies by radio frequencies is an authorized use of the tax imposed by § 58.1-3813.

In addition to these opinions regarding the costs of implementing a system, a 1990 opinion considers whether § 58.13813(D) authorizes as a recurring expense the recovery of personnel costs necessary to operate an E911 system. When the 1990 opinion was rendered, § 58.1-3813(D) provided for a tax in an amount “necessary to offset recurring maintenance costs only” after recovery of the initial costs of implementing the system. The 1990 opinion distinguishes between recurring maintenance costs and recurring operational costs and concludes that, while the cost of personnel hired to repair and service the E911 equipment constitutes a recurring maintenance cost contemplated within the language of the statute, no language indicates a legislative intent to authorize use of the tax to pay the personnel costs associated with operating an E911 system.

The 1990 opinion notes that the General Assembly could, of course, amend § 58.13813(D) to authorize the recovery of operating costs, including the cost of personnel necessary to operate
the system. The 1993 Session of the General Assembly amended § 58.13813(D) to specifically authorize the payment of certain maintenance and personnel costs. The 1993 amendment added authorization for the payment of "repair, and system upgrade costs and salaries or portion of salaries of dispatchers or call-takers paid by the locality which are directly attributable to the E-911 program only." The amendment authorized no other operational costs.

It is clear from the language of the 1993 amendment that the General Assembly intended only a limited authorization for payment of personnel costs associated with operating an E911 system. The authorization in § 58.13813(D) covers only the salaries of "dispatchers or call-takers" and only to the extent the salaries are "paid by the locality" and are "directly attributable to the E911 program only."

This language, in addition to the general principle that statutes authorizing a tax are to be narrowly construed against the government, directs a conclusion that, unless the primary function of the director/coordinator is to dispatch or take calls, his salary may not be paid from the special taxes imposed pursuant to § 58.13813. It is my opinion, therefore, that if the director/coordinator’s primary function is dispatching or taking calls, the fact that he also may have some supervisory or administrative duties "directly attributable to the E911 program only" would not preclude payment of his salary from the county's § 58.13813 tax revenues.


2 See id.


7 Id. at 229 (quoting § 58.13813(D)).

8 See id.

9 Id. at 229 n.2.

10 See 1993 Va. Acts Reg. Sess.: Ch. 25, at 27; Ch. 76, at 75, 76.

11 Acts of 1993 Ch. 25/Id.


13 Section 58.13813(D).