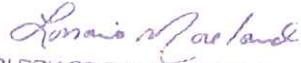


**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
UNION COUNTY, ILLINOIS**

THE COUNTY OF UNION,)
 Plaintiff,)
 vs.)
 CONSTANCE BEARD, in her official)
 capacity as Director of the Illinois)
 Department of Revenue, and)
 LESLIE GEISSLER MUNGER, in her)
 official capacity as Comptroller of the)
 State of Illinois,)
 Defendant.)

CASE NO.: 2015-MR-179
FILED
 DEC 23 2015

 CLERK OF THE CIRCUIT COURT
 FIRST JUDICIAL CIRCUIT
 UNION COUNTY, ILLINOIS

VERIFIED COMPLAINT

NOW COMES the COUNTY OF UNION, by TYLER R. EDMONDS, Union County State’s Attorney, and for its Verified Complaint against Defendants, Constance Beard, in her official capacity as Director of the Illinois Department of Revenue, and Leslie Geissler Munger, in her official capacity as Comptroller of the State of Illinois, states as follows:

COUNT I
(Mandamus)

For Count I of its Verified Complaint pursuant to Article XIV of the Illinois Code of Civil Procedure (735 ILCS 5/14-101 *et seq.*), Plaintiff, the County of Union, states as follows:

1. Plaintiff is a body politic and corporate organized and existing under the Illinois Counties Code (55 ILCS 5/1-1 *et seq.*) and a taxing district within the mean of Section 1-150 of the Illinois Property Tax code (35 ILCS 200/1-150). Plaintiff is authorized to sue under Section 5-1001 and Section 2-9005 of the Illinois Counties Code (55 ILCS 5/5-1001; 55 ILCS 5/3-9005).
2. Defendant, Constance Beard, is the duly-appointed Director of the Illinois Department of Revenue and is sued in that official capacity.

3. Defendant, Leslie Geissler Munger, is the duly-appointed Comptroller of the State of Illinois and is sued in that official capacity.
4. Section 4-2001 of the Illinois Counties Code pertinently provides for State reimbursement of “66 2/3 % of the total annual compensation to be paid to each state’s attorney in Illinois based on the salary in effect on December 31, 1988, and 100% of the increases in salary taking effect after December 31, 1988”, and further provides that, “[s]ubject to appropriation, said amounts furnished by the State shall be payable monthly by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General Revenue Fund to the county in which each state’s attorney is elected.” 55 ILCS 5/4-2001(a).
5. Similarly, Section 3-4007(a) of the Illinois Counties Code provides that “[t]he public defender shall be paid out of the county treasury and, subject to appropriation, shall be paid by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General Revenue Fund as provided in subsection (b)”, which further provides that “[t]he State must pay 66 2/3 % of the public defender’s annual salary.” 55 ILCS 3-4007.
6. Finally, Section 3-40(c) of the Illinois Property Tax Code pertinently provides for reimbursement of the compensation of county supervisors of assessments as follows: “If the Department has determined that the total assessed value of property in a county, as equalized by the supervisor of assessments under Section 9-210, is between 31 1/3 % and 35 1/3 % of the total fair cash value of property in the county, subject to appropriation, the Department shall reimburse the county monthly from the Personal Property Tax Replacement Fund 50% of the amount of salary the county paid to the officer for the preceding month.” 35 ILCS 200/3-40.

7. Section 12 of the Illinois State Revenue Sharing Act (the "Act") creates the Illinois Property Tax Replacement Fund as a Special Fund in the State Treasury, and pertinently provides for the allocation and payment of revenues realized therein to taxing districts, including Plaintiff, based upon a continuing appropriation, meaning such expenditures are authorized by law for multiple fiscal periods without the necessity of further legislative action:

****. All amounts allocated pursuant to this Section are appropriated on a continuing basis.

Prior to December 31, 1980, as soon as may be after the end of each quarter beginning with the quarter ending December 31, 1979, and on and after December 31, 1980, as soon as may be after January 1, March 1, April 1, May 1, July 1, August 1, October 1, and December 1 of each year, the Department of Revenue shall allocate to each taxing district as defined in Section 1-150 of the Property Tax Code, in accordance with the provisions of paragraph (2) of this Section the portion of the funds held in the Personal Property Tax Replacement Fund which is required to be distributed, as provided in paragraph (1), for each quarter. Provided, however, under no circumstances shall any taxing district during each of the first two years of distribution of the taxes imposed by this amendatory Act of 1979 be entitled to an annual allocation which is less than the funds such taxing district collected from the 1978 personal property tax. Provided further that under no circumstances shall any taxing district during the third year of distribution of the taxes imposed by this

amendatory Act of 1979 receive less than 60 % of the funds such taxing district collected from the 1978 personal property tax. In the event that the total of the allocations made as above provided for all taxing districts, during either of such 3 years, exceeds the amount available for distribution the allocation of each taxing district shall be proportionately reduced. Except as provided in Section 13 of this Act, the Department shall then certify, pursuant to appropriation, such allocations to the State Comptroller who shall pay over to the several taxing districts the respective amounts allocated to them. ***.” 30 ILCS 115/12.

8. Pursuant to Section 12 of the Act, Plaintiff, as a taxing district, has a clear and affirmative right to payment from the Personal Property Tax Replacement Fund of the respective amount allocated to it thereunder.
9. Under Section 12 of the Act, it is the clear duty of Defendant Beard, as Director of the Illinois Department of Revenue, to allocate the portion of the funds held in the Personal Property Tax Replacement Fund which is required to be distributed and certify such allocations and it is further the clear duty of Defendant Munger, as State Comptroller, to pay the several taxing districts, including Plaintiff, the respective amounts due them thereunder.
10. Section 12 of the Act provides Defendants with clear authority to so allocate and pay funds from the Personal Property Replacement Fund based upon a continuing appropriation.
11. Nevertheless, for the current Fiscal Year beginning July 1, 2015, Defendant Beard, as Director of the Illinois Department of Revenue, has not allocated the portion of the funds

held in the Personal Property Tax Replacement Fund which is required to be distributed and certified such allocations, nor has Defendant Munger, as State Comptroller, paid the several taxing districts, including Plaintiff, the respective amounts due them, and Defendants have otherwise entirely failed to comply with Section 12 of the Act.

12. Defendants' inaction is purportedly based upon the lack of a State budget for the current Fiscal Year beginning on July 1, 2015 providing an appropriation (see Exhibit A), yet, upon information and belief, Defendants have and continue to make payments to the current Fiscal Year beginning on July 1, 2015 in the absence of such budget based upon similar statutory continuing appropriations, including but not limited to, payments from the Local Government Distributive Fund (30 ILCS 115/1).

13. Unless compelled to do so by peremptory order of this Court, Defendant Beard will continue to refuse to allocate the portion of the funds held in the Personal Property Tax Replacement Fund which is required to be distributed and certify such allocations, and Defendant Munger will continue to refuse to pay the several taxing districts, including Plaintiff, the respective amounts due them, and Defendants will continue to otherwise entirely fail to comply with Section 12 of the Act.

WHEREFORE, Plaintiff, the County of Union, respectfully requests that this Honorable Court set this case for early hearing consistent with Section 14-102 and 14-103 of the Illinois Code of Civil Procedure (735 ILCS 5/14-102; 735 ILCS 5/14-103), and enter Judgment of Mandamus in its favor and against Defendants, Constance Beard, in her official capacity as Director of the Illinois Department of Revenue, and Leslie Geissler Munger, in her official capacity as Comptroller of the State of Illinois, as follows:

- (a) Command that, for the Fiscal Year beginning July 1, 2015, Defendant Beard, as Director of the Illinois Department of Revenue, shall allocate the portion of the funds held in the Personal Property Tax Replacement Fund which is required to be distributed and shall certify such allocations, and Defendant Munger, as State Comptroller, shall pay the several taxing districts, including Plaintiff, the respective amounts due them, including but not limited to, the statutory reimbursements for the salaries of the Plaintiff's State's Attorney, Public Defender and Supervisor of Assessments, and Defendants shall otherwise comply with Section 12 of the Act;
- (b) Order that Defendants shall pay Plaintiff's attorney's fees and costs of this action in accordance with Section 14-105 of the Illinois Code of Civil Procedure (735 ILCS 5/14-105); and
- (c) Offer such further relief as this court may deem just and proper.

COUNT II
(Declaratory Judgment)

For Count II of its Verified Complaint pursuant to Section 2-701 of the Illinois Code of Civil Procedure (735 ILCS 5/2-701), Plaintiff, the County of Union, states as follows:

1. Plaintiff is a body politic and corporate organized and existing under the Illinois Counties Code (55 ILCS 5/1-1 *et seq.*) and a taxing district within the meaning of Section 1-150 of the Illinois Property Tax Code (35 ILCS 200/1-150). Plaintiff is authorized to sue under Sections 5-1001 and Section 2-9005 of the Illinois Counties Code (55 ILCS 5/5-1001; 55 ILCS 5/3-9005).
2. Defendant, Constance Beard, is the duly-appointed Director of the Illinois Department of Revenue and is sued in that official capacity.

3. Defendant, Leslie Geissler Munger, is the duly-appointed Comptroller of the State of Illinois and is sued in that official capacity.
4. Section 4-2001 of the Illinois Counties Code pertinently provides for State reimbursement of “66 2/3 % of the total annual compensation to be paid to each state’s attorney in Illinois based on the salary in effect on December 31, 1988, and 100% of the increases in salary taking effect after December 31, 1988”, and further provides that, “[s]ubject to appropriation, said amounts furnished by the State shall be payable monthly by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General Revenue Fund to the county in which each state’s attorney is elected.” 55 ILCS 5/4-2001(a).
5. Similarly, Section 3-4007(a) of the Illinois Counties Code provides that “[t]he public defender shall be paid out of the county treasury and, subject to appropriation, shall be paid by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General Revenue Fund as provided in subsection (b)”, which further provides that “[t]he State must pay 66 2/3 % of the public defender’s annual salary.” 55 ILCS 3-4007.
6. Finally, Section 3-40(c) of the Illinois Property Tax Code pertinently provides for reimbursement of the compensation of county supervisors of assessments as follows: “If the Department has determined that the total assessed value of property in a county, as equalized by the supervisor of assessments under Section 9-210, is between 31 1/3 % and 35 1/3 % of the total fair cash value of property in the county, subject to appropriation, the Department shall reimburse the county monthly from the Personal Property Tax Replacement Fund 50% of the amount of salary the county paid to the officer for the preceding month.” 35 ILCS 200/3-40.

7. Section 12 of the Illinois State Revenue Sharing Act (Act) creates the Illinois Property Tax Replacement Fund as a Special Fund in the State Treasury, and pertinently provides for the allocation and payment of revenues realized therein to taxing districts, including Plaintiff, based upon a continuing appropriation, meaning such expenditures are authorized by law for multiple fiscal periods without the necessity of further legislative action:

“***. All amounts allocated pursuant to this Section are appropriated on a continuing basis.

Prior to December 31, 1980, as soon as may be after the end of each quarter beginning with the quarter ending December 31, 1979, and on and after December 31, 1980, as soon as may be after January 1, March 1, April 1, May 1, July 1, August 1, October 1, and December 1 of each year, the Department of Revenue shall allocate to each taxing district as defined in Section 1-150 of the Property Tax Code, in accordance with the provisions of paragraph (2) of this Section the portion of the funds held in the Personal Property Tax Replacement Fund which is required to be distributed, as provided in paragraph (1), for each quarter. Provided, however, under no circumstances shall any taxing district during each of the first two years of distribution of the taxes imposed by this amendatory Act of 1979 be entitled to an annual allocation which is less than the funds such taxing district collected from the 1978 personal property tax. Provided further that under no circumstances shall any taxing district during the third year of distribution of the taxes imposed by this

amendatory Act of 1979 receive less than 60 % of the funds such taxing district collected from the 1978 personal property tax. In the event that the total of the allocations made as above provided for all taxing districts, during either of such 3 years, exceeds the amount available for distribution the allocation of each taxing district shall be proportionately reduced. Except as provided in Section 13 of this Act, the Department shall then certify, pursuant to appropriation, such allocations to the State Comptroller who shall pay over to the several taxing districts the respective amounts allocated to them. ***.” 30 ILCS 115/12.

8. Pursuant to Section 12 of the Act, Plaintiff, as a taxing district, has a clear and affirmative right to payment from the Personal Property Tax Replacement Fund of the respective amount allocated to it thereunder.
9. Under Section 12 of the Act, it is the clear duty of Defendant Beard, as Director of the Illinois Department of Revenue, to allocate the portion of the funds held in the Personal Property Tax Replacement Fund which is required to be distributed and certify such allocations and it is further the clear duty of Defendant Munger, as State Comptroller, to pay the several taxing districts, including Plaintiff, the respective amounts due them thereunder.
10. Section 12 of the Act provides Defendants with clear authority to so allocate and pay funds from the Personal Property Replacement Fund based upon a continuing appropriation.
11. Nevertheless, for the current Fiscal Year beginning July 1, 2015, Defendant Beard, as Director of the Illinois Department of Revenue, has not allocated the portion of the funds

held in the Personal Property Tax Replacement Fund which is required to be distributed and certified such allocations, nor has Defendant Munger, as State Comptroller, paid the several taxing districts, including Plaintiff, the respective amounts due them, and Defendants have otherwise entirely failed to comply with Section 12 of the Act.

12. Defendants' inaction is purportedly based upon the lack of a State budget for the current Fiscal Year beginning on July 1, 2015 providing an appropriation (see Exhibit A), yet, upon information and belief, Defendants have and continue to make payments to the current Fiscal Year beginning on July 1, 2015 in the absence of such budget based upon similar statutory continuing appropriations, including but not limited to, payments from the Local Government Distributive Fund (30 ILCS 115/1).

13. Plaintiff has no adequate remedy at law concerning Defendants' continued refusal to comply with Section 12 of the Act, and Plaintiff will suffer irreparable harm if Defendants are not enjoined from such noncompliance.

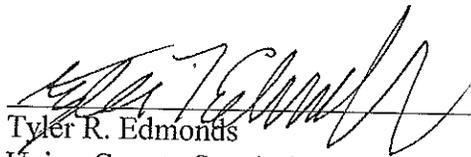
WHEREFORE, Plaintiff, the County of Union, respectfully requests that this Honorable Court order this case set for early hearing as provided in Section 2-701(b) of the Illinois Code of Civil Procedure (735 ILCS 5/2-701(b)), and thereafter enter judgment in its favor and against Defendants, Constance Beard, in her official capacity as Director of the Illinois Department of Revenue, and Leslie Geissler Munger, in her official capacity as Comptroller of the State of Illinois, as follows:

- (a) A binding declaration of the rights of the parties to this case, including but not limited to, a declaration that, for the current Fiscal Year beginning July 1, 2015, Defendant Beard, as Director of the Illinois Department of Revenue, shall allocate the portion of the funds held in the Personal Property Tax Replacement Fund which is required to be distributed

and shall certify such allocations, and Defendant Munger, as State Comptroller, shall pay the several taxing districts, including Plaintiff, the respective amounts due them, including but not limited to, the statutory reimbursements for the salaries of the Plaintiff's State's Attorney, Public Defender and Supervisor of Assessments, and Defendants shall otherwise comply with Section 12 of the Act.

- (b) Preliminary and permanent injunction requiring Defendants to so comply with Section 12 of the Act; and
- (c) Such other relief as this Honorable Court deems just and proper.

Respectfully submitted,


Tyler R. Edmonds
Union County State's Attorney
309 West Market Street, Rm 239
Jonesboro, Illinois 62952
(618) 833-7216
(618) 833-3349 facsimile

VERIFICATION

Upon penalties as provide by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


Richard Cunningham
Union County Chairman
Union County Board of Commissioners

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
UNION COUNTY, ILLINOIS**

THE COUNTY OF UNION,)
Plaintiff,)
vs.)
CONSTANCE BEARD, in her official)
capacity as Director of the Illinois)
Department of Revenue, and)
LESLIE GEISLER MUNGER, in her)
official capacity as Comptroller of the)
State of Illinois,)
Defendant.)

CASE NO.: 2015-MR-179

SUMMONS

To each defendant:

CONSTANCE BEARD
Director of the Illinois Department of Revenue
JRTC
100 W. Randolph, Ste. 7-500
Chicago, Illinois 60601-3274

LESLIE GEISLER MUNGER
Comptroller of the State of Illinois
325 West Adams
Springfield, Illinois 62704

You are hereby summoned and required to appear before the Circuit Court of the First Judicial Circuit, Union County, Illinois, in the Main Courtroom of the Union County Courthouse, City of Jonesboro, Illinois at 1:00 p.m., on the 20th day of January, 2016, to answer the verified complaint in this case, a copy of which is hereto attached. If you fail to do so, a judgment by default may be entered against you for the relief asked in the complaint.

To the Officer:

This summons must be returned by the officer or other person to whom it was given for service, with endorsement of service and fees, if any, immediately after service. If service cannot be made, this summons shall be returned so endorsed. This summons may not be served later than 30 days after its date.

WITNESS December 23, 2015

Seal of Court

Lorraine McIneland
Clerk of the Circuit Court

Tyler R. Edmonds
Union County State's Attorney
309 West Market Street, Rm 239
Jonesboro, Illinois 62952
(618) 833-7216
(618) 833-3349 facsimile