



MEMORANDUM

To: Sonya Cleveland, Substance Abuse Services Division Director
From: David W. Stewart, General Counsel
Date: January 7, 2008
Re: Request for Interpretation of IC 5-2-11

I have had the opportunity to review Indiana Code 5-2-11 generally and IC 5-2-11-5 specifically. It is my understanding that there is some confusion about the interpretation of IC 5-2-11-5 as it pertains to the annual appropriation by the county fiscal body and the annual allocation by the county legislative body. As with any statute, interpretation should begin with an inquiry into the legislative intent. In this case, it appears clear that the intent was for the county legislative body and the county fiscal body to work together with the local coordinating council to ensure that the objectives of the comprehensive drug free communities plan are met.

In one of the emails I reviewed, there was language that suggested that the commissioners could conceivably allocate \$0.00 to be divided according to the statutory percentages. This is not true. IC 5-2-11-5 (b) states, in relevant part:

(b) Subject to subsections (c) and (d), a county fiscal body shall annually appropriate from the fund amounts allocated by the county legislative body for the use of persons, organizations, agencies, and political subdivisions to carry out recommended actions contained in a comprehensive drug free communities plan submitted by the local coordinating council and approved by the commission as follows:..

Subsection (c) states:

(c) In the comprehensive drug free communities plan, the local coordinating council shall determine the amount of funds the county fiscal body shall appropriate to implement the objectives approved in the comprehensive drug free communities plan.

It is clear from this section of the statute that the LCC determines the amount of funds that the county fiscal body appropriates, **not** the county legislative body. In essence, the county legislative body acts as a pass-through. Therefore, the only entity that would have the power to withhold, deny or freeze funding would be the commission for a drug free Indiana, pursuant to IC 5-2-11-5 (d) and (e).

So, in essence, the process would go something like this:

1. The LCC submits a comprehensive drug free communities plan to the commission;
2. The commission reviews and approves the plan;
3. The LCC then takes the plan to the county legislative body;
4. The county legislative body votes to allocate the amount needed to implement the plan;
5. The county fiscal body appropriates from the fund the amount allocated by the county legislative body (which should be the same amount that is in the plan, unless the fund does not have a sufficient amount of funds to cover the plan).
6. The LCC implements the plan using the monies received from the fund.