



Baldwin County Commission

Legislation Text

File #: 18-1003, Version: 1

Meeting Type: BCC Regular Meeting
Meeting Date: 9/18/2018
Item Status: Addendum
From: Ronald J. Cink, County Administrator
Submitted by: Anu Gary, Admin/Records Mgr.

ITEM TITLE

Kane County, Utah v. United States Case Nos. 17-739C and 17-1991C (Consolidated), United States Court of Federal Claims - Class Action Lawsuit regarding Payment in Lieu of Taxes Act (PILT)

STAFF RECOMMENDATION

Confirm and ratify the submission of a Class Action Opt-In Notice Form, on September 14, 2018, for the Baldwin County Commission, Baldwin County, Alabama, to participate in the Kane County, Utah v. United States Case Nos. 17-739C and 17-1991C (Consolidated) Lawsuit in the United States Court of Federal Claims, for the purpose of recovering Payment in Lieu of Taxes Act (PILT) underpayments from the federal government for fiscal years 2015 - 2017.

BACKGROUND INFORMATION

Previous Commission action/date: N/A

Background: In the Kane County, Utah v. United States class action lawsuit, the United States Court of Federal Claims in Washington D.C. has ruled that the United States is liable to all counties (and other local governments) that received PILT payments in fiscal years 2015, 2016 and/or 2017. Congress appropriated insufficient amounts to fully fund the PILT statutory entitlement, forcing the Department of the Interior to make partial, pro rata payments from those insufficient funds.

The law firm of Smith, Currie & Hancock LLP, has been appointed as Class Counsel. The firm has contacted Baldwin County about the Kane County class action lawsuit to recover Payment in Lieu of Taxes Act (PILT) underpayments for fiscal years 2015 - 2017. By opting into the lawsuit, the County stands to recover monies it is owed by the federal government, less its share of attorney's fees and expenses.

The Court of Federal claims requires that Class Members affirmatively opt into the Lawsuit to benefit from it. The deadline for the completed Class Action Opt-In Notice Form was September 14, 2018.

Each county that chooses to participate in the Lawsuit, will be represented by the Class Counsel, who will take all actions necessary to protect the county's rights. The County does not need to hire

its own lawyer. The County will receive the benefit of, and be bound by, all rulings, orders, judgments entered, or settlements approved by the Court, whether favorable or unfavorable. The County will not be asked to do anything else (i.e., no production of records, no affidavits, no witnesses, etc.).

The Class Counsel will submit a request for its fees and expenses to the Court. Counties will not have to make any out-of-pocket payments. Whatever fees and expenses the Court determines to be reasonable and awards to Class Counsel will be deducted from the money obtained for the Class and will therefore reduce the amount of money each county receives. In effect, each county that opts into the Lawsuit will pay its pro rata share of the fees and expenses the Court awards.

FINANCIAL IMPACT

Total cost of recommendation: N/A

Budget line item(s) to be used: N/A

If this is not a budgeted expenditure, does the recommendation create a need for funding?
N/A

LEGAL IMPACT

Is legal review necessary for this staff recommendation and related documents?
N/A

Reviewed/approved by: N/A

Additional comments: N/A

ADVERTISING REQUIREMENTS

Is advertising required for this recommendation? N/A

If the proof of publication affidavit is not attached, list the reason: N/A

FOLLOW UP IMPLEMENTATION

For time-sensitive follow up, select deadline date for follow up: N/A

Individual(s) responsible for follow up: Ron Cink, County Administrator

Action required (list contact persons/addresses if documents are to be mailed or emailed):
TBD

Additional instructions/notes: N/A