November 20, 2026

The Honorable David D. Hayes
Greene County Prosecuting Attorney
61 Greene Street, Suite 200, Second Floor
Xenia, Ohio 45385

SYLLABUS: 2026-013

1. R.C. 5901.11 authorizes a veterans service commission to request and receive "the probable amount [of money] necessary" for its services from the board of county commissioners. The board must appropriate the actual amount requested by the veterans service commission and levy taxes up to one-half mill for that purpose on the county's taxable property. (1991 Ohio Atty.Gen.Ops. No. 91-008 overruled on the basis of statutory amendments).

2. The veterans service commission's share of tax levy revenue under R.C. 5901.11 is derived from within the 10 mills of "inside millage" that may be levied without a vote of the electorate.

3. Tax levy revenue generated under R.C. 5901.11 must be paid into the county's general fund. Unused and unencumbered funds from appropriations to the veterans service commission lapse at the end of the fiscal year and revert to the county's general fund.

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OPINION NO. 2026-013

The Honorable David D. Hayes
Greene County Prosecuting Attorney
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Xenia, Ohio 45385

Dear Prosecutor Hayes:

You have requested an opinion concerning the board of county commissioners' responsibilities to fund a county veterans service commission (VSC). To streamline the analysis, I have reframed your questions as follows:

1. Under R.C. 5901.11, how much funding must a board of county commissioners appropriate to fulfill a VSC's request for funds?

2. Is the referenced levy under R.C. 5901.11 part of the county's existing "inside millage" raised through the general levy, or does the board have to impose a separate, special levy?

3. Should the VSC's appropriation and levy proceeds under R.C. 5901.11 be deposited in the county's general fund or in a separate fund?

4. What becomes of any unspent appropriation to the VSC at the end of a fiscal year?

5. May the VSC maintain a reserve balance for future needs?

For the reasons that follow, R.C. 5901.11 authorizes a VSC to request and receive funding that is "the probable amount necessary" for its operations and services. The board of county commissioners *must* appropriate the amount requested by the VSC and levy taxes sufficient for that purpose, provided the levy does not exceed one-half mill on the assessed value of property of the county.[1]

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[1] The term 'mill,' means 'one one-thousandth,' and "is a rate of tax imposed upon the taxable value of property." 2016 Ohio Atty.Gen.Ops. No. 2016-017, fn. 4; *accord Sanborn v. Hamilton Cty. Budget Comm.*, 2014-Ohio-5218, at ¶5-7. "Taxable value is 35 percent of the true value (also known as the market value) of the property. . . . One mill is one one-thousandth of the taxable value, considered as the amount of tax to be paid so that ten mills equal one percent of the taxable value." *Id.*; *see also* R.C. 5715.01(B); Adm.Code 5703-25-05(B).

This levy is part of the county's inside millage and not a separate, additional levy. Inside millage is not subject to voter approval.[2] Revenue from this levy must be paid into the county's general fund. Appropriations from a county's general fund do not carry over from year to year. Rather, unused and unencumbered funds from appropriations made to the VSC lapse at the end of the fiscal year and revert to the county's general fund.

I

The VSC is a component of county government, and every county must maintain a veterans service office to provide financial assistance and other aid to veterans. *See generally* 2012 Ohio Atty.Gen.Ops. No. 2012-019; R.C. 5901.02, 5901.03, 5901.08, and 5901.15. As a creature of statute, the VSC "has only those powers that it has been expressly given by statute and those that are necessarily implied from the express powers." 1996 Ohio Atty.Gen.Ops. No. 96-040, at 2-155. In addition, because it is "a county

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[2] "Article XII, Section 2 of the Ohio Constitution allows property to be subjected to a rate of ten mills without voter approval, also known as inside millage. Outside millage is a tax upon property in excess of the first ten mills and requires voter approval." 2016 Ohio Atty.Gen.Ops. No. 2016-017, fn. 4; *accord* Sanborn v. Hamilton Cty. Budget Comm., 2014-Ohio-5218, at ¶5-7.

body that is funded through the proceeds of a tax levy," the VSC's funds are "subject to numerous provisions of law" restricting their use. 2001 Ohio Atty.Gen.Ops. No. 2001-033, at 2-197; *see, e.g.*, Ohio Const., art. XII, § 5; R.C. 5705.38(C) and 5705.41.

The legislative history of R.C. 5901.11 sheds light on the present statutory requirements as those requirements have changed from time to time. Prior to 1988, R.C. 5901.11 did not permit the board of county commissioners to revise the VSC's budget request by reducing the requested amount. *See* 1983 Ohio Atty.Gen.Ops. No. 83-032 (overruled by 1991 Ohio Atty.Gen.Ops. No. 91-008). However, the General Assembly amended the statute in 1988 and granted authority for a county commissioner's board to revise a VSC budget request in making appropriations. The statute was again amended in 1994 and, this time, the amendment *removed* the county commissioner's authority to revise the VSC's funding request. *See* 2001 Ohio Atty.Gen.Ops. No. 2001-013, at 2-76. My predecessor, in 2008 Ohio Atty.Gen.Ops. No. 2008-033, explained these changes: "Except for the period between 1988 and 1994, the obligation of the county commissioners to provide funding in the amount requested by the VSC (previously the soldiers' relief commission), up to the .5 mill permitted by statute, has been found to be mandatory." *Id.* at 2-340, *citing Lynch v. Gallia Cty. Bd. of Commrs.*, 79 Ohio St.3d 251, 253 (1997).

These multiple statutory changes were reflected in the opinions issued by my predecessors at the time each version of the statute was in effect. Thus in 1991, prior to the statutory change in 1994 and prior to *Lynch*, 1991 Ohio Atty.Gen.Ops. No. 91-008 concluded that county commissioners *did* have discretion to revise a VSC's budget request. Earlier opinions to the contrary were expressly overruled by reason of the legislative amendment. 1991 Ohio Atty.Gen.Ops. No. 91-008, at paragraph one of the syllabus. In light of the 1994 legislative amendment to R.C. 5901.11 removing the board of county commissioners' discretion to revise a VSC budget request, I must now overrule 1991 Ohio Atty.Gen.Ops. No. 91-008.

With this context in mind, I turn to your questions.

A

Your first question asks how much a board of county commissioners must appropriate in response to the VSC's funding request. R.C. 5901.11 outlines the process by which a VSC is funded:

> On or before the last Monday in May in each year, the veterans service commission shall meet and determine in an itemized manner the probable amount necessary for the aid and financial assistance of persons entitled to such aid and

> assistance and for the operation of the veterans service office for the ensuing year.

The board of county commissioners must then appropriate the funds requested by the VSC and "make the necessary levy, not to exceed five-tenths of a mill per dollar on the assessed value of the property of the county, to raise the amount that the board approves." *Id*.

The statute requires a VSC to request the "probable amount necessary," and the commissioners board must appropriate that amount and levy taxes sufficient for that amount. *Id.* Based on the plain text of the statute, however, the board is not obligated to levy the full five tenths of a mill if a smaller levy would produce the revenue requested by the VSC.

This understanding is confirmed by the Ohio Supreme Court's decision in *Lynch v. Gallia County Board of Commissioners,* which held that "R.C. 5901.11 imposes a mandatory duty upon the board of county commissioners to fund a lawful budget request of a veterans service commission *up to* the five-tenths mill limitation set forth in the statute." (Emphasis added.) 79 Ohio St.3d 251, 253 (1997). That holding—that the funding requirement is mandatory—relied primarily on the legislative history of R.C. 5901.11. As the Court explained:

> The history of R.C. 5901.11 demonstrates that the General Assembly intended veterans service commissions to have authority over their budgets, without discretionary oversight by the boards of county commissioners. While this state of the law was interrupted during 1988-1994, the General Assembly returned budgetary authority to the veterans service commissions after this court's decision in [*State ex rel. Veterans Service Office of Pickaway Cty. v. Pickaway Cty. Bd. of Commrs.*, 61 Ohio St.3d 461 (1991)].

Id. at 257.

Under this precedent, the board of county commissioners may not appropriate less than the amount requested by the VSC if the VSC's budget request complies with all statutory requirements and the request does not exceed the amount that a one-half mill tax levy on taxable property in the county will produce. *Lynch*'s use of the words, "up to," also clearly indicates that a funding request from the VSC that is less than one-half mill does not require the board of county commissioners to appropriate more than the actual request.

It follows that a VSC has no authority to request more funds than it determines necessary for its operations and services. R.C. 5901.11. As the Ohio Supreme Court has noted, the county commissioners' "review of the budget can, and should, result in rejection of an unlawful budget request." *Lynch*, at 257. In that way, the board's review remains meaningful, even if it lacks discretion to otherwise revise the VSC's requested appropriation. *Id.*

A VSC that continually requests more funding than it can expend on lawful services or operational needs, calls into question whether its request reflects "the probable amount necessary." R.C. 5901.11; *Lynch*, at 258; *compare State ex rel. Durkin v. Youngstown City Council*, 9 Ohio St.3d 132, 134 (1984) (concerning a similar mandate to fund deputy clerk of court salaries). However, a board of county commissioners that challenges the VSC's request, and appropriates less than requested, has the burden to show that the requested amount is unreasonable and an abuse of the VSC's discretion. *Id.*

No case has squarely addressed whether the board may appropriate more funds than the VSC has requested, as *Lynch* and prior cases involved disputes over appropriations that were *less* than requested. *See State ex rel. Veterans Service Office of Pickaway County v. Bd. of Cty. Commrs.*, 61 Ohio St.3d 461 (1991); *State ex rel. Binder v. Mahoning Cty. Bd. of Commrs.*, 174

Ohio St. 23 (1962). In preparing its budget request, the VSC must "determine in an itemized manner the probable amount necessary for" aiding veterans and operating its office. R.C. 5901.11. County commissioners have general budgeting authority for the county; however, R.C. 5901.11 requires considerable deference to the VSC's assessment of needs. *See Lynch*, at 257. The VSC is in the best position to know local veterans' needs (as well as its own operational costs). If the VSC requires additional funds after the board adopts its annual budget, R.C. 5705.40 authorizes the board to amend or supplement the appropriation. *See* 2012 Ohio Atty.Gen.Ops No. 2012-019, at 2-167.

B

Your next question concerns the nature of the levy to fund a VSC and whether the "necessary levy" referenced in R.C. 5901.11 is included within the county's existing levy of 2.5 mills or must be a separate levy. You have advised that Greene County receives 2.5 of the 10 mills of inside millage.

This question was answered in 2012 Ohio Atty.Gen.Ops. No. 2012-035: "Taxes levied under R.C. 5901.11 for the benefit of a VSC are part of the county general tax levy for current expenses within the 10 mills of inside millage that may be levied without voter approval." *Id.* at 2-310; *see also* Ohio Const., art. XII, § 2; R.C. 5705.02, 5705.04(B), and 5705.05(E); 2008 Ohio

Atty.Gen.Ops. No. 2008-033, at 2-341. In sum, the "necessary levy" in R.C. 5901.11 to support the Greene County VSC is raised through the county's existing general levy of inside millage for current expenses. R.C. 5901.11 and 5705.05(E).

C

Your final questions regarding VSC funding, which I will address together, are where the revenue from the tax levy is to be deposited and the proper disposition of any money appropriated to the VSC that is unused at the end of the county's fiscal year.

Revenue from the general levy must be paid into the county's general fund. R.C. 5705.10(A); 2008 Ohio Atty.Gen.Ops. No. 2008-033, at 2-341; *see also State ex rel. Veterans Service Office of Pickaway County v. Bd. of Cty. Commrs.*, 61 Ohio St.3d 461, 464 (1991) (the moneys levied for the VSC are included in "the general fund resulting from the general levy"). Despite its name, the county general fund includes money that is "restricted to use for limited purposes," and under R.C. 5705.10, "[m]oney paid into any fund shall be used only for the purposes for which such fund is established." 2008 Ohio Atty.Gen.Ops. No. 2008-033, at 2-341, fn. 6.

R.C. 5901.11 does not provide authority for the VSC to retain unspent appropriations after the end of the fiscal year for which the money was appropriated.

Consequently, the VSC's annual budget is subject to the same rule as other county appropriations. Pursuant to R.C. 5705.40, unused and unencumbered funds from appropriations lapse at the end of the fiscal year and revert to the county's general fund. Funds encumbered for current outstanding obligations, if any, may be retained in the VSC's fund at the end of the county's fiscal year until properly paid out. *See* R.C. 5705.40 ("At the close of each fiscal year, the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated . . . .").

Conclusion

Accordingly, it is my opinion, and you are hereby advised that:

1. R.C. 5901.11 authorizes a veterans service commission to request and receive "the probable amount [of money] necessary" for its services from the board of county commissioners. The board must appropriate the actual amount requested by the veterans service commission and levy taxes sufficient for that purpose, provided the levy may not exceed one-half mill on the county's taxable property. (1991 Ohio Atty.Gen.Ops. No. 91-008 overruled on the basis of statutory amendments).

2. The veterans service commission's share of tax levy revenue under R.C. 5901.11 is derived from

within the 10 mills of "inside millage" that may be levied without a vote of the electorate.

3. Tax levy revenue generated from R.C. 5901.11 must be paid into the county's general fund. Unused and unencumbered funds from appropriations to the veterans service commission lapse at the end of the fiscal year and revert to the county's general fund.

Respectfully,



D. ANDREW WILSON
Ohio Attorney General