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State ex rel. Pike County Convention and Visitor's Bureau v. Pike County Board of Commissioners

Supreme Court of Ohio - November 16, 2021 - N.E.3d - 2021 WL 5313119 - 2021-Ohio-4031

County convention and visitor's bureau brought action against county board of commissioners and county auditor, seeking writ of mandamus compelling board and auditor to disburse to bureau the proceeds of a county-imposed sales tax on hotel lodging.

The Supreme Court held that:

- Bureau's claim was cognizable in mandamus;
- Board had discretion to redirect the tax proceeds to new entity;
- Board did not abuse its discretion in redirecting tax proceeds to new entity; and
- Bureau failed to establish clear legal right to retrospective monetary relief.

County convention and visitor's bureau's claim against county board of commissioners and county auditor, seeking disbursement to bureau of proceeds of county-imposed sales tax on hotel lodging based on statute authorizing the tax, was cognizable in mandamus; bureau's complaint sought to compel rather than prohibit official action, even though the requested relief would, in effect, prohibit the enforcement of certain resolutions of the board.

County board of commissioners, under statute authorizing tax on lodging, had discretion to redirect from county convention and visitor's bureau to another entity the proceeds of county-imposed sales tax on hotel lodging; other than prescribing a duty on board to earmark a residual percentage on tax proceeds for "the convention and visitors' bureau operating within the county," the statute said nothing more concerning the recipient of the funds, and the absence of statutory guidance concerning how an entity was designated to receive tax revenue was to be read as a grant of discretion on that point.

County board of commissioners did not abuse its discretion in redirecting from county convention and visitor's bureau to another entity the proceeds of county-imposed sales tax on hotel lodging, precluding bureau's claim for mandamus relief ordering board to disburse the proceeds to bureau prospectively; board explicitly enacted resolution redirecting the proceeds to new entity in response to documented findings of financial negligence by bureau, resolution referred to the findings as basis for the action taken, and period of more than a year between publication of the findings and passage of the resolution did not establish an arbitrary or unconscionable attitude on the part of the commissioners.

County convention and visitor's bureau failed to establish a clear legal right to retrospective monetary relief with respect to proceeds of county-imposed sales tax on hotel lodging allegedly withheld unlawfully or redirected by county, in bureau's mandamus action; resolution of county board of commissioners redirecting the proceeds to another entity was not an abuse of discretion under statute authorizing tax on lodging, and even if an earlier resolution of the board improperly

withheld proceeds from the bureau, the bureau no longer qualified as entity designated to receive the proceeds under the statute in light of subsequent actions of the board.

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