



COUNTY OF WINNEBAGO

WINNEBAGO COUNTY AUDITOR

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Internal Audit of the Application of the Public Employee Disability Act (5 ILCS 345/1) from 1-1-14 to 2-28-17

Total Findings: 2

Total Recommendations: 4

April 26th, 2017

The mission of the Winnebago County Auditor's Office is to safeguard Winnebago County assets and provide objective, accurate and meaningful information about County operations so that the County Board can make informed decisions to better serve County citizens.

AUDIT TEAM MEMBER(S):

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Copies of County Auditor's reports are available by request.
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April 26, 2017

Members of the County Board
Frank Haney, County Board Chairman
Amanda Hamaker, County Administrator
Carla Paschal, Chief Financial and Budget Officer

The Winnebago County Auditor's Office has recently completed an internal audit of the application of the Public Employee Disability Act from 1-1-14 to 2-28-17. The Public Employee Disability Act (attached) can be found at 5 ILCS 345/1.

An eligible employee under the Act is defined as "any part-time or full-time State correctional officer or any other full or part-time employee of the Department of Corrections, any full or part-time employee of the Prisoner Review Board, any full or part-time employee of the Department of Human Services working within a penal institution or a State mental health or developmental disabilities facility operated by the Department of Human Services, and **any full-time law enforcement officer or full-time firefighter who is employed by the State of Illinois, any unit of local government** (including any home rule unit), any State supported college or university, or any other public entity granted the power to employ persons for such purposes by law."

The key provision of the Act is that "whenever an eligible employee suffers any injury in the line of duty which causes him to be unable to perform his duties, he shall continue to be paid by the employing public entity on the same basis as he was paid before the injury, with no deduction from his sick leave credits, compensatory time for overtime accumulations or vacation, or service credits in a public employee pension fund during the time he is unable to perform his duties due to the result of the injury, but not longer than one year in relation to the same injury."

One of the questions regarding the language of the statute is what is meant by "he shall continue to be paid by the employing public entity on the same basis as he was paid before the injury." The Auditor's Office has researched this issue and has found that the Internal Revenue Service has issued opinions that indicate these payments are not wages and that no taxes should be withheld from an employee's gross pay.

To test the County's adherence to the Act and the Internal Revenue Code, the Auditor's Office acquired a listing from the County Human Resources Department of all Sheriff's Deputies who have been placed on workers compensation from the period of 1-1-14 to 2-28-17 to apply certain testing procedures. Our audit findings and recommendations are attached.

Audit Findings & Recommendations

Finding 1:

The Auditor's Office was provided a listing of 24 Sheriff's Deputies that were paid workers compensation resulting from an injury in the line of duty from 1-1-14 to 2-28-17. Our examination indicated that all payments made to Sheriff's Deputies for workers compensation were originally requested with the Finance Office on a regular payroll timecard included with other active employees using payroll codes associated with regular hours. As a result, all payments made to the 24 Sheriff Deputies through regular payroll were treated as regular earnings with all associated payroll tax deductions withheld.

This treatment is inappropriate based on Internal Revenue Service opinions on the issue. Workers compensation payments made to Sheriff Deputies injured in the line of duty in Illinois should not be considered wages and payroll taxes should not be withheld.

Recommendation 1-1:

The Human Resources Department is Winnebago County's primary internal administrator for workers compensation related items. We recommend the department work with the Sheriff's Office and the Finance Office to develop a policy and procedure that accomplishes the following going forward:

- Requests for payments of workers compensation to Sheriff's Deputies should be communicated to the Finance Office clearly and separately from regular payroll hours. The County may also want to consider having workers compensations payments flow through Gallagher Bassett similar to all other employees.
- Payments made to Sheriff Deputies for workers compensation should be treated as non-taxable with no payroll taxes withheld.
- Sheriff's Deputies should receive IMRF pension credit as if he or she were on active duty.
- Payments made to Sheriff's Deputies include a 7.5% withholding for the employees share of IMRF pension contributions. This may have to be directly reimbursed by the employee if the County has workers compensation payments flow through Gallagher Bassett.
- Payments made to Sheriff's Deputies include withholdings for any voluntary deductions such as health insurance, life insurance, etc. This may have to be directly reimbursed by the employee if the County has workers compensation payments flow through Gallagher Bassett.

Recommendation 1-2:

As indicated in finding 1, we believe Winnebago County has treated certain workers compensation payments inappropriately between the dates of 1-1-14 to 2-28-17.

We recommend Winnebago County retroactively correct the tax treatment of certain workers compensation payments in the current year by performing the following steps:

- Obtain from Human Resources a detailed listing of dates, payments and withholdings of all workers compensation payments for Sheriff's Deputies in 2017. The Finance Office will be unable to provide this data as the detailed employee payroll history indicates regular wages were paid in accordance with the original timecard with no distinction for workers compensation payments.
- In the payroll system void all activity provided by Human Resources so that all 2017 payroll reporting will be appropriate.
- Record manual journal entries in Munis to correct for the voided payroll and reflect actual activity.
- Refund all associated withholdings for FICA to the impacted employee(s) from the County FICA Fund or the Working Cash Fund.
- Amend the 1st quarter Federal and State 941's to reflect the change in FICA taxable wages and withholdings. This will have the impact of the County recovering both the employee and employer FICA portion.

Recommendation 1-3:

As indicated in finding 1, we believe the Winnebago County has treated certain workers compensation payments inappropriately between the dates of 1-1-14 to 2-28-17.

Our research indicates that individuals who have filed personal tax returns with the Internal Revenue Service and the Illinois Department of Revenue have three years from the date their return was originally filed or the extended due date (whichever is later) to amend their returns.

We recommend Winnebago County retroactively correct the tax treatment of workers compensation payments from 1-1-14 to 12-31-2016 by performing the following steps:

- Obtain from Human Resources a detailed listing of dates, payments and withholdings of all workers compensation payments for Sheriff's Deputies from 1-1-14 to 12-31-16. The Finance Office will be unable to provide this data as the detailed employee payroll history indicates regular wages were paid in accordance with the original timecard with no distinction for workers compensation payments.
- Refund all associated withholdings for FICA to the impacted employee(s) from the County FICA Fund or the Working Cash Fund.

- Amend all Federal and State 941's to reflect the change in FICA taxable wages and withholdings. This will have the impact of the County recovering both the employee and employer FICA portion.
- Work with the Information Technology department to manually modify prior year wage and withholding information in the payroll system to create a corrected W-2 and W-3 file. It may be more appropriate to manually submit amended W-2 and W-3 information rather than through the payroll system.
- Amend the 2014, 2015 and 2016 W-2 and W-3 submissions with the Social Security Administration.
- Issue corrected W-2 forms to the impacted current and former employees.

Finding 2:

Workers Compensation payments to Sheriff Deputies are currently being charged directly to the Sheriff's budget(s). For all other County departments, workers compensation payments are currently being charged to the Tort Liability Fund.

Recommendation 2:

We recommend Administration and the Sheriff's Office determine collectively if this practice is appropriate and equitable.

