STATE OF MICHIGAN

COURT OF APPEALS

DEPUTY SHERIFF'S ASSOCIATION OF MICHIGAN and LARRY ORLOWSKI, Plaintiffs-Appellees,	UNPUBLISHED July 15, 2008
v	No. 276453 Ingham Circuit Court
STATE OF MICHIGAN and SHERIFFS COORDINATING AND TRAINING COUNCIL, Defendants-Appellants.	LC No. 06-000349-AW

Before: Sawyer, P.J., and Jansen and Hoekstra, JJ.

PER CURIAM.

Defendants State of Michigan and the Sheriffs Coordinating and Training Council appeal as of right the trial court's order granting summary disposition in favor of plaintiffs Deputy Sheriff's Association of Michigan and Larry Orlowski under MCR 2.116(C)(10).[1] Because the language of MCL 791.545 and MCL 801.4b plainly states that only uncertified counties that remit the entire $12 booking fee are entitled to receive grants, we affirm.

This case involves the interpretation of the Local Corrections Officers Training Act, MCL 791.531 *et seq*. Defendants argue that counties whose training programs have been certified and who lawfully remit only $2 of the $12 booking fee collected from each incarcerated person are eligible to receive training grants from defendant Sheriffs Coordinating and Training Council. Plaintiffs argue that, under the plain language of the act, only counties that remit the entire $12 booking fee are eligible to receive grants. The trial court agreed with plaintiffs.

A trial court's grant of summary disposition is reviewed de novo, on the entire record, to determine whether the prevailing party was entitled to judgment as a matter of law.[2] *Maiden v*

[1] Although the trial court's order states that summary disposition was granted under both MCR 2.116(C)(8) and (C)(10), the trial court stated on the record that it was granting summary disposition only under MCR 2.116(C)(10).

[2] The parties agree that there are no genuine issues of material fact and that the question presented is solely one of law.

Rozwood, 461 Mich 109, 118; 597 NW2d 817 (1999). Questions of statutory interpretation are also reviewed de novo. *Heinz v Chicago Rd Investment Co*, 216 Mich App 289, 295; 549 NW2d 47 (1996).

The fundamental rule of statutory construction is to give effect to the intent of the Legislature. *Apsey v Mem Hosp*, 477 Mich 120, 127; 730 NW2d 695 (2007). If the language of a statute is clear and unambiguous, the Legislature is presumed to have intended the meaning clearly expressed, and the statute must be enforced as written. *Shinholster v Annapolis Hosp*, 471 Mich 540, 549; 685 NW2d 275 (2004); *American Federation of State, Co & Muni Employees v Detroit*, 468 Mich 388, 399; 662 NW2d 695 (2003). Judicial construction of an unambiguous statute is unnecessary and, therefore, precluded. *Lorencz v Ford Motor Co*, 439 Mich 370, 376; 483 NW2d 844 (1992). Whenever possible, every word should be given meaning, and no word should be treated as surplusage or rendered nugatory. *Apsey*, *supra* at 127. Moreover, nothing may be read into a statute that is not within the Legislature's intent as derived from the language of the statute. *AFSCME*, *supra* at 400. Courts may not inquire into the wisdom of legislative policy choices, and arguments that a statute is unwise or results in bad policy must be addressed to the Legislature. *Elezovic v Ford Motor Co*, 472 Mich 408, 425; 697 NW2d 851 (2005); *Oakland Co Bd of Co Rd Comm'rs v Michigan Prop & Cas Guaranty Ass'n*, 456 Mich 590, 613; 575 NW2d 751 (1998).

MCL 801.4b (§ 4b) provides:

> (1) Beginning August 1, 2003, each person who is incarcerated in the county jail shall pay a fee of $12.00 to the county sheriff when the person is admitted into the jail.
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> (2) The county sheriff may *collect a fee* owed under this section by withdrawing that amount from any inmate account maintained by the sheriff for that inmate.
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> (3) Except as provided in subsections (4) and (5), the sheriff, once each calendar quarter, *shall forward all fees collected* under this section to the local corrections officers training fund created in the local corrections officers training act.
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> (4) *The revenue derived from fees collected under this section shall be directed in the manner provided in subsection (5)* in a county for which the sheriffs coordinating and training council has certified that the county's standards and requirements for the training of local corrections officers equals or exceeds the standards and requirements approved by the sheriffs coordinating and training council under the local corrections officers training act.
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> (5) In a county that meets the criteria in subsection (4), both of the following apply:
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> (a) Once each calendar quarter, *the sheriff shall forward $2.00 of each fee collected* to the state treasurer for deposit in the local corrections officers training fund created in the local corrections officers training act.

> (b) *The remaining $10.00 of each fee shall be retained in that county*, to be used only for costs relating to the continuing education, certification, recertification, and training of local corrections officers and inmate programs including substance abuse and mental health programs in that county. However, revenue from the fees shall not be used to supplant current spending by the county for continuing education, certification, recertification, and training of local corrections officers. [Emphasis added.]

Sections 4b(4) and (5) both use the word "shall" to describe how the $12 fee is to be distributed by a certified county. The word "shall" denotes mandatory action. *Costa v Community Emergency Medical Services, Inc*, 475 Mich 403, 409; 716 NW2d 236 (2006). Therefore, the plain language of § 4b requires certified counties to remit $2, and to keep $10, of the $12 fee.

Section 4b(3) requires uncertified counties to remit "all fees collected." Section 4b(4) requires that certified counties apportion the fees collected as mandated by § 4b(5): certified counties shall remit $2 and keep $10 of "each fee collected." Thus, it is evident that in subsections (3) through (5) of § 4b, all references to "fee[s] collected" refer to the entire $12 booking fee. By contrast, § 4b(4) refers to "*revenue* derived from fees collected" when describing how certified counties are to allocate the $12 fee. Thus, the Legislature made a clear distinction between *fees collected*, meaning the entire $12 fee, and the *revenue* derived from such fees.

Section 15 of the Local Corrections Officers Training Act, MCL 791.545 (§ 15), a related provision regulating county jails, provides:

> (1) The local corrections officers training fund is created in the state treasury. The fund shall be administered by the council, which shall expend the fund only as provided in this section.
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> (2) There shall be credited to the local corrections officer training fund *all revenue received from fees and civil fines collected under section 4b* of 1846 RS 171, MCL 801.4b, and funds from any other source provided by law.
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> (3) The council shall use the fund only to defray the costs of continuing education, certification, recertification, decertification, and training of local corrections officers; the personnel and administrative costs of the office, board, and council; and other expenditures related to the requirements of this act. *Only counties that forward to the fund 100% of fees collected under section 4b of 1846 RS 171, MCL 801.4b, are eligible to receive grants from the fund.* A county that receives funds from the council under this section shall use those funds only for costs relating to the continuing education, certification, recertification, and training of local corrections officers in that county and shall not use those funds to supplant current spending by the county for those purposes, including state grants and training funds. [Emphasis added.]

Section 15(2) mandates that "all *revenue* received from *fees . . . collected* under section 4b" be credited to the training fund. Section 15(3) states that only counties that remit "100% of

fees collected under section 4b" are eligible to receive grants. As indicated previously, in subsections (3) through (5) of § 4b, references to "fees collected" refer to the entire $12 fee, while in § 4b(4), the reference to "*revenue* derived from *fees collected*" describes how certified counties are to allocate the $12 fee. Because § 4b and § 15 were enacted together and made conditional on each other, see 2003 PA 124, 125, the words used in both statutes should be given the same meaning. See *McNeil v Charlevoix Co*, 275 Mich App 686, 701; 741 NW2d 27 (2007) ("It is well-settled that statutes that relate to the same subject or share a common purpose are *in pari materia* and must be read together as one law"). Thus, we conclude that consistent with § 4b, the reference to "fees collected" in § 15(3) means the entire $12 fee, and the reference to "all revenue received" in § 15(2) means the portion of the fee that is remitted to the fund by the various counties. Accordingly, the trial court correctly determined that, as used in § 15(3), "fees collected" refers to the entire $12 fee. By permanently enjoining defendants from distributing grants to counties that have not remitted the entire $12 fee, the trial court enforced § 15(3) as written.

Plaintiffs argued below that certified counties that choose to remit the entire $12 fee rather than only $2 are eligible for grants. However, there is no language in either statute giving certified counties a *choice* whether to remit the entire $12 fee or apportion it under § 4b(5). Rather, the plain language of § 4b(4) states that certified counties "shall" comply with § 4b(5), which provides that certified counties "shall" keep $10 of the $12 fee collected and "shall" forward only $2. Because these provisions are mandatory, *Costa, supra*, certified counties do not have a choice to become eligible for grants by remitting the entire $12 fee.

The parties apparently agree that all the counties with local jails have been certified by defendants.[3] Thus, there are no counties that, under § 4b(3), are required to remit the entire $12 fee, and, consequently, there are no counties eligible for grants under § 15(3). The trial court speculated, as do we, that this was an unintended result. The Legislature most likely expected that there would be uncertified counties that would be required to remit the entire fee and which would need grants in order to meet the newly-created certification standards. Nonetheless, because the language of § 4b and § 15 is clear and unambiguous, the language must be enforced as written. *Shinholster, supra*. Thus, until either section is amended or counties are decertified and begin remitting the entire $12 fee, the money collected by defendants cannot be distributed as grants. Whether the plain language of these statutes results in bad policy or brings about an unintended or unfair outcome are arguments for the Legislature to address, not the courts. *Elezovic*, *supra*; *Oakland Co Bd of Co Rd Comm'rs*, *supra*.

Affirmed.

/s/ David H. Sawyer
/s/ Kathleen Jansen
/s/ Joel P. Hoekstra

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[3] While plaintiffs asserted at the motion hearing that the certification procedure used by defendants was improper, that issue was not raised in the motions below, nor is it raised in the briefs on appeal.