



# Iowa General Assembly

## 2016 Legal Updates

Legislative Services Agency – Legal Services Division

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**Purpose.** *Legal update briefings are prepared by the nonpartisan Legal Services Division of the Legislative Services Agency. A legal update briefing is intended to inform legislators, legislative staff, and other persons interested in legislative matters of recent court decisions, Attorney General Opinions, regulatory actions, federal actions, and other occurrences of a legal nature that may be pertinent to the General Assembly's consideration of a topic. Although a briefing may identify issues for consideration by the General Assembly, a briefing should not be interpreted as advocating any particular course of action.*

### CITY GENERAL FUNDS EXEMPT FROM GARNISHMENT

Filed by the Iowa Supreme Court

January 29, 2016, as amended April 15, 2016

**Regional Utility Service Systems vs. City of Mount Union, Iowa**

**No. 14-2095**

[http://www.iowacourts.gov/About\\_the\\_Courts/Supreme\\_Court/Supreme\\_Court\\_Opinions/Recent\\_Opinions/20160129/14-2095.pdf](http://www.iowacourts.gov/About_the_Courts/Supreme_Court/Supreme_Court_Opinions/Recent_Opinions/20160129/14-2095.pdf)

**Factual and Procedural Background.** In June 2014, an Iowa district court entered a judgment of \$27,862.10 for the Regional Utility Service Systems Commission (RUSS) on a breach of contract action against the City of Mount Union (City), in Henry County Iowa. Between August and September of the same year, RUSS filed for and received a writ of general execution against the City, and the sheriff subsequently served the City with notice that RUSS had garnished \$25,164.57 from the City's bank account on the basis of the June judgment. In September 2014, the City filed a motion to quash the garnishment, claiming that the City's garnished funds were exempt from execution under Iowa Code section 627.18.

At the district court hearing on the motion, the district court heard evidence that the garnished bank account was the City's only bank account and contained all of the City's general and special funds. The district court held that \$6,550 of the balance of the comingled funds represented special funds, which are limited under Iowa law to use for specific purposes. The mayor of the City testified at trial that the remaining balance of general funds was necessary for the City to fulfill the purpose for which the City was incorporated, to pay officials, and to provide general services.

The district court found that the City depended upon its general funds to carry out the City's general purposes, but also held that the City's general funds were not exempt from garnishment under Iowa law and denied the City's motion to quash the garnishment. In reaching this conclusion upon a review of caselaw, the district court found that the City "stood in the same position as any other judgment debtor." The City appealed to the Iowa Supreme Court (Court).

**Issue.** Whether the general funds of a city are exempt from execution of court judgments under Iowa Code section 627.18.

**Holding.** General funds of a city are exempt from execution of a court judgment under Iowa Code section 627.18.

**Analysis.** With respect to cities, Iowa Code section 627.18 provides, in part, that public buildings, and other public property necessary and proper for carrying out the general city purposes, are exempt from execution. Justice Wiggins wrote for the Court, concluding that the general funds held in the City's bank account constituted "other public property" under Iowa Code section 627.18 and were therefore exempt from execution. The Court conditioned this finding, however, on the finding that those general fund moneys be "necessary and proper" for serving the general purposes of the City's government.

**Other Public Property.** In addressing the City's exemption claim, the Court scrutinized the meaning of the phrase "other public property" within the context of the Iowa Code. Under Iowa Code section 4.1, which sets out general rules for statutory construction, the Court noted that "property" is defined to include personal property and real property and that "personal property" includes money, goods, chattels, evidence of debt, and things in action. When interpreted "in harmony" with the phrase "other public property," the Court found that the language of section 627.18 "creates a municipal right to exempt real property and personal property from execution, including money held in a bank account."

In its analysis, the Court examined Iowa Code and past precedent further, noting that statute and precedent in Iowa both favor public interests over private interests.

**Necessary and Proper.** The Court upheld the district court's finding that the City depended upon its general funds to carry out the City's general purposes and concluded that it was proper for the City to use those funds to carry out the general purposes for which the City was organized. Under this holding, as long as a city requires its general funds to fulfill city functions, those funds remain exempt from execution.

**Separate Related Issues.** The City has confronted budgeting issues related to the City's unpaid sewer debt owed to RUSS. The City's budget for fiscal year 2017 was subject to a petition and State Appeal Board order in June of this year. Also in June of this year, the Mount Union City Council voted to dissolve the city corporation, and the citizens of Mount Union will vote on the issue of unincorporation in the November 8, 2016, general election.

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