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SPRINGFIELD

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FILE NO. S-1360

COUNTIES:  
Legality of Proposed Tax to  
Fund Unemployment and Workmen's  
Compensation Insurance

Honorable Charles H. Burch  
State's Attorney of Calhoun County  
Courthouse Square  
Hardin, Illinois 62047

Dear Mr. Burch:

You have asked my opinion whether counties may obtain funds for unemployment or workmen's compensation insurance by levying a tax under section 9-107 of the Local Governmental and Governmental Employees Tort Immunity Act (Ill. Rev. Stat. 1977, ch. 85, par. 9-107). For reasons to be set forth, it is my opinion that the Act in question does not authorize the levy of such a tax.

Section 9-107 of the Act provides in relevant part as follows:

Honorable Charles H. Burch - 2.

"A local entity may levy taxes annually upon all taxable property within its territory at a rate that will produce a sum which will be sufficient to pay the costs of purchasing insurance under Section 9-103, to pay the costs of and principal and interest on bonds issued under Section 9-105, and to pay tort judgments under Section 9-104 to the extent necessary to discharge such obligations.

Any tax levied under this Section shall be levied and collected in like manner with the general taxes of the entity and shall be exclusive of and in addition to the amount of tax that entity is now or may hereafter be authorized to levy for general purposes \* \* \*.

\* \* \*

The first quoted sentence makes it clear that the only kind of insurance for which this tax may be levied is that provided for by § 9-103. But that section provides in relevant part that:

"A local public entity may contract for insurance against any loss or liability which may be imposed upon it under this Act. \* \* \*

\* \* \*

(Emphasis added.)

The Local Governmental and Governmental Employees Tort Immunity Act does not provide for imposition of any unemployment or workmen's compensation liability on local governments. Further, so far as workmen's compensation insurance is concerned, § 2-101 of the Act (Ill. Rev. Stat. 1977, ch. 85, par. 2-101) explicitly states that:

Honorable Charles H. Burch - 3.

"Nothing in this Act affects the right to obtain relief other than damages against a local public entity or public employee. Nothing in this act affects the liability, if any, of a local public entity or public employee, based on:

\* \* \*

(c) The 'Workmen's Compensation Act', approved July 9, 1951, as heretofore or hereafter amended;

\* \* \*

(Emphasis added.)

Since the clear wording of the Act excludes unemployment and workmen's compensation insurance, I conclude that the Act may not be used as authority for levying a tax to fund such insurance.

Very truly yours,

A T T O R N E Y   G E N E R A L