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FILE NO. S-1410

**COUNTIES:
Provision of Emergency
Ambulance Service**

**Honorable Raymond W. McCamy
State's Attorney
Crawford County
Robinson, Illinois 62454**

Dear Mr. McCamy:

This is in response to your letter in which you ask whether a county must provide ambulance service in the event that none is provided by either private enterprise or other units of local government. It is my opinion that it is required to do so.

In its first paragraph, section 25.12-1 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 419.1) authorizes counties:

" * * * [T]o provide emergency ambulance service to or from points within or without the county; to contract with providers of ambulance

service; to combine with other units of governments for the purpose of providing ambulance service; to pay for the expenses incurred in providing for or contracting for the provision of such service from the general funds of the county; to levy a tax for the provision of such service under the provisions of Section 25.05-9 of this Act and to adopt rules and regulations relating to ambulance service within its jurisdiction."

The section then makes a declaration of public policy in paragraph (a), which is broken down into three parts:

"(a) It is declared as a matter of public policy:

(1) That, in order to preserve, protect and promote the public health, safety and general welfare, adequate and continuing emergency ambulance service should be available to every citizen of Illinois:

(2) That, insofar as it is economically feasible, emergency ambulance service should be provided by private enterprise or units of local government; and

(3) That, in the event adequate and continuing emergency ambulance services do not exist and cannot be effectively and efficiently provided by private enterprise or other units of local government, counties should be authorized to provide, and shall cause to be provided, ambulance service as a public responsibility.

* * *

This language strongly indicates that the legislature intended to impose on counties a duty to provide ambulance service if no other entity was doing so. Part 1 refers to ambulance service as a service that "should be available". Part 2, in language parallel to that of part 1, states that ambulance service "should be provided" by private entities or local government. Part 3

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continues the pattern by stating that counties "should be authorized" to provide ambulance service. Part 3 goes on, however, to assert that not only is ambulance service desirable, but that it is also required:

* * * * [C]ounties * * * shall cause to be provided, ambulance service as a public responsibility."

Part 3 thus adds mandatory language, plus a characterization of ambulance service as a "public responsibility", to the general policy statement of the previous two sections. Paragraph (a) as a whole thereby evinces an intent of the legislature to require counties to provide ambulance service in the event that no other source does so.

Neither of the other two paragraphs of the section contradicts this. Paragraph (b) provides:

"(b) Whenever the County Board of a county which is not a home rule county desires to provide an ambulance service, they shall pass, by a majority vote of those elected to the Board, an ordinance upon such subject."

The purpose of the paragraph is to set forth the procedural prerequisites to operating an ambulance service. Thus, although the phrase "desires to provide" by itself could indicate that county boards are under no obligation to provide ambulance service, the fact that paragraph (b) was designed solely to prescribe the means by which a county board may operate an ambulance service indicates that it should not be read to counteract that which was mandated in paragraph (a). Instead, it should be realized that the choice

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of language in paragraph (b) enabled the legislature to encompass both types of situations in which the county might act. That is, in writing paragraph (b), the legislature avoided repeating the requirement that counties provide ambulance service because the paragraph applies not only when a county moves to act in response to the requirement of paragraph (a), but also when it voluntarily decides to provide an ambulance service in addition to one already being operated. Consequently, the language of paragraph (b) does not operate to make the language of paragraph (a) permissive. Paragraph (c), although it also contains the word "may", does not do so either. Its purpose is to set forth alternative methods of providing ambulance service and to describe in greater detail the general authorization contained in paragraph (a).

Although the question has not directly been raised, it should be noted that the State does have the authority to require a county to supply services that promote the general health and welfare and to fund the services out of local revenues. For instance, in Ruth v. Aurora Sanitary District (1959), 17 Ill. 2d 11, the court stated:

* * *

* * * that in the discharge of their governmental functions municipal corporations may be subjected to the performance of duties relating to the public health and general welfare of the State even though such duty may create a debt to be paid by local taxation. * * *

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Section 25.12-1 pertains to a governmental function, that of providing for the public welfare, by virtue of its finding that the provision of ambulance service furthers the "public health, safety and general welfare." Consequently, counties can be required to operate an ambulance service and to pay for it according to the means set forth in the statute.

Answering your first question in the affirmative raises your second and third ones. The second question is whether the failure of the voters of the county to pass a referendum permitting the county to levy a tax specifically to establish and maintain an ambulance service eliminates the county's obligation to provide such service. My opinion is that it does not because section 25.12-1, in its first paragraph, provides two sources of funding for the ambulance service: the tax provided for in section 25.05-9 (Ill. Rev. Stat. 1977, ch. 34, par. 409.9) and the general funds of the county. If a referendum authorizing the imposition of the tax authorized by section 25.05-9 is defeated, the funds must be drawn from the general funds of the county, regardless of the effect of this expenditure on other programs paid for from the general funds. You may wish to note, however, that Federal revenue sharing funds may be used for this purpose.

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In view of my answer to your second question, it is not necessary to reply to your third question.

Very truly yours,

A T T O R N E Y G E N E R A L