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ATTORNEY GENERAL  
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SPRINGFIELD

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FILE NO. S-1102

**INTERGOVERNMENTAL COOPERATION:  
Power of County to appropriate  
for Joint City-County Activity**

Honorable Michael M. Mihm  
State's Attorney  
Peoria County  
Court House  
Peoria, Illinois 61602

Dear Mr. Mihm:

I have your letter wherein you state that the County Board of Peoria County and the City of Peoria have joined together in forming a joint solid waste disposal facility. You further state that a loan agreement has been arranged with the County of Peoria as the lender and the waste disposal facility as the borrower. Based on this factual situation, you pose the following questions:

1. Can the County Board of Peoria County transfer money from one fund to another and if so, for how long?

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2. May the county treasurer legally initiate a transfer of funds in this situation?
3. When a temporary transfer of funds is made, can an interest charge be levied against the recipient?

You note that my opinion No. S-893 of May 5, 1975, may be helpful in this matter.

In opinion No. S-893 the question to be resolved was whether funds could be transferred for a short period of time from the county general fund to a special fund to meet the payroll of employees hired pursuant to a Federal employment training program. The money was to be returned to the general fund as soon as Federal reimbursement was received. The primary purpose behind the transfer was simply to permit the county government to pay these particular employees on the same date as regular county employees. I decided, for reasons developed in that opinion, that such transfers were permissible.

The situation you describe here is a different one, however. In this case two local governmental units have joined to form a solid waste disposal facility and you ask if one of them can loan money to that facility. There is no transfer from one county fund to another as was the case in opinion No. S-893. Instead, what is involved is a loan from one

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governmental entity to another. Because of this I will not address myself to the specific questions you pose. Instead I will discuss the legality of a loan by the county board to the solid waste disposal facility.

Section 10 of article VII of the Illinois Constitution of 1970 states in relevant part:

"(a) Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or by ordinance. \* \* \* Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities." (emphasis added.)

Similarly, section 4 of the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1975, ch. 127, par. 744) provides:

"Any public agency entering into an agreement pursuant to this Act may appropriate funds and may sell, lease, give, authorize the receipt of grants, or otherwise supply the administrative joint board or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish."

No question has been raised as to the validity of

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the agreement you describe creating a joint solid waste disposal facility. It is evident from the passages quoted above that a unit of local government, such as the County of Peoria, has the authority to appropriate money to pay costs related to joint governmental activities such as this.

It is, therefore, my opinion that if the loan you describe was properly appropriated pursuant to "AN ACT in relation to the budgets of counties not required by law to pass an annual appropriation bill" (Ill. Rev. Stat. 1975, ch. 34, pars. 2101 et seq.), then the county board may properly order the loan of these funds to the waste disposal facility.

Very truly yours,

A T T O R N E Y   G E N E R A L