



**WILLIAM J. SCOTT**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

November 22, 1976

FILE NO. S-1183

**COUNTIES:**  
Appropriation of Funds  
or Services to Senior  
Citizen's Organizations

Honorable John J. Bowman  
State's Attorney  
DuPage County  
Wheaton, Illinois 60187

Dear Mr. Bowman

This responds to your request for an opinion as to whether members of a county board of a non-home rule county in its or their official capacity are authorized to contract or form associations with persons or entities representing the aged to render informal counseling, planning, and coordinating services to the elderly where:

- 1) county funds are involved;
- 2) no county funds are involved but the county board members wish to participate in their

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official capacity as members of the committees, contributing their names and talents to such efforts. If such contracts or associations are authorized, is consideration required? You have asked me specifically to consider the effect of sections 10(a) and (b) of article VII of the Constitution and of the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1975, ch. 127, par. 741) on these questions.

It is my understanding that the entities that the county has been requested to contract with or provide funds or services to are private, not-for-profit corporations and are not agencies of State or units or agents of local government.

The Intergovernmental Cooperation Act has no effect on this problem. It relates only to contracts or cooperative agreements between the public agencies as defined in section 2 of the Act (Ill. Rev. Stat. 1975, ch. 127, par. 742). The organizations for the aged involved here are private agencies, and do not fall within this definition of public agency.

Sections 10(a) and (b) of article VII of the Illinois Constitution of 1970 provide:

"(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. Units of local government and school districts may contract and otherwise associate with individuals, associations, and corporations 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.

(b) Officers and employees of units of local government and school districts may participate in intergovernmental activities authorized by their units of government without relinquishing their offices or positions."

Since private agencies are seeking to contract with the county, the only portion that is relevant here is that which provides that "Units of local government and school districts may contract and otherwise associate with individuals, associations, incorporations, in any manner not prohibited by law or by ordinance". This provision does not grant authority to counties to undertake functions, programs, or activities without other authority. It only provides a method of performing such functions, programs or

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activities authorized by other provisions of law. It is therefore necessary to find the statutory authority for the county to undertake the functions contemplated. See opinions NP-637, issued October 17, 1973, and S-1161, issued September 27, 1976.

DuPage County seeks to use or give funds or services of its county board members or both to private organizations which are devoted to serving the elderly. A county has no power to appropriate, give away, or dispose of property for purposes not authorized by law. (LeFevre v. County of Lee, 353 Ill. 30.) The use of services of county officers in their official capacity must also be authorized expressly by statute or by necessary implication to carry out express powers. I am aware of no statutory provision which specifically authorizes the type of activities involved here. The county is authorized to engage in these activities only to the extent authorized by law. I have discussed statutory provisions that relate to this problem in other opinions. See opinions NP-712, issued March 7, 1974; S-576 (1973 Ill. Att'y. Gen. Op. 52); NP-902, issued May 5, 1975; and NP-999, issued November 20, 1975.

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This opinion should not be read to conclude that persons who are county board members could not serve or become associated with these private organizations in their personal capacity. Since these are not agencies of the county or State, there is no problem of compatibility of offices and if the member has no direct or indirect interest in any contract on which he may act or vote with regard to funding these agencies to the extent to which there is authority there would be no conflict of interest.

Very truly yours,

A T T O R N E Y   G E N E R A L