



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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Jim Ryan
ATTORNEY GENERAL

FILE NO. 96-021

COUNTIES:
County Board's Authority to
Control Equipment and Material
Purchases of County Officers

Honorable Dave Neal
State's Attorney, Grundy County
111 East Washington
Morris, Illinois 60450

Dear Mr. Neal:

I have your letter wherein you inquire whether a county board possesses the authority to require the State's Attorney and certain officers of the county to submit requests for payment for necessary equipment, materials and services that the officers may require to the county board for approval, where the particular expense falls within the amount and purpose of the board's appropriations to that officer. For the reasons hereinafter stated, it is my opinion that a county board cannot use its budgetary authority to circumvent the internal control over their offices which the State's Attorney and the county's officers have been granted by statute.

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You have indicated that the Grundy County Board has sought to control expenditures from the line-items for equipment and materials which have been appropriated to the State's Attorney and the officers of the county. Specifically, you have stated that the county board has ordered the county treasurer "* * * only [to] disburse funds from line items after requests for payment have been 'channelled through the regular committee structure' of the County Board." You have further indicated that this process limits disbursements of appropriated county funds to the twelve days immediately following committee meetings, thereby restricting the ability of the State's Attorney and the county's officers to control the internal operations of their offices, and limiting their ability to procure necessary equipment, materials and services. You have inquired whether a county board possesses the authority to require the State's Attorney and the county's officers to submit, for county board approval, requests for payment for equipment and materials when the particular expense is to be paid from the pertinent line item and is within the amounts which have been appropriated to that officer.

Under the provisions of the Counties Code (55 ILCS 5/1-1001 et seq. (West 1994)), a county board is authorized to exercise extensive powers relating to the county's fiscal, financial and budgetary management. Specifically, section 5-1016 of the Counties Code (55 ILCS 5/5-1016 (West 1994)) authorizes county boards to "manage the county funds and county business,

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except as otherwise specifically provided." Section 5-1005 of the Counties Code (55 ILCS 5/5-1005 (West 1994)) authorizes each county "[t]o install an adequate system of accounts and financial records in the offices and divisions of the county, suitable to the needs of the office and in accordance with generally accepted principles of accounting for governmental bodies * * *."

Additionally, sections 6-1001 and 6-1002 of the Counties Code (55 ILCS 5/6-1001 and 6-1002 (West 1994)) set forth various duties of county boards with respect to annual budgeting, providing, respectively, in pertinent part:

"In all counties not required by law to pass an annual appropriation bill within the first quarter of the fiscal year, the county board or board of county commissioners, as the case may be, shall adopt each year an annual budget under the terms of this Division for the succeeding fiscal year. Such budget shall be prepared by some person or persons designated by the county board and such budget shall be made conveniently available to public inspection for at least fifteen days prior to final action thereon. The annual budget adopted under this Act shall cover such a fiscal period of one year to be determined by the county board of each county except as hereinafter provided and all appropriations made therein shall terminate with the close of said fiscal period except as hereinafter provided, * * *"

"Contents of annual budget. The annual budget shall contain:

* * *

(d) A detailed statement showing estimates of expenditures for the current fiscal year, revised to the date of such

estimate, and, separately, the proposed expenditures for the ensuing fiscal year for which the budget is prepared. Said revised estimates and proposed expenditures shall show the amounts for current expenses and capital outlay, shall specify the several objects and purposes of each item of current expenses, and shall include for each of said years all floating indebtedness as of the beginning of the year, the amount of funded debt maturing during the year, the interest accruing on both floating and funded debt, and all charges fixed or imposed upon counties by law.

(e) A schedule of proposed appropriations itemized as provided for proposed expenditures included in the schedule prepared in accordance with the provisions of paragraph (d) hereof, as approved by the county board or the board of county commissioners. Said schedule, when adopted in the manner set forth herein, shall be known as the annual appropriation ordinance. An amount not exceeding five percent, of the total may be appropriated for contingent, incidental, miscellaneous, or general county purposes, but no part of the amounts so appropriated shall be used for purposes for which other appropriations are made in such budget unless a transfer of funds is made as authorized by this Division.

* * *

"

(Emphasis added.)

Under these statutes, it is clear that the General Assembly has authorized county boards to determine the amount of county funds which may be appropriated and expended. It is equally apparent, however, from the language of section 5-1016 of the Code, that this power is not absolute and unlimited. Thus, a county board must exercise its financial and budgetary powers in accordance with pertinent statutory limitations.

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The General Assembly has conferred upon the State's Attorney (55 ILCS 5/3-9006 (West 1994)), the county auditor (55 ILCS 5/3-1004 (West 1994)), the county clerk (55 ILCS 5/3-2003.2 (West 1994)), the county coroner (55 ILCS 5/3-3003 (West 1994)), the county recorder (55 ILCS 5/3-5005.2 (West 1994)), the county sheriff (55 ILCS 5/3-6018 (West 1994)) and the county treasurer (55 ILCS 5/3-10005.1 (West 1994)) the express power to control the internal operations of their respective offices, including the authority to procure the equipment, materials and services that the officers determine necessary to perform the duties of such office. For example, section 3-9006 of the Counties Code (55 ILCS 5/3-9006 (West 1994)) provides:

"Internal operations of office. The State's attorney shall control the internal operations of his office and procure the necessary equipment, materials and services to perform the duties of his office."

The other statutes cited with respect to the several county officers are generally similar. (But see 55 ILCS 5/3-3003 and 3-6018 (West 1994), which provide that sheriffs and coroners may nonetheless be required to comply with centralized purchasing ordinances.)

My predecessors have considered the internal control statutes applicable to various county officers on several occasions. In opinion No. 91-011, issued March 14, 1991 (1991 Ill. Att'y Gen. Op. 21), Attorney General Burriss concluded that a county board could not circumvent the internal control statutes

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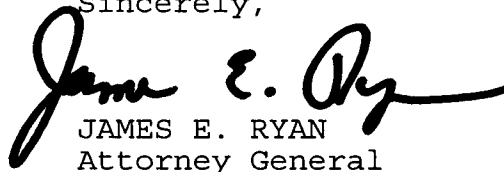
by budgeting funds for equipment intended for the county auditor to the budget of a central purchasing department. In reaching his conclusions, Attorney General Burris relied upon opinion No. 84-003, issued April 4, 1984 (1984 Ill. Att'y Gen. Op. 9), wherein Attorney General Hartigan advised that a county board's budgetary authority over those county officers who have been granted internal control over their offices is limited to the appropriation of aggregate or lump-sum dollar amounts for the necessary equipment, materials and services required by the respective offices. Similarly, in opinion No. S-1260, issued June 23, 1977 (1977 Ill. Att'y Gen. Op. 93), Attorney General Scott concluded that because county clerks have internal control over their offices, county boards could not regulate, control or decide the particular items of equipment and materials a county clerk purchases for his or her office. Subsequently, in opinion No. S-1329, issued January 19, 1978 (1978 Ill. Att'y Gen. Op. 53), Attorney General Scott advised that county officers with internal control powers generally cannot be required to make their purchases through a county purchasing department.

Based upon the opinions of my predecessors, with which I concur, it is clear that the county board cannot exercise direct control over purchases made by the State's Attorney or county officers who have been granted internal control authority, with the exception of the coroner and sheriff, who may be required to comply with centralized purchasing ordinances.

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Although a county board possesses the power to determine the amount of county funds that may be expended and by whom they will be spent, the county board cannot, use its financial and budgetary powers to regulate, control or otherwise interfere with the internal operations of the various county offices. Rather, the county board's budgetary authority is limited solely to the appropriation of aggregate or lump-sum dollar amounts for the items delineated in such statutes--necessary equipment, materials and services. Since a county board may not impose line-item budgetary constraints other than in the three classifications previously set forth, it is my opinion that if an expenditure falls within the amount and the purpose for which an appropriation has been made, a county board does not have the power to restrict the State's Attorney or a county officer in the use of the budgeted funds. Consequently, a county board does not possess the authority to implement a purchasing procedure which would require the State's Attorney or a county officer to submit, for county board approval, purchase requests or payment requests for equipment or materials which the particular officer has determined are necessary for carrying out his or her duties and for which funds have been appropriated.

Sincerely,


JAMES E. RYAN
Attorney General