



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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I - 99-002

COUNTIES:
Duties of County Clerk

The Honorable Denny Jacobs
State Senator, 36th District
State Capitol
Springfield, Illinois 62706

Dear Senator Jacobs:

I have your letter wherein you inquire whether it is permissible for a county board to transfer responsibility for payroll administration from the office of the county clerk to an employee under the direct supervision of the county board. Because of the nature of your inquiry, I do not believe that the issuance of an official opinion is necessary. I will, however, comment informally upon the question you have raised.

Section 3-2013 of the Counties Code (55 ILCS 5/3-2013 (West 1996)), which sets out the duties of the county clerk, provides, in part:

"General duties of clerk. Subject to the provisions of 'The Local Records Act', the duties of the county clerk shall be-

* * *

2nd. To keep a book in which he shall enter the number, date and amount of each order upon the county treasurer, and the name of the person in whose favor the same is

drawn, and when such order is canceled, he shall note the date of cancellation opposite such entry.

* * *

"

Further, section 3-2003.2 of the Counties Code (55 ILCS 5/3-2003.2 (West 1996)) provides:

"Internal operations of office. The county clerk shall have the right to control the internal operations of his office; to procure necessary equipment, materials and services to perform the duties of his office."

Based upon these provisions, Attorney General Scott, in opinion No. S-1260, issued June 23, 1977 (1977 Ill. Att'y Gen. Op. 93), concluded that the county board in a non-home-rule county does not have the power to contract with a private firm for data processing of county payroll checks unless it does so pursuant to the request of the county clerk. Similarly, in opinion No. 91-039, issued November 20, 1991 (1991 Ill. Att'y Gen. Op. 85), Attorney General Burris concluded that a county board could not assign to an employee in its office the duty of entering all claims made upon the county treasurer into the county's computer records. In both circumstances, the duties sought to be transferred are within those statutorily delegated to the county clerk.

The county board's authority to alter the powers and functions of county officers is limited to those powers and functions not otherwise specifically provided for by law. (55 ILCS 5/5-1087 (West 1996).) The county board's general authority to manage county funds and county business (55 ILCS 5/5-1016 (West 1996)) and to examine and settle accounts (55 ILCS 5/5-1019 (West 1996)) does not give it any authority over the record keeping functions specifically delegated to the county clerk, nor does its authority to install a system of accounts and financial records in the offices and divisions of the county (55 ILCS 5/5-1005(16) (West 1996)) permit the county board to circumvent the county clerk's record keeping functions or internal control. As was noted in opinion No. 91-039, and, with respect to the county auditor in opinion No. 91-011, issued March 14, 1991 (1991 Ill. Att'y Gen. Op. 21), the various sections of the Counties Code

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pertaining to fiscal control must be construed together. The provisions of the Counties Code establish a structure of fiscal control in which various offices provide checks on others so as to guard against fraud or malfeasance. Technological advances making it more convenient and efficient to centralize control in a single person or entity have not altered the right of the people, protected by statute, to the safeguards on the exercise of power and the expenditure of public funds that the participation of multiple, independently elected officers provides.

Therefore, it appears that the keeping of payroll records, like other records of claims against the county, falls with the statutory duties of the county clerk, and cannot be assumed by the county board.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Sincerely,



MICHAEL J. LUKE
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Chief, Opinions Bureau

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