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SPRINGFIELD

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FILE NO. S-487

LABOR:

A County Board does not have the power to enter into a collective bargaining agreement wherein the rate of compensation of employees of the County Treasurer is fixed.

Honorable Louis R. Bertani
State's Attorney
Will County
Joliet, Illinois 60431

Dear Mr. Bertani:

I have your letter wherein you state:

"In your Opinion No. S-426, you conclude that the County Treasurer has the authority to fix the salaries of his employees so long as he does not exceed the total budgetary amount provided for by the County Board in his annual budget. Will County has entered into a collective bargaining agreement with a labor union. This collective bargaining agreement describes the bargaining unit and includes all employees of the County of Will who are not supervisory in nature. Naturally, many of the employees of the County Treasurer are within that unit. The agreement does have a very

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broad escape clause which in substance says if the agreement is in derogation or in conflict with any of the laws of the State of Illinois, then in such case the law shall apply and not the agreement. My question is, in view of your aforesaid opinion and in view of the collective bargaining agreement of the County of Will with said escape clause, is the Will County Treasurer permitted to pay to employees covered by the collective bargaining agreement wages in excess or less than that which were agreed upon in said agreement?"

On July 10, 1970, I issued Opinion No. S-192, (1970 Atty. Gen. Op. 129) in which I held that public employers, in the absence of statutory prohibition, may recognize, bargain with and enter into collective bargaining agreements with public employee labor unions as the sole collective bargaining agents of such employees other than firemen, policemen and civil service employees, provided that any public employees not belonging to such labor union are given the right to present grievances and submit suggestions as individuals. See, Chicago Div. Ill. Ed. Ass'n. v. Board of Ed., 76 Ill. App. 2d 456; 48 Am. Jur. 2d, Labor and Labor Relations, sec. 246 (1970); 31 A.L.R. 2d 1142; Werne, Collective Bargaining, 22 Vand. L. Rev. 833 (1969).

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In your most recent letter, quoted above, you impliedly asked whether or not the County Board has the power to enter into a collective bargaining agreement with a labor union with respect to the rate of compensation of employees of the County Treasurer.

A County Board can exercise only such powers as are expressly given by law or such as arise by necessary implication from powers granted by law. (Ashton v. Cook County, 384 Ill. 287). A County Treasurer can exercise only the powers delegated to him by general law or county ordinance. Ill. Const., Art. VII, sec. 4(d).

Section 4 of "An Act to revise the law in relation to county treasurer," (Ill. Rev. Stat., 1971 (Supp.), ch. 36, par. 4) provides, in part, as follows:

"The Treasurer has those functions, powers and duties as provided in sections 4.1 through 4.4. * * * He shall appoint his deputies, assistants and personnel who assist him in the performance of his duties. * * *"

Section 4.1 of said Act reads as follows:

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"The Treasurer shall control the internal operations of his office and procure necessary equipment, materials and services to perform the duties of his office."

Section 4.4 of said Act reads as follows:

"Compensation of deputies and employees not otherwise provided for by law shall be fixed by the treasurer subject to budgetary limitations established by the County Board. This amendatory act of 1971 does not apply to any county which is a home rule unit."

The statute, quoted above, became effective on December 1, 1971. I understand that the collective bargaining agreement, you refer to in your letter, also, became effective on December 1, 1971 and is effective for one year. I have not examined that agreement. You indicate that that contract contains a broad savings clause under which the provisions of the collective bargaining agreement are subordinated to the law apparently including the quoted statute. It is therefore unnecessary to consider any questions concerning prospective or retrospective operation of the statute or problems connected therewith.

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In my Opinion No. S-426, issued on March 14, 1972, I ruled that section 4.4, quoted above, granted to the County Treasurer the power to fix the rate of compensation of each of his employees. The County Board has only the power to appropriate to the County Treasurer an aggregate or lump sum amount to be used for the compensation of employees of the County Treasurer.

Thus, the County Board of Will County does not have the authority to set the rate of compensation of employees of the County Treasurer. Therefore, I am of the opinion that the County Treasurer has the power to set the rate of compensation of his employees irrespective of whatever rate of compensation was agreed to by the County Board in the collective bargaining agreement.

Very truly yours,

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