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SPRINGFIELD

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FILE NO. S-1266

COUNTIES:

County Auditor's Duty
to Audit Claims and to
Report Condition of Funds

Honorable J. Michael Fitzsimmons
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DuPage County
207 S. Reber Street
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Dear Mr. Fitzsimmons:

This responds to your letter wherein you ask whether the county auditor is responsible for auditing claims against the following:

- A. County Health Department
- B. County Tuberculosis Care and Treatment Board
- C. County Board of Election Commissioners
- D. County Forest Preserve District

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You then ask the following questions:

- E. In the event that the county auditor audits claims of the health department, tuberculosis care and treatment board, the election commission, and/or the forest preserve district, to whom would the county auditor make his recommendation for payment or rejection for each applicable instance?
- F. Our county board has adopted a standard job classification plan, whereby each employee's salary is approved upon commencement of his or her employment with the county. In view of this plan, must the county board approve all payroll claims prior to their payment and must the county auditor audit them?
- G. In light of your response to questions A through E above, and in the event that payroll claims are to be audited by the county auditor, are there any exceptions as to whose salaries are to be submitted to the county auditor for his recommendation?
- H. Does the county auditor's duty to report on the "condition of all funds and appropriations" mean that the auditor need only report the current balance in each fund?
- I. Does the county auditor's duty to report quarterly to the county board require the auditor to report on Class A, B, C and D funds as described in section 5 of "AN ACT concerning county treasurers, in counties containing more than 150,000 inhabitants, etc."?

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J. Is the county auditor required to report quarterly on the funds of the entities specified in questions A, B, C and D?

In opinion No. S-808 (1974 Ill. Att'y. Gen. Op. 268) I construed paragraph (a) of section 3 of "AN ACT to create the office of county auditor in certain counties, to provide for the appointment of county auditors in counties of less than 75,000 inhabitants, and to define the duties thereof". [County Auditor's Act.] (Ill. Rev. Stat. 1975, ch. 34, par. 1504.) Paragraph (a) reads as follows:

"The duties of the county auditor shall be to:

(a) Audit all claims against the county of whatsoever character, and recommend to the county board the payment or rejection of all bills presented."

Opinion No. S-808 advised that paragraph (a) required the county auditor to audit all claims that necessitate an order by the county board authorizing the disbursement of funds from the county treasury. Therefore, claims that the auditor is required to audit pursuant to paragraph (a) have two characteristics: 1) they are claims which are paid by order of the county board, and 2) they are claims which are paid with funds deposited in the county treasury.

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This construction of paragraph (a) leads me to conclude that questions A through D must be answered in the negative.

Claims against the county health department are paid from the county health fund. Section 11 of "AN ACT in relation to the establishment and maintenance of county and multiple-county public health departments" (Ill. Rev. Stat. 1975, ch. 111 1/2, par. 20c10) provides that the county treasurer is to make payments from the fund upon the properly authenticated vouchers of the county health department. Section 11 reads in pertinent part as follows:

"The county board of any county which has established and is maintaining a county or multiple-county health department shall, when authorized as provided in Sections 2, 3 or 4, levy annually therefor, in excess of the statutory limit, a tax of not to exceed .1% of the value, as equalized or assessed by the Department of Local Government Affairs, of all taxable property of the county, which tax shall be levied and collected in like manner as general county taxes and shall be paid (except as provided in Section 12) into the county treasury and held in the County Health Fund and shall be used only for the purposes of this Act. Where there is a county health department, the County Health Fund shall be drawn upon by the proper officers of the county upon the properly authenticated vouchers of the county health department. * * * (Emphasis added.)

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Because claims against the department are paid from the county treasury without an order of the county board, the county auditor is not required to audit such claims.

Claims against the county tuberculosis care and treatment board are paid from the tuberculosis care and treatment fund. According to section 27 of "AN ACT relating to the care and treatment by counties of persons afflicted with tuberculosis and providing the means thereof" (Ill. Rev. Stat. 1975, ch. 34, par. 5129), the county treasurer makes payments from the fund upon properly authenticated vouchers of the directors of the tuberculosis care and treatment board. Section 27 states in pertinent part that the board of directors:

"* * * shall have the exclusive control of the expenditure of all moneys collected and appropriated to the credit of the tuberculosis care and treatment fund, provided that all moneys received for the care and treatment of persons afflicted with tuberculosis shall be deposited in the treasury of said county to the credit of the tuberculosis care and treatment fund and shall not be used for any other purpose and shall be drawn upon by the proper officers of said county upon the properly authenticated vouchers of said board of directors." (Emphasis added.)

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The county auditor is thus not required to audit claims against the tuberculosis care and treatment board since these claims are paid from the county treasury without an order of the county board.

The county auditor is also not required to audit the salary and expenses of the county board of election commissioners. Article 6A of The Election Code (Ill. Rev. Stat. 1975, ch. 46, par. 6A-1 et seq.) authorizes the county to establish a county board of election commissioners. Section 6A-5 of The Election Code (Ill. Rev. Stat. 1975, ch. 46, par. 6A-5) describes the relationship between article 6A and other articles of The Election Code as follows:

"The provisions of Articles 6, 14 and 18 of this Act relating to boards of election commissioners in cities, villages and incorporated towns shall, insofar as they can be made applicable, apply to and govern county boards of election commissioners established pursuant to this Article. However, the county board, in fixing the compensation of the members of the county board of election commissioners and of the chief clerk and assistant chief clerk, is not subject to the limitations of Section 6-70 and may provide for either an annual salary or a per diem compensation."

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The limitation on compensation in section 6-70 of the Code (Ill. Rev. Stat. 1975, ch. 46, par. 6-70) does not apply to the county board of election commissioners. However, the provisions in section 6-70 for the method of paying salaries and expenses are applicable. Section 6-70 explains how salaries and expenses are to be paid as follows:

"

* * *

Such salaries and expenditures are to be audited by the chief circuit judge, and such salaries shall be paid by the county or city treasurer, as the case may be, upon the warrant of such chief circuit judge of any money in the county or city treasury, as the case may be, not otherwise appropriated. It shall also be the duty of the governing authority of such counties and cities, respectively, to make provisions for the prompt payment of such salaries and expenditures." (Emphasis added.)

Applying this method of payment to the county board of election commissioners, it is clear that claims against that board are not paid upon order of the county board. Instead, the county treasurer makes payments upon the order of the chief circuit judge; and it is the judge who audits the payments. Therefore, claims against the county board of election commissioners need not be audited by the county auditor.

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Even though the boundaries of a county and a forest preserve district are co-extensive, the county and district remain two separate and distinct municipal corporations. (Peabody v. Forest Preserve District (1926), 320 Ill. 454; 1973 Ill. Att'y. Gen. Op. 129 and 181.) District funds are held by the treasurer of the district, not by the county treasurer. (Ill. Rev. Stat. 1975, ch. 57 1/2, pars. 8 and 9a.) Since district funds are not county funds, the county auditor is not required to audit claims against the forest preserve district.

Because questions A through D are answered in the negative, it is not necessary to answer question E.

In regard to questions F and G, I advised in opinion No. S-808 that payroll claims of county employees are claims against the county which necessitate an order by the county board authorizing disbursement of funds from the county treasury; as a result, the opinion concluded that county payroll claims must be audited by the county auditor. Generally, no money can be paid out of the county treasury without an order of the county board. Section 9 of "AN ACT

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to revise the law in relation to county treasurer" (Ill. Rev. Stat. 1975, ch. 36, par. 9) provides:

"No money or funds shall be paid out of any county treasury, except in accordance with an order of the county board, or when payment is specially authorized by law to be made."

The county's job classification plan is not an order to pay a claim, and thus adoption of the plan does not satisfy the requirement of obtaining a county board order to pay payroll claims. Hence, question F is answered in the affirmative. (See opinion No. S-44 (1969 Ill. Att'y. Gen. Op. 77) regarding county board procedures for approving claims against the county.) In response to question G, the only payroll claims that the county auditor does not have to audit are those that do not require a county board order. As indicated in section 9, such payroll claims would have to be "specially authorized by law".

Questions H, I and J involve paragraph (e) of section 3 of the County Auditors Act which reads as follows:

"The duties of the county auditor shall be to:

(e) Report quarterly to the county board the entire financial operations of the county including all fees and emoluments due the county from

the various county officers as earned, collected or received under performance to their duties, revenues estimated and received, expenditures estimated and received, obligations unpaid, the condition of all funds and appropriations and other pertinent information."

In determining the meaning of a term in a statutory section, the apparent purpose of the whole section should be examined so that the meaning given to the word is consistent with the purpose of the section. (People ex rel. Roan v. Wilson (1950), 405 Ill. 122, 127.) The apparent purpose of paragraph (e) is to inform the county board on "the entire financial operations of the county". It is my opinion that this purpose cannot be achieved by merely reporting current balances to the county board. Therefore, in response to question H, the auditor's duty to report on the condition of all funds and appropriations requires the auditor to compile a statement of financial position that is more extensive than a report of current balances.

Turning to question I, "AN ACT concerning county treasurers, in counties containing more than 150,000 inhabitants, etc." (Ill. Rev. Stat. 1975, ch. 36, par. 17 et seq.) describes how county moneys are deposited and withdrawn.

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Section 1 of the Act (Ill. Rev. Stat. 1975, ch. 36, par. 17) defines "county moneys" to include "all moneys to whomsoever belonging, received by or in possession or control of the incumbent of the office of county treasurer * * *". Section 5 of the Act (Ill. Rev. Stat. 1975, ch. 36, par. 21) classifies the deposits of county moneys received by the county treasurer. That section reads as follows:

"§ 5. For the purpose of establishing a control over the withdrawal, in accordance with the provisions of this act, of all county moneys deposited in any bank or depository, as hereinafter required, such moneys are hereby classified as follows:

Class A. All taxes and special assessments received by the county treasurer in his capacity as ex officio county collector or ex officio town collector, and held by him pending distribution to the several governments or authorities entitled to receive the same, shall be known as 'Class A' funds.

Class B. All other moneys belonging to the State of Illinois or to any political or corporate subdivision thereof, except the county, shall be known as 'Class B' funds.

Class C. All moneys belonging to the county in its corporate capacity shall be known as 'Class C' funds.

Class D. All other county moneys as defined in section 1 of this act shall be known as 'Class D' funds."

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It is my opinion that the county auditor has a duty to report on all the classes of county moneys described in section 5. In order to inform the county board on "the entire financial operations of the county", the auditor should report on all moneys received by county officers. Since all classes of county moneys listed in section 5 are received by the county treasurer, the county auditor has a duty to report quarterly on these moneys.

In regard to question J, the county health department, county tuberculosis care and treatment board, and county board of election commissioners are county agencies. As such, their funds are county funds and are thus required to be included in the auditor's quarterly report on the condition of all county funds. Since the county forest preserve district is a municipal corporation distinct and separate from the county, forest preserve district funds are not county funds. Therefore, the county auditor is not required to include forest preserve district funds in his report.

Very truly yours,

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