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SPRINGFIELD

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FILE NO. S-602

**HEALTH:**

County and Multiple-County  
Health Departments

Dr. Joyce Lashof  
Acting Director  
Department of Public Health  
535 West Jefferson Street  
Springfield, Illinois 62706

Dear Director Lashof:

I have your predecessor's letter wherein it is stated:

"(1) Are county and multiple-county health departments 'units of local government' within the meaning of Article VII of Section 1 of the 1970 Constitution?"

(2) Do county and multiple-county boards of health have the authority to contract with or otherwise associate themselves with a group of local jurisdictions, another city or county, the Department of Personnel pursuant to Chapter 127, Paragraph 63b119 and/or the Department of Public Health pursuant to Chapter 127, Paragraph 55.12, for the purpose of the establishment and maintenance of merit systems for their employees?"

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(3) If your answers to the foregoing questions are in the negative, would county and multiple-county boards of health have the authority to enter into a contract or otherwise associate with the Department of Personnel pursuant to Chapter 127, Paragraph 63b119 and/or with the Department of Public Health pursuant to Chapter 127, Paragraph 55.12, if the county or counties adopted an ordinance or resolution authorizing the board of health to enter into such contract or associate for the purpose of the establishment and maintenance of a merit system of personnel administration for employees of the county or multiple-county health department?

(4) If your answers to the foregoing questions are in the negative, would the county board or county boards have authority to enter into a contract or otherwise associate with the Department of Personnel pursuant to Chapter 127, Paragraph 63b119 or the Department of Public Health pursuant to Chapter 127, Paragraph 55.12 for the purpose of establishing and maintaining a merit system of personnel administration for employees of the county or multiple-county health department?

(5) If your answers to the foregoing questions are in the negative, would a county or multiple-county board of health have the authority to create an informal Merit Committee which would make recommendations with respect to personnel activities, with the final determination being made by the board of health or its officers?"

Section 1 of Article VII of the Illinois Constitution of 1970 reads in part as follows:

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" \* \* \* 'units of local government' means counties, municipalities, townships, special districts, and units, designated as units of local government by law, which exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts."

Section 8 of article VII of the Illinois Constitution of 1970 reads in part:

"Townships, school districts special districts and units, designated by law as units of local government, which exercise limited governmental powers or powers in respect to limited governmental subjects shall have only powers granted by law. \* \* \* "

The comments made in the companion opinion\*relative to section 1 and section 8 of article VII of the Illinois Constitution of 1970, are also applicable herein.

In the first question, it was asked whether county and multiple-county health departments are "units of local government" within the meaning of the above constitutional provision. Obviously, for a county or multiple-county health department to be categorized as a "unit of local government", they must either be special districts or designated as "units of local government by law". As the latter is not the case, we must determine whether county or multiple-county health departments are special districts.

In the companion opinion\*to the questions raised here,

\* See Opinion No. S-601 of even date.

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I noted that special districts possess a number of common characteristics. A special district is a body corporate, an independent autonomous unit of government having its own powers of taxation. It is independent of review by any other unit of local government in the budgeting and administration of their revenues, thus having considerable fiscal and administrative independence from other governmental units.

An analysis of "An Act in relation to the establishment and maintenance of county and multiple-county health departments", (Ill. Rev. Stat. 1971, ch. 111 1/2, par. 20c, et seq.) brings me to the conclusion that neither a county or multiple-county health department is a special district.

First, these two entities are not bodies corporate. They are not independent autonomous units of government, as they must submit an annual report to the county board or boards, explaining all of their activities and expenditures. (Ill. Rev. Stat., 1971, ch. 111 1/2, par. 20c13 (14)). Further, fiscal independence from the county board is nonexistent as county and multiple-county health departments must submit an annual budget to the county board. (Ill. Rev. Stat. 1971, ch. 111 1/2, par. 20c10). Accordingly, the county board appropriates from

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the county health fund sums as may be necessary for the maintenance of the health department if such funds have been set forth in the budget. (Ill. Rev. Stat. 1971, ch. 111 1/2, par. 20c10.) Finally, county or multiple-county health departments do not have independent powers of taxation; such authority is vested in the county board. Ill. Rev. Stat. 1971, ch. 111 1/2, par. 20c10.

Therefore, it is my opinion that a county or multiple-county health department is not a "special district" within the meaning of section 1 of article VII of the Illinois Constitution of 1970 and accordingly are not "units of local government" within the meaning of this same constitutional provision. At best, they can be categorized as county agencies or departments.

In the second question, you have inquired into the contractual authority of county and multiple-county health departments. The authority which they possess is clearly and concisely limited to entering into contracts with municipalities, other political subdivisions and non-official agencies for the purchase, sale or exchange of health services. Ill. Rev. Stat. 1971, ch. 111 1/2, par. 20c13(15).

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You have inquired as to whether county or multiple-county health departments possess the authority to contract in connection with the establishment and maintenance of merit personnel systems.

It is a rule of statutory construction that an unambiguous statute must be held to mean what it plainly expresses and its plain and obvious meaning may not be enlarged or restricted. People ex rel. Chadwick v. Sergel, 269 Ill. 619.

In my opinion, a contract connected with the establishment and maintenance of a merit personnel system is not a contract for the "purchase, sale or exchange of health services". Any construction of the statutory contractual authority of county and multiple-county health departments which would authorize a contract as you have proposed, would in my opinion, be an improper enlargement of their statutory contractual authority.

In the third question, you have inquired into the authority of a county and multiple-county boards of health to enter into a similar contract as described in your second question. You have now asked if the county adopted a resolution authorizing the Board of Health to enter into such a contract

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would the boards of health have the authority to contract with or otherwise associate with the Department of Personnel and the Department of Public Health.

I note that the authority of the Department of Public Health in relation to their contractual authority is limited to contracts with local governmental units for the purchase, sale or exchange of health services and products which will benefit the health of the people. (Ill. Rev. Stat. 1971, ch. 127, par. 55.12.) For the reasons aforementioned, I am of the opinion that a contract for health services cannot be construed to include a contract connected with the establishment and maintenance of a merit personnel system. Therefore, the Department of Public Health is without the requisite statutory authority to enter into contracts with local governments for the purpose of establishing and maintaining a merit personnel system for county or multiple-county boards of health.

The authority of the Department of Personnel to contract for providing assistance in the administration of a merit personnel system stems from the following statutory provision:

"The Director of the Department of Personnel of the State of Illinois may enter into agreements with any city, village, incorporated town,

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county or other political subdivision in this State to furnish services and facilities of the Department to such city, village, incorporated town, county or other political subdivision to assist in the administration of its personnel program on merit principles."

Ill. Rev. Stat. 1971,  
ch. 127, par. 63b119.

As can be seen from the above statutory provision, the Department of Personnel has authority to enter into agreements with counties or other political subdivisions in this State. Therefore, I am of the opinion that the county board can enter into a contract with the Department of Personnel for obtaining assistance in the administration of a merit personnel system for a county or multiple-county health department.

As I have earlier stated that a county or multiple-county board of health is no more than a county department or agency, I am of the opinion that the county board can delegate to such agency the authority to contract on behalf of the county. A county board alone has power by law to bind a county to a contract and there is no such power in an individual or a committee of the county board unless that power has been bestowed by a county board. (County of Stephenson v. Bradley, Inc., 2 Ill. App. 3rd 421.) A county



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board may delegate the authority to contract on behalf of the county. Consolidated Chemical Lab. v. Cass Co., 322 Ill. App. 353.

Thus, an ordinance or resolution which authorizes a county or multiple-county health department to enter into a contract with the Department of Personnel for the purpose of obtaining assistance in the administration of a merit personnel system is no more than a delegation of the authority to contract on behalf of the county. Further, the statutory authority of the Department of Personnel sanctions a contract with a county for the purpose of assisting in the administration of the personnel program on merit principles. Ill. Rev. Stat. 1971, ch. 127, par. 63b119.

Therefore, in answer to the third question, I am of the opinion that county and multiple-county boards of health acting on behalf of the county and pursuant to an ordinance or resolution of the county board, may enter into a contract with the Department of Personnel.

However, a county board cannot delegate authority to do anything which it might not be able to do itself. (City of Chicago v. Alper, Inc., 368 Ill. 382.) A county board may not

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contract to bind succeeding boards to their contracts. (1931 Op. Atty. Gen., p. 114. Also, 1927 Op. Atty. Gen., p. 161; 1929 Op. Atty. Gen., p. 415.) In the 1931 opinion of the Attorney General, page 116, my predecessor noted that:

"In the case of Millikin v. County of Edgar, 142 Ill. 528, the Court held that while a county board of supervisors is empowered by statute to acquire land for a court house, and to appoint a keeper thereof, and to make provision for the care of the poor, such board however, did not have the power to contract with the person appointed as poor house keeper, for the management of the poor house and farm and care of paupers for a period extending to three years, and if such contract was attempted to be made, it would be void. In that case, the members of the board of supervisors were elected annually at the time the contract was attempted and each member held his office for the term of one year and no longer, and the board was given the power to cause to be annually levied and collected, taxes for county purposes, and the Court said:

'In view of this provision of the statute, it would be an unreasonable construction of the statute relied upon, to hold that the legislature intended to clothe the board with authority to enter into a contract with a keeper of a poor house to run for a term of three years. If the board had the power to enter into a binding contract of this character for three years, no reason is perceived why it might not make a contract for five or even ten years, and if this could be done, then

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hands of succeeding boards would be tied and their powers taken from them. If this important power, the supervision of a poor farm and the care of the unfortunate, may be so far delegated as was attempted in this case, the county might be deprived, in a great measure, of one of the most important affairs entrusted to its care and supervision. The statute should not receive a construction which might lead to such disastrous results unless the language employed would admit of no other reasonable interpretation.' "

The above rationale as applied today, would limit the contractual authority of the county board to the two years during which the membership of the county board remains constant. (Ill. Rev. Stat. 1971, ch. 34, par. 839.) For your further information, section 4 of "AN ACT in relation to the budgets of counties not required by law to pass an annual appropriation bill", (Ill. Rev. Stat. 1971, ch. 34, par. 2104) provides in pertinent part as follows:

"Except as herein provided, neither the county board nor any one on its behalf shall have power, either directly or indirectly, to make any contract or do any act which adds to the county expenditures or liabilities in any year anything above the amount provided for in the annual budget for that fiscal year. \* \* \* Except as herein provided, no contract shall be entered into and no obligation or expense shall be incurred by or on behalf of a county unless an appropriation therefor has been previously made."

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Therefore, in conclusion, it is my opinion that county or multiple-county health departments are not "special districts" within the meaning of section 1 of article VII of the Illinois Constitution of 1970; that county and multiple-county health departments do not have the statutory authority to contract for the establishment and maintenance of a merit personnel system.

I am of the further opinion that the Department of Public Health does not have the statutory authority to contract with units of local government for the purpose of establishing and maintaining a merit personnel system for county or multiple-county boards of health. Finally, county and multiple-county boards of health acting on behalf of the county and pursuant to a county ordinance or resolution, may enter into a contract with the Department of Personnel for obtaining assistance in the administration of a merit personnel system.

Very truly yours,

A T T O R N E Y   G E N E R A L