



ROLAND W. BURRIS
ATTORNEY GENERAL
STATE OF ILLINOIS



November 20, 1991

FILE NO. 91-039

COUNTIES:
Duty of County Clerk to
Keep Records of Claims
Against the County

Honorable Charles M. Colburn
State's Attorney, Morgan County
Morgan County Courthouse
Jacksonville, Illinois 62650

Dear Mr. Colburn:

I have your letter wherein you inquire whether, notwithstanding the objection of the county clerk, the board of county commissioners may assign to an employee in its office the duty of entering all claims made upon the county treasurer into the county's computer records. For the reasons hereinafter stated, it is my opinion that the county commissioners cannot assign to other personnel a function which is delegated to the county clerk by statute.

Section 3-2013 of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 3-2013) provides, in pertinent part:

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"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 (Ill. Rev. Stat. 1989, ch. 34, par. 3-2003.2) 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."

In opinion No. S-1260, issued June 23, 1977 (1977 Ill. Att'y Gen. Op. 93), Attorney General Scott advised that these provisions prohibited a county board from contracting for data processing services for the keeping of voter registration lists and processing of county payroll checks, unless the contract was entered into pursuant to the request of the county clerk. I agree with the analysis and conclusion expressed in that opinion. Because section 3-2013 of the Counties Code clearly requires the county clerk to keep a record of each claim made upon the county treasurer, and the county clerk is granted the authority, under section 2-2003.2 of the Code, to procure the necessary equipment, materials and services to perform that

duty, the county board of commissioners cannot provide for the performance of this function by another.

In this regard, I note that the board of commissioner's general authority to manage county funds and county business (Ill. Rev. Stat. 1989, ch. 34, par. 5-1016) and to examine and settle accounts (Ill. Rev. Stat. 1989, ch. 34, par. 5-1019) does not give it any authority over the county clerk's record keeping functions. The county board's authority to alter the power and functions of county officers is limited to those powers and functions not otherwise specifically provided for by law. (Ill. Rev. Stat. 1989, ch. 34, par. 5-1087.) The duties specifically imposed upon the county clerk by section 3-2013 of the Counties Code cannot be changed by a county ordinance for the convenience of the county board.

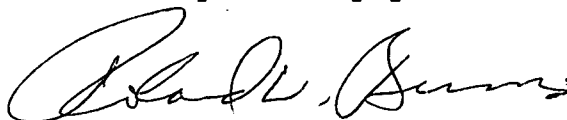
Similarly, the county board's authority to install a system of accounts and financial records in the offices and divisions of the county (Ill. Rev. Stat. 1989, ch. 34, par. 5-1005(16)) does not permit the county board to circumvent the clerk's record keeping functions or internal control. As I noted in opinion No. 91-011, issued March 14, 1991, with respect to the powers of the county auditor, the various sections of the Counties Code pertaining to fiscal control must be construed together in light of the general purpose of the Code and the object to be attained. Much as the county auditor's duties with respect to the expenditure of county funds are

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intended to guard against fraud by providing a check on county spending, the county clerk's duties with respect to the monitoring of claims against the county provides a check upon the county board's authority to settle such claims. Just as the county board's means of implementing its power to install a system of accounts and financial records, in counties required to have an auditor, must be through the auditor's office, the inclusion in that system of records required to be maintained by the county clerk must be done with the consent and participation of the county clerk. Although advances in technology may have made it more convenient and efficient for all such records to be kept and controlled by a single person or entity, those technological advances have not altered the right of the people, protected by statute, to the checks on the exercise of power and the making of expenditures that the participation of multiple, independently-elected officers provides.

For the reasons stated, it is my opinion that the board of county commissioners of Morgan County cannot assign the duty to log in claims upon the county treasurer to its personnel. Only the county clerk, or one designated by the clerk, may perform that function.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Roland W. Burris".

ROLAND W. BURRIS
ATTORNEY GENERAL