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FILE NO. S-667

**COUNTIES:**

Power to Provide  
Ambulance Service

Honorable Kelly D. Long  
State's Attorney  
Montgomery County  
Courthouse  
Hillsboro, Illinois 62049

Dear Mr. Long:

I have your letter of recent date wherein you state:

"The County Board of Montgomery County, Illinois, has expressed an intention to provide ambulances to the municipalities of Hillsboro, Raymond, Litchfield, and Nokomis, if the municipalities will bear the expense and burden of operating the said ambulances. The County Board proposes to use Federal Revenue Sharing Funds to purchase the ambulances.

I have two questions in regard to the above:

I. Does the County Board have authority to purchase ambulances for use by municipalities?

II. If the purchase of the ambulances is permissible, may the County use Federal Revenue Sharing Funds?

Your opinion on this matter will be sincerely appreciated."

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Pursuant to Public Act 78-456, non-home rule counties have been authorized to provide emergency ambulance service to or from points within or without the county; or to combine with other units of government for the purpose of providing ambulance service. Specifically, Public Act 78-456 provides in pertinent part:

"(a) It is declared as a matter of public policy:

\* \* \*

(3) That, in the event adequate and continuing emergency ambulance services do not exist and cannot be effectively and efficiently provided by private enterprise or other units of local government, counties should be authorized to provide, and shall cause to be provided, ambulance service as a public responsibility.

\* \* \*

"

Before the county may provide for the operation of an ambulance service, an ordinance upon such subject must be passed by a majority of the county board.

Public Act 78-456 further provides:

"(c) The County Board having passed such ordinance the Board may:

1. Provide or operate an ambulance service;

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2. Contract with a private person, hospital, corporation or another governmental unit for the provision and operation of ambulance service or subsidize the service thereof; \* \* \* "

You have proposed an agreement in your letter which can be characterized as a bilateral contract between Montgomery County and the municipalities of Hillsboro, Raymond, Litchfield, and Nokomis, wherein the county in consideration for the municipalities providing an ambulance service, would provide the ambulances to the municipality.

This agreement between the county and the municipality is clearly within the contemplation of Public Act 78-456. However, that act does not sanction the mere gift of an ambulance to a municipality without the corresponding obligation on the part of the municipality to maintain and operate an ambulance service.

Furthermore, there is no other express statutory provision that would authorize an outright gift of an ambulance by the county to a municipality. County boards can only exercise such powers as are expressly given by the law, or such as arise by necessary implication from the powers granted. (Ashton v.

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Cook County, 384 Ill. 287.) Since there is no statutory provision which would authorize the purchase of an ambulance by a county for a municipality, I am of the opinion that a county may not engage in such a practice.

I have stated above that Public Act 78-456 would authorize a county to contract with a municipality for the provision of ambulance service. Municipalities are authorized to contract for the operation of an ambulance service or operate said service by section 11-5-7 of the Illinois Municipal Code which reads in pertinent part as follows:

\* \* \* \* The corporate authorities of each municipality may either contract for the operation of or operate ambulances as a municipal service and may make reasonable charges therefor. \* \* \* "

Ill. Rev. Stat. 1971,  
ch. 24, par. 11-5-7.

Thus, municipalities are also authorized to contract in regard to the provision of an ambulance service.

Therefore, it is my opinion that Montgomery County may provide ambulances to certain municipalities if done pursuant to a contract with the municipalities which would result in the provision of an ambulance service within the county, as provided by P. A. 78-456.

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In regard to the form that this contract must take, the Intergovernmental Cooperation Act (PA 78-785) provides in Section 5:

"Intergovernmental Contracts. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties."

In your second question you have asked whether Federal Revenue Sharing Funds may be used for the purchase of the ambulances. If the ambulances are purchased pursuant to the terms of a contract with the municipalities, then, in my opinion, revenue sharing funds may be used.

Under the State and Local Fiscal Assistance Act of 1972, (31 U.S.C.A., sec. 1221, et seq.) units of local government are authorized to use revenue sharing funds only for priority expenditures. Priority expenditures are defined in section 103 of said Act as follows:

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" \* \* \* For purposes of this chapter, the term 'priority expenditures' means only -

- (1) ordinary and necessary maintenance and operating expenses for -
  - (A) public safety (including law enforcement, fire protection, and building code enforcement),
  - (B) environmental protection (including sewage disposal, sanitation, and pollution abatement),
  - (C) public transportation (including transit systems and streets and roads),
  - (D) health,
  - (E) recreation,
  - (F) libraries,
  - (G) social services for the poor or aged, and
  - (H) financial administration; and
- (2) ordinary and necessary capital expenditures authorized by law."

31 U.S.C.A., sec. 1222.

Section 123 of said Act (31 U.S.C.A., sec. 1243) further limits the expenditures of revenue sharing funds in the following manner:

"In order to qualify for any payment under subchapter I of this chapter for any entitlement period beginning on or after January 1, 1973, a State government or unit of local government must establish \* \* \* to the satisfaction of the Secretary that - \* \* \*

- (4) it will provide for the expenditure of amounts received under subchapter I of

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this chapter only in accordance with the laws and procedures applicable to the expenditure of its own revenues; \* \* \* "

Thus, the State and Local Fiscal Assistance Act of 1972, supra, does not authorize units of local government to expend revenue sharing funds for purposes which are not already authorized by State law.

It is clear that counties are authorized to expend their own revenue for the purpose of providing ambulance service as Public Act 78-456 provides in part:

"The County Board having passed such ordinance the Board may; pay for the expenses incurred in providing such ambulance service under this Act from the general funds of the county or from the proceeds from a tax levied and collected annually under the provisions of Section 25.05-9 of this Act."

Since the provision of ambulance service amounts to an operating expense for purposes of public health, such expenditure could be classified as a priority expenditure under the provisions of section 103 of the State and Local

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Fiscal Assistance Act, I am of the opinion that revenue sharing funds may be utilized by the county.

Very truly yours,

A T T O R N E Y   G E N E R A L