



ROLAND W. BURRIS

ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. 91-011

COUNTIES:
Internal Control
Office of Auditor

Honorable Kevin Lyons
State's Attorney, Peoria County
Peoria County Courthouse
Peoria, Illinois 61602

Dear Mr. Lyons:

I have your letter wherein you pose several questions relating to the office of county auditor. Specifically, you ask whether the county board can use its budgetary authority to circumvent the internal control of the auditor over his or her office; whether a county administrator may delegate general accounting responsibilities to the county treasurer, given the provisions of section 3-1006 of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 3-1006); and, whether the county board

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may effectively abolish the office of auditor by failing to appropriate sufficient funds to staff the office. For the reasons hereinafter stated, it is my opinion that the county board may not use its budgetary powers to circumvent the auditor's internal control of his office, or refuse to appropriate sufficient funds for equipment and staff. Moreover, it is also my opinion that the county administrator cannot properly delegate accounting functions to the county treasurer, since those functions have been delegated by law to the auditor.

Factually, your first question concerns whether a county board may circumvent internal control statutes by budgeting funds for equipment intended for an elected official in the budget of a central purchasing department. Like several other county officers, the county auditor is authorized by statute to control the internal operations of his or her office. Section 3-1004 of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 3-1004) provides:

"Internal operations of office. The county auditor shall control the internal operations of the office and procure equipment, materials and services necessary to perform the duties of the office, subject to the budgetary limitations established by the county board."

In opinion No. 84-003, issued April 4, 1984 (1984 Ill. Att'y Gen. Op. 9), Attorney General Hartigan concluded that, with respect to those county officers having statutory control over the internal operations of their offices, the county

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board's budgetary authority is limited to the appropriation of aggregate or lump-sum dollar amounts for the necessary equipment, materials and services required by each office. Further, such officers cannot be required to make their purchases through a county purchasing department. (1978 Ill. Att'y Gen. Op. 53.) The procedure which you describe does not differ substantially from those which were rejected in these earlier opinions.

The auditor's internal control statute provides that the "auditor shall control the internal operations of the office and procure equipment [which is] necessary to perform the duties of the office, subject to the budgetary limitation established by the county board." (Emphasis added.) In the facts described in opinions No. 84-003 and No. S-1329, the county board had attempted to exercise direct control over purchases by county officers, first by requiring the use of a central purchasing department, then by line-item budgeting. Both schemes were rejected as impermissible attempts to circumvent internal control provisions. The combination of the two approaches, as described in your letter, which involves direct line-item budgeting to a central purchasing department, is no less of an impermissible attempt to abridge the statutory powers of county officers to control the internal operations of their officers. Therefore, it is my

opinion that a county board may not properly budget funds for equipment for the auditor in the budget of a central purchasing department.

For similar reasons, general accounting duties for the county cannot be delegated to an officer other than the auditor. Section 3-1006 of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 3-1006) provides:

"Additional duties in counties of 275,000 or less. In counties of 275,000 population or less, as determined by the last federal decennial census, the county auditor, in addition to the duties prescribed in Section 3-1005, shall:

(a) Be the general accountant of the county and keep its general accounts.

(b) Devise and install a system of financial records in the offices and divisions of the county, to be followed in such offices and divisions. Such a system shall be suitable to the needs of the office and in accordance with generally accepted principles of accounting for governmental bodies."

Thus, the function of accounting for the county has been specifically imposed upon the auditor by law.

Section 5-1087 of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 5-1087) provides:

"Alteration of duties, powers and functions of county officers. No county board may alter the duties, powers and functions of county officers that are specifically imposed by law. A county board may alter any other duties, powers or functions or impose additional duties, powers and functions upon county officers. In the event of a conflict State law prevails over county ordinance."

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Pursuant to section 5-1087, the county board, or the county executive on behalf of the board, may not alter the auditor's duties in this respect. Any ordinance which attempts to reallocate the accounting function would be void and ineffective.

You have noted that subsection 5-1005(16) of the Counties Code (Ill. Rev. Stat. 1989, ch. 34, par. 5-1005(16)) authorizes the county board to install a system of accounts in county offices. Subsection 5-1005(16) specifically provides that the county board is empowered:

" * * *

To install an adequate system of accounts and financial records in the offices and divisions of the county, suitable to the needs of the office and in accordance with generally accepted principles of accounting for governmental bodies, which system may include such reports as the county board may determine.

* * * "

This section and section 3-1006 of the Counties Code must be read and construed together in the light of the general purpose and plan of the statutes, and the object to be obtained. Huckaba v. Cox (1958), 14 Ill. 2d 126, 131; Orbach v. Axelrod (1981), 100 Ill. App. 3d 973, 979.

The primary object of the two sections is apparent. Both relate to the implementation of a uniform system of accounts and financial records suitable to the needs of each

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county. The General Assembly's debates on the enactment of section 3-1006 suggest two further objectives in the delegation of such duties to the auditor. Firstly, the legislation was designed to provide a uniform set of responsibilities for the auditor. (Remarks of Rep. Satterthwaite, June 20, 1985, House Debate on Senate Bill 976, at 274.) Secondly, it was to provide a means to ensure that county funds are spent in accordance with law and to guarantee against the possibility of fraud; in other words, to provide a check on county spending. (Remarks of Rep. Barger, June 20, 1985, House Debate on Senate Bill 976, at 273.)

Construing the two sections together, it appears that the auditor is given the power to devise a system of financial records and both the auditor and the board have the power to install such a system in county offices and divisions. Because the board cannot alter the statutory duties of the auditor (Ill. Rev. Stat. 1989, ch. 34, par. 5-1087), however, the board's means of implementing its powers in this area, in counties required by statute to have an auditor, must be through the auditor's office. Therefore, it is my opinion that a county executive or county board may not delegate general accounting functions to the county treasurer, since those functions are statutorily delegated to the auditor.

Lastly, you ask whether the county board may effectively abolish the office of county auditor by refusing to

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appropriate funds for services, equipment or materials. In Heller v. County Board of Jackson County (1979), 71 Ill. App. 3d 31, the court, citing the predecessor of section 5-1087 of the Counties Code, concluded that the county board could not alter the duties of county officers by use of its budgetary or other powers. Although that case pertained specifically to the supervisor of assessments, similar reasoning would apply to the office of county auditor.

The office of auditor is created by statute, and the duties of that office are prescribed by statute. It is the duty of the county board to appropriate sufficient funds to the auditor for the operation of his or her office. (See, Ill. Rev. Stat. 1989, ch. 34, par. 4-6001.) While the county board may exercise discretion in allocating county funds, the failure to appropriate sufficient funds to permit the auditor to carry out his statutory duties would be an abuse of discretion which could be remedied by the issuance of mandamus. (See, 1976 Ill. Att'y Gen. Op. 154, 157.) Therefore, it is my opinion that the county board is required to appropriate sufficient funds to the auditor to perform the duties imposed upon the office by law.

Respectfully yours,

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

ROLAND W. BURRIS
ATTORNEY GENERAL