



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

April 23, 1998

Jim Ryan

ATTORNEY GENERAL

FILE NO. 98-005

COUNTIES:

Expenditure of Emergency
Telephone System Funds

The Honorable C. Steve Ferguson
State's Attorney, Coles County
Post Office Box 256
Charleston, Illinois 61920

Dear Mr. Ferguson:

I have your letter wherein you inquire whether county emergency telephone system funds may be expended for: (1) the maintenance of road and street signs; (2) non-emergency uses, such as the costs associated with conducting drivers's license checks, making inquiries into the Law Enforcement Data System (LEADS) and responding to non-emergency situations, such as reports of burning trash; and (3) the purchase and maintenance of computerized record-keeping systems. For the reasons hereinafter stated, it is my opinion that county emergency telephone system funds may properly be used for the maintenance of road and street

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signs erected by the emergency telephone system board and for record systems that provide mapping assistance for emergency response personnel. Emergency telephone system funds may not, however, be used for the non-emergency services you have described or for the purchase and maintenance of general computerized record-keeping systems.

The operation of emergency telephone systems is governed by the provisions of the Emergency Telephone System Act (50 ILCS 750/0.01 et seq. (West 1996)), pursuant to which the corporate authorities of a county which has established an emergency telephone system are authorized, with referendum approval, to impose a monthly surcharge on the billed subscribers of network connection telecommunication carriers. (50 ILCS 750/15.3 (West 1996).) Corporate authorities that impose such a surcharge are required to appoint an emergency telephone system board (50 ILCS 750/15.4(a) (West 1996)), which is responsible for coordinating and supervising the implementation and operation of the emergency telephone system and for directing the expenditure of surcharge monies which are held in the emergency telephone system fund. (50 ILCS 750/15.4(b) (West 1996).) Subsection 15.4(c) of the Act

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(50 ILCS 750/15.4(c) (West 1996)), which governs expenditures from the fund, provides:

" * * *

(c) All monies received by a board pursuant to a surcharge imposed under Section 15.3 shall be deposited into a separate interest-bearing Emergency Telephone System Fund account. The treasurer of the municipality or county that has established the board or, in the case of a joint board, any municipal or county treasurer designated in the intergovernmental agreement, shall be custodian of the fund. All interest accruing on the fund shall remain in the fund. No expenditures may be made from such fund except upon the direction of the board by resolution passed by a majority of all members of the board. Expenditures may be made only to pay for the costs associated with the following:

(1) The design of the Emergency Telephone System.

(2) The coding of an initial Master Street Address Guide data base, and update and maintenance thereof.

(3) The repayment of any monies advanced for the implementation of the system.

(4) The charges for Automatic Number Identification and Automatic Location Identification equipment, mobile data transmitters equipped with automatic vehicle locators, and maintenance, replacement and update thereof.

(5) The non-recurring charges related to installation of the Emergency Telephone System and the ongoing network charges.

(6) The acquisition and installation, or the reimbursement of costs therefor to other governmental bodies that have incurred those costs, of road or street signs that are essential to the implementation of the emergency telephone system and that are not duplicative of signs that are the responsibility of the jurisdiction charged with maintaining road and street signs.

(7) Other products and services necessary for the implementation, upgrade, and maintenance of the system and any other purpose related to the operation of the system, including costs attributable directly to the construction, leasing, or maintenance of any buildings or facilities or costs of personnel attributable directly to the operation of the system. Costs attributable directly to the operation of an emergency telephone system do not include the costs of public safety agency personnel who are and equipment that is dispatched in response to an emergency call.

* * *

"

(Emphasis added.)

As used in the Act, the term "system" is defined to include
" * * * the communications equipment required to produce a
response by the appropriate emergency public safety agency as a
result of an emergency call being placed to 9-1-1." (50 ILCS
750/2.06a (West 1996).)

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With respect to your first question, in opinion No. 92-019, issued September 24, 1992, Attorney General Burris addressed the issue of whether, under the language which is currently contained in subsection 15.4(c)(7) of the Emergency Telephone System Act, an emergency telephone system board could properly expend monies in the emergency telephone system fund for the purchase and erection of street signs and road markers. In reaching his conclusion that emergency telephone boards did not possess the authority to do so, my predecessor determined that the term "system", as used in the Act, referred to the basic or sophisticated telephone service which automatically connected a person dialing the digits "9-1-1" to an established public safety answering point. Thus, he concluded that under the pertinent statutory language, funds could only be expended for costs specifically associated with the operation and maintenance of a telephone service for handling emergency service requests.

Subsequent to the issuance of opinion No. 92-019, however, the General Assembly added the language which is currently contained in subsection 15.4(c)(6) of the Act. (See Public Act 88-497, effective September 13, 1993.) The amendment was apparently enacted in response to the opinion of the Attorney

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General, and its plain language grants to emergency telephone boards the authority which the opinion concluded had not previously been delegated to them.

Under subsection 15.4(c)(6) of the Act, it is clear that emergency telephone system funds may now to be expended for "[t]he acquisition and installation * * * of road or street signs that are essential to the implementation of the emergency telephone system * * *." It is well established in Illinois that an express grant of power to an administrative agency for accomplishing a particular purpose includes the implicit power to do those things which are reasonably necessary to effectuate the powers and duties expressly granted. (Owens v. Green (1948), 400 Ill. 380, 400; Taylor v. State Universities Retirement System (1990), 203 Ill. App. 3d 513, 522, appeal denied, 136 Ill. 2d 555 (1991).) Moreover, the Illinois Supreme Court has indicated that administrative agencies must be given wide latitude in order to fulfill their duties. (Lake County Bd. of Review v. Property Tax Appeal Bd. (1988), 119 Ill. 2d 419, 428.) Therefore, it is my opinion that implicit within the grant of power to acquire and install street signs is the authority to maintain the signs which the emergency telephone system board has erected, and that

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emergency telephone system funds may properly be used for this purpose.

Your second question concerns the expenditure of emergency telephone system funds for non-emergency functions, such as the costs associated with conducting driver's license checks, making inquiries into LEADS and responding to non-emergency situations. In reviewing the language of subsection 15.4(c) of the Act, it is clear that none of the functions which are the focus of your inquiry falls within the purview of subsections 15.4(c)(1) through (c)(6) of the Act. Therefore, it is necessary to determine whether the proposed uses constitute "other products and services necessary for the implementation, upgrade, and maintenance of the system and any other purpose related to the operation of the system" as set forth in subsection 15.4(c)(7) of the Act.

As previously noted, in opinion No. 92-019, my predecessor concluded that under the language currently contained in subsection 15.4(c)(7) of the Act, emergency telephone system funds could only be expended for costs specifically associated with the operation and maintenance of a telephone service for handling emergency service requests. Subsequent to the issuance

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of opinion No. 92-019, the General Assembly amended the Emergency Telephone System Act to clarify that the term "system" refers to "communications equipment required to produce a response by the appropriate emergency public safety agency as a result of an emergency call being placed to 9-1-1." (50 ILCS 750/2.06a (West 1996).)

Under subsection 15.4(c)(7) of the Act, emergency telephone system funds may only be expended for costs specifically associated with the system of communications equipment; the language of the Act does not encompass costs which are attributable to the non-emergency functions you have described. Indeed, subsection 15.4(c)(7) specifically provides that the expenses of the public safety personnel and equipment dispatched on emergency (and, by implication, non-emergency) calls cannot be paid from those funds. Consequently, it is my opinion that emergency telephone system funds may not be expended to offset the cost of conducting driver's license checks, making inquiries into LEADS or responding to non-emergency complaints.

Lastly, you have inquired whether emergency telephone system funds may be used for the purchase and maintenance of computerized record-keeping systems. As described in your

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letter, Coles County envisions two distinct types of record-keeping systems. The first would interact with the emergency telephone system's dispatch system and would, among other features, provide mapping assistance and location and equipment tracking for emergency response personnel, as well as logging telephone and radio calls and generating statistical information relating to emergency responses. The second system would constitute a "crimes and fires" record system. In this system, police and firefighter field investigation reports and interviews would be stored in a database that could also be used to generate the various reports required by the State.

Under subsection 15.4(c)(4) of the Act, emergency telephone system funds may be expended to purchase "mobile data transmitters equipped with automatic vehicle locators." As noted above, it is well established in Illinois that an express grant of power to an administrative agency for a particular purpose includes those things reasonably necessary to effectuate the powers and duties expressly granted. Implicit within the grant of power to pay for the costs of vehicle and emergency response personnel locators or trackers must be the authority to develop or acquire a system containing points of reference by

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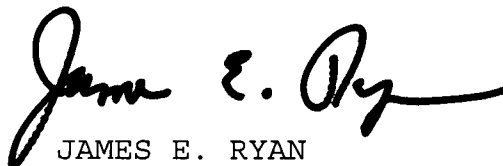
which emergency response personnel and vehicles may be directed, and by which locations may be monitored. Consequently, it is my opinion that emergency telephone system funds may properly be expended for the creation and maintenance of a computerized system which performs these functions.

With regard to a "crimes and fires" record-keeping system, emergency telephone system funds may only be expended under subsection 15.4(c)(7) for costs specifically associated with the communications system required to produce a response by an emergency public safety agency as a result of an emergency call placed to 9-1-1. Although a record-keeping system which maintains the data and other information you have described would undoubtedly be of great utility to both the emergency telephone system and to the county, it is not necessary to maintain this information in order to direct an emergency public safety agency to respond to a call for emergency services or to monitor emergency responses. Consequently, it is my opinion that emergency telephone system funds may not properly be expended for the

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purchase and maintenance of such a computerized record-keeping system.

Sincerely,

A handwritten signature in black ink, reading "James E. Ryan". The signature is written in a cursive style with a long horizontal flourish extending to the right.

JAMES E. RYAN
ATTORNEY GENERAL