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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

February 26, 1971

FILE NO. S-272

COUNTIES:
Ambulance Service

Honorable Arthur A. Jones
State's Attorney
Edgar County
Paris, Illinois 61944

Dear Sir:

I have your recent letter wherein you state:

"The State's Attorney of Edgar County hereby requests the advice of the Attorney General regarding the following:

STATEMENT OF FACTS

"The Edgar County Board of Supervisors entered into a contract (see Exhibit A) with the Town of Paris which contract provides for emergency ambulance service for the residents of the Town of Paris as well as the residents of the County of Edgar. Said ambulance to be manned, maintained and operated by the Paris Community Hospital. Among other things, the contract provides that any deficit after charges to the users of the service would be shared equally by the Town of Paris and the County of Edgar. The Resolution ratifying the contract was passed by a vote of six to seven (See Exhibit B).

"In order to pay for the contracted service, an emergency appropriation was made which resolution was voted upon at the January 8, 1971 meeting. The resolution received seven affirmative votes and six negative votes. The resolution was thought to have passed but was subsequently challenged under Chapter 34, Section 2103 of the Illinois Revised Statutes.

"The matter was again brought to a vote at the next meeting held February 5, 1971 at which time 16 members of the 18 County Supervisors were present at this meeting. Eleven affirmative votes were cast and five negative votes were cast.

ISSUES AND QUESTIONS

- A) Whether or not the County Board has authority to enter such contract.
- B) Whether or not a two-thirds vote is necessary to make an emergency appropriation to finance such a contract.
- C) Whether or not the resolution allocating the emergency fund at the January 8, 1971 meeting passed."

First of all, I am enclosing a copy of Opinion No. NP-68 which was issued by this office on September 19, 1969. It sets forth some basic principles pertaining to the maintenance of ambulance service by a county. In essence, it holds that a county board has implied power to provide ambulance service for a county hospital and its necessary branch hospitals, for a county nursing home or for any nonsectarian public hospital located within the county.

Authority for a city of less than 100,000 to maintain a nonsectarian public hospital can be found in Paragraph 11-23-1 of Chapter 24, 1969 Illinois Revised Statutes. Authority for a city to maintain a public nonsectarian hospital can also be found in Paragraphs 11-22-1 and 11-27-1 of Chapter 24, 1969 Illinois Revised Statutes. For the reasons stated in the enclosed opinion I am of the opinion that a city has implied power to provide ambulance service for a city public hospital or a public nonsectarian hospital located within the city. You have indicated in your letter that the proposed ambulance service is to be maintained and operated by the Paris Community Hospital. For the purposes of this opinion I have assumed that this is a public nonsectarian hospital which is located within the city of Paris, Illinois and also that the ambulance service will be used only for public nonsectarian hospitals within the city of Paris, Illinois.

Turning now to your first question, you have asked whether the county board has authority to enter into a contract with the city of Paris, as outlined in your letter. The third subparagraph of Paragraph 303, Chapter 34, 1969 Illinois Revised Statutes provides as follows:

"Third--To make all contracts and do all other acts in relation to the property and concerns of the county necessary to the exercise of its corporate powers."

It can be observed that a county has authority to enter into contracts necessary for the exercise of its corporate powers. I am therefore of the opinion that your county board does have authority to enter into the contract as outlined in your letter. Your first question is therefore answered in the affirmative.

Your second question asks whether or not a two-thirds vote is necessary to make an emergency appropriation to finance such a contract. Paragraph 2103 of Chapter 34, 1969 Illinois Revised Statutes states as follows:

"After the adoption of the county budget, no further appropriations shall be made at any other time during such fiscal year, except as provided in this Act. Transfers from one appropriation of any one fund to another of the same fund, not affecting the total amount appropriated, may be made at any meeting of the board by a two-thirds vote of all the members constituting such board, the vote to be taken by ayes and nays and entered on the record of the meeting. By a like vote the board may make appropriations in excess of those authorized by the budget in order to meet an immediate emergency."

I am of the opinion that the foregoing provision requires a two-thirds vote of all the members of the board in order

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to make an emergency appropriation to finance such a contract.

Thirdly, you have inquired as to whether or not the resolution allocating the emergency fund at the January 8, 1971 meeting passed. Since there was not a two-thirds vote of all of the members at the January 8, 1971 meeting, I am of the opinion that the resolution did not pass. Furthermore, since there was not a two-thirds vote of all of the members at the February 5, 1971 meeting in favor of the resolution, I am of the opinion that the resolution did not pass at the February 5, 1971 meeting.

Very truly yours,

A T T O R N E Y G E N E R A L