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62706



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FILE NO. S-562

**OFFICERS:**

**Powers and Duties**

Honorable Jack Hoogasian  
State's Attorney of Lake County  
County Building  
Waukegan, Illinois 60085

Dear Mr. Hoogasian:

I have your letter of recent date wherein you state,  
in part:

"On November 14, 1972, the County Board of Lake  
County adopted a provision as follows:

'A General Accounting Office will be included with  
the duties of the Director of Finance. General  
Accounting functions will be transferred from the  
Auditor's Office in accordance with recommenda-  
tions of Peat, Marwick and Mitchell. Under this  
new procedure the Auditor's Office will concen-  
trate on its statutory duties of auditing and  
investigating county financial procedures and  
funds, and will no longer be in the position of  
auditing its own work as previously assigned by

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the County Board. The General Accounting Office will handle budget preparation, payment of invoices, payroll matters, insurance, IMRF, and similar general accounting functions. General Accounting personnel will also be available to other County Departments for special statistical studies and projects.'

The duties of the county auditor are set forth in Section 1504, Chapter 34 of the Illinois Revised Statutes.

Please advise whether the County Board has the discretionary and legal right to perform a transfer from the functions and duties of the County Auditor under the authorization of Sub-Paragraph F through I. May the County Board under Section 303, Sub-Paragraph 17, Chapter 34, Illinois Revised Statutes, minimize the duties and functions of the County Auditor as set forth in the resolution of the County Board of Lake County.

What discretion, if any, do the words in Section 1504, Chapter 34, captioned, 'Whenever so directed by the county board, the county auditor shall, also . . . ' perform the statutory duties outlined in Sub-Paragraphs F through I and whether the statutory functions outlined in F through I is an invasion of the duties of the County Auditor. Since the Statute is silent by what authorization is the Financial Director, heretofore appointed by the County Board, have to engage in the matters adopted in the County Board resolution."

Section 25.34 of "An Act to revise the law in relation to Counties" (Ill. Rev. Stat., 1972 Supp., ch. 34, par. 429.18) reads as follows:

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"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.

This amendatory Act of 1972 does not apply to any county which is a home rule unit."

Thus, the statute authorizes a County Board to alter the duties, powers and functions of County officers as long as these duties are not specifically imposed by law.

Your letter indicates that you are primarily concerned with the following duties of the County Auditor:

"Whenever so directed by the county board, the county auditor shall, also:

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

(g) Audit the receipts of the various county officers presented for deposit with the county treasurer.

(h) Devise and install a system of 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 shall be followed in such offices.

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(i) Maintain a continuous internal audit of the transactions and financial records of the officers, agents or divisions of the county."

Ill. Rev. Stat. 1971, ch. 34,  
par. 1504.

It is a cardinal rule of statutory construction that a statute must be construed so as to ascertain and give effect to the intention of the General Assembly as expressed in the statute. Lincoln Nat. Life Ins. Co. v. McCarthy, 10 Ill. 2d, 489.

In construing the above statutory provision, it appears that the intent of the legislature was to vest the discretion in the County Board as to whether or not the County Auditor was to perform the aforementioned duties. Thus, by an express grant of statutory power, the County Board has the option as to what certain duties the County Auditor is to perform.

It is my opinion that the duties imposed upon the County Auditor by direction of the County Board are not duties specifically imposed by law, as the County Board is given the option as to whether or not the County Auditor should perform them. Therefore, in accordance with Section 25.34 of "An Act

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to revise the law in relation to counties," supra, the county board may alter the duties of the County Auditor, not specifically imposed by law.

Additionally, Section 24 of "An act to revise the law in relation to counties" (Ill. Rev. Stat., 1971, ch. 34, par. 303) provides in pertinent part:

"Each county shall have power -

Seventeenth - 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."

The resolution of the county board has re-installed the counties' system of accounts and financial records in the office of the Director of Finance and is therefore within the aforementioned statutory authority of the county.

You have also asked what authorization the Financial Director has to engage in the matters adopted in the county board resolution. As stated above the county board has authority to install an adequate system of accounts and financial records in the county offices (Ill. Rev. Stat., 1971, ch. 34, par. 303).

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The county board may also impose additional duties, powers and functions upon the Director of Finance and is not bound to grant these duties to the auditor. (Ill. Rev. Stat., 1972 Supp., ch. 34, par. 429.18) These statutory powers of the county are sufficient authorization for the Director of Finance to engage in the matters adopted in the county board resolution.

Very truly yours,

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