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ATTORNEY GENERAL
STATE OF ILLINOIS
500 SOUTH SECOND STREET
SPRINGFIELD

October 27, 1972

File No. S-517

**MENTAL HEALTH AND COUNTIES:
Community Mental Health Board**

Honorable Charles R. Vaughn
State's Attorney
Richland County
Courthouse
Olney, Illinois 62450

Dear Mr. Vaughn:

I have your recent letter wherein you state:

"Your opinion is sought concerning the following questions relating to the operation of a Community Mental Health Service, operating under Sections 300 through 314 of Chapter 91 1/2 of the Illinois Revised Statutes, Smith-Hurd Edition.

1. Is it necessary that the Annual Budget of the Community Mental Health Board be incorporated in the County Budget?
2. Is it necessary that the County Board approve all expenditures of the Community Mental Health Board, and is it necessary for the Treasurer and County Clerk to execute the checks involved in such expenditures?

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3. Is the County of Richland obligated to pay the Municipal Retirement costs for the employees of the Community Mental Health Board, or may these funds be charged against the Budget of the Community Mental Health Board?"

Section 3F of the Community Mental Health Act provides for the submission of an annual budget by the Community Mental Health Board, to the county board, as follows:

"Annually, each community mental health board shall prepare and submit to the appointing officer and governing body referred to in Section 3a: (a) an annual budget showing the estimated receipts and intended disbursements pursuant to this Act for the fiscal year immediately following the date the budget is submitted, which date must be at least 30 days prior to the start of the fiscal year, and (b) an annual report detailing the income received and disbursements made pursuant to this Act during the fiscal year just preceding the date the annual report is submitted, which date must be within 30 days of the close of that fiscal year. * * *

Ill. Rev. Stat., 1971, ch. 91 1/2, par. 303f.

Section 4 of the Community Mental Health Act provides a method of funding for community mental health facilities and services as follows:

"In order to provide the necessary funds or to supplement existing funds for such community mental health facilities and services, including facilities and services, for the alcoholic,

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the controlled substances addicted, users of cannabis and the mentally retarded, the governing body of any governmental unit, subject to the provisions of Section 5, may levy an annual tax of not to exceed .1% upon all of the taxable property in such governmental unit at the full, fair cash value thereof, as equalized or assessed by the Department of Revenue. Such tax shall be levied and collected in the same manner as other governmental unit taxes, but shall not be included in any limitation otherwise prescribed as to the rate or amount of governmental unit taxes, but shall be in addition thereto and in excess thereof.

When collected, such tax shall be paid into a special fund in the governmental unit treasury to be designated as the 'Community Mental Health Fund' and shall be used only for the purposes specified in this Act. Nothing contained herein shall in any way preclude the use of other funds available for such purposes under any existing statute relating to such governmental unit. * * *"
Ill. Rev. Stat., 1971, ch. 91 1/2, par. 304.

Section 5 then sets out the provisions for a referendum under which the tax can be levied. If the referendum passes and the tax is levied, the governing body (county board) in the annual appropriation bill appropriates from such funds money as may be deemed necessary, based upon recommendations by the Community Mental Health Board, to defray necessary expenses and liabilities in providing community mental health services. (Ill. Rev. Stat., 1971, ch. 91 1/2, par. 305). The recommendation from the Community

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Mental Health Board is its budget, which includes estimated receipts and intended disbursements for the fiscal year immediately following the date the budget is submitted.

Ill. Rev. Stat., 1971, ch. 91 1/2, par. 303f.

The annual budget of the county contains a schedule of proposed appropriations. Subsequently, this schedule becomes the annual county appropriation ordinance. (Ill. Rev. Stat., 1971, ch. 34, par. 2102(e)). Since the county board in its annual appropriation bill appropriates sums to defray the expenses and liabilities in providing community mental health facilities and services, and as the annual appropriation ordinance is the schedule of appropriations in the county budget, it is my opinion that the community mental health board's annual budget, as adopted and approved by the county board, should be incorporated into the county budget.

Further, the county board has the authority to manage the county funds and county business. (Ill. Rev. Stat., 1971, ch. 34, par. 403). The county board also has the authority to examine and settle all accounts against the county, and all accounts concerning the receipt and expenditures of the county. Ill. Rev. Stat., 1971, ch. 34, par. 404.

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I have previously determined that the Community Mental Health Board is a county agency and not a separate body politic and corporate (1970 Op. Atty. Gen. 111) and as such the county has authority to manage its funds (Ill. Rev. Stat., supra). For this reason and the reasons above stated, the budget of the Community Mental Health Board should be included in the county budget.

The Community Mental Health Board shall within amounts appropriated therefor, execute such programs and maintain such services and facilities as may be authorized under such appropriations, including amounts appropriated under bond issues (Ill. Rev. Stat., 1971, ch. 91 1/2, par. 303e). To the extent the expenditures of the Community Mental Health Board are authorized by appropriations no further approval of the county board is necessary.

The Community Mental Health Fund is a special fund in the governmental unit (county) treasury. It is the statutory duty of the county treasurer to receive and keep the revenues and other public moneys of the county, and all money and funds authorized by law to be paid to him, and disburse the same

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pursuant to law. (Ill. Rev. Stat., 1971, ch. 36, par. 4)
(Emphasis supplied). Section 9 of An Act to revise the law
in relation to the county treasurer provides: "No money or
funds shall be paid out of any county treasury, except in
accordance with an order of the county board, or when pay-
ment is specially authorized by law to be made." Ill. Rev.
Stat., 1971, ch. 36, par. 9. (Emphasis supplied).

Prior to disbursing county funds, the county order
is presented to the treasurer for his personal countersignature.
(Ill. Rev. Stat., 1971, ch. 36, par. 7). County orders are
properly executed when they are signed by the clerk and counter-
signed by the treasurer of the issuing county (Board of Super-
visors of Clark County v. Lawrence, 63 Ill. 32). Therefore,
the actions of the county treasurer and county clerk are
necessary prior to disbursing funds for the Community Mental
Health Board's expenditures.

In my opinion, No. S-180 (1970 Op. Atty. Gen. 111),
I expressed the opinion that a Community Mental Health Board
of a county is a county agency created to carry out the pur-
poses of the Community Mental Health Act. Consequently, the

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employees of the Community Mental Health Board of the county should be considered county employees. As employees of the county, they are subject to the provisions of the Illinois Municipal Retirement Fund.

The Community Mental Health Board may employ such personnel as may be necessary and prescribe the duties of such personnel. (Ill. Rev. Stat., 1971, ch. 91 1/2, par. 303e). Since the Community Mental Health Board has the authority to hire personnel and prescribe their duties, I am of the opinion that the Community Mental Health Board is therefore obligated to pay the retirement cost of their personnel. This interpretation conforms with the legislative intent that the cost of administering the program be borne by the Community Mental Health Fund. Ill. Rev. Stat., 1971, ch. 91 1/2, par. 304.

Very truly yours,

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



WILLIAM J. SCOTT

ATTORNEY GENERAL
STATE OF ILLINOIS
500 SOUTH SECOND STREET
SPRINGFIELD

March 23, 1973

FILE NO. S-517a

MENTAL HEALTH AND COUNTIES:
Community Mental Health Board

Honorable Charles R. Vaughn
States Attorney
Richland County
Court House
Olney, Illinois 62450

Dear Mr. Vaughn:

In your previous letter you sought my opinion relative to the obligation of Richland County to pay the employer's contribution to the Illinois Municipal Retirement Fund for employees of the Community Mental Health Board.

In response to this question, I issued to you my Opinion No. S-517 on October 27, 1972. I therein made the determination that retirement costs of employees of the Community Mental Health Board were chargeable against the Community Mental Health Fund. I am of the further opinion that

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an alternative method of financing the employer's contribution to the Illinois Municipal Retirement Fund exists under the Illinois Pension Code. Ill. Rev. Stat., 1971, ch. 108 1/2, par. 1-101, et seq.

As the purpose of the Illinois Municipal Retirement Fund is to provide a sound and efficient system for the payment of annuities and benefits, it is conceivable that alternative methods of financing the employer's contribution to the fund exist. One such method of financing the employer's contribution was noted in my Opinion No. S-517. Another method of financing the employer's contribution is provided in section 7-171(b) of the Illinois Pension Code, (Ill. Rev. Stat., 1971, ch. 108 1/2, par. 7-171) wherein it is provided:

"For the purpose of providing monies for municipality contributions, * * * , a municipality may levy a tax which shall not exceed the amount appropriated for municipality contributions."

Thus, a county, which is defined as a municipality in section 7 of the Illinois Pension Code (Ill. Rev. Stat., 1971, ch. 108 1/2, par. 7-105) has the discretion in determining the

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manner in which their employer's contribution to the Illinois Municipal Retirement Fund may be financed. The county may choose to pay the employer's contribution from the revenue derived from the tax levy heretofore mentioned, or the county may in its discretion charge the employer's contribution for employees of the Community Mental Health Board against the Community Mental Health Fund.

Very truly yours,

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