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ESTABLISHED 1911

D. LOGAN GIFFIN
(1890-1980)

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(1892-1966)

C. TERRY LINDNER
(1903-1987)

ALFRED F. NEWKIRK
(1904-1980)

JAMES M. WINNING
(1921-2013)

Mr. Michael McCreery
United Counties Council of Illinois
217 East Adams Street, Suite 101
Springfield, IL 62701

**RE: County Board Authority to Oversee County Board of Health
Our File: UNITCC-0601**

Dear Mike:

Issue:

Does a county board have the authority to oversee (approve/disapprove) decisions of a county board of health?

Analysis:

A county is empowered to form a county health department by resolution or upon petition of the voters of the county followed by referendum.¹ Such county health department is to be managed by a board of health consisting of members appointed by the chairman of the county board.² The board of health will have the powers and duties as enumerated by statute. With regard to county board oversight of the board of health, the board of health will be required to submit an annual budget to the board, submit an annual report explaining all activities and expenditures; and may recommend to the county board ordinances and rules as deemed necessary to promote and protect public health. The board of health in non-home rule counties will not be authorized to take any action not specifically granted by law, statute, or ordinance.³ However, when the law, statute or ordinance specifically vests power in the board of health, the county board will have no oversight or approval authority. Such specific grant of power will prohibit a county board from having the authority or power to control the board of health's decision.⁴

¹ See 55 ILCS 5/5-25001 and 55 ILCS 5/5-25003.

² 55 ILCS 5/5-25012.

³ Fredette v. Village of Beecher, 192 Ill. App. 3d 737 (3rd Dist. 1989).

⁴ Op. Ill. Att'y Gen. No. S-1396 (October 5, 1978).

Once the county board of health submits an annual budget to the county board, the county board is then empowered to appropriate monies from the county health fund as it determines necessary for the maintenance of the health department.⁵ At this point in time, the county board may approve or disapprove of the budget and may send the budget back to the board of health for reformation prior to appropriation of the funds. Funds may not be expended except on the basis of a budget item approved by the county board. A county health department is authorized to submit amended or supplemental budgets for county board approval should additional funds become necessary.

Conclusion:

A county board of health is authorized to take specific enumerated actions as authorized by statute without the oversight or approval of the county board. However, the board of health is limited to those powers as listed. The county board will have the authority to review and approve or disapprove of the board of health's budget annually. No funds may be expended from the county health fund without prior approval of the budget item by the county board. Additionally, the county board will have yearly oversight of all activities and expenditures of the board to ensure funds were spent in line with the approved budget. The county board has no further oversight or control over the actions of the county board of health.

Sincerely,

GIFFIN, WINNING, COHEN & BODEWES, P.C.



Herman G. Bodewes



Steven A. Milburn

HGB/SAM:tem

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Disclaimer: This opinion was prepared by Giffin, Winning, Cohen & Bodewes, P.C. at the request of UCCI and is to be used solely by UCCI and its members. The State's Attorney is the attorney for the County. Legal advice, if requested, should be sought from the State's Attorney.

⁵ 55 ILCS 5/5-25010.