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ESTABLISHED 1911

D. LOGAN GIFFIN
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C. TERRY LINDNER
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(1904-1980)

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(1921-2013)

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

**RE: County Board's Authority to Enforce Office Hours for Elected Officials
Our File: UNITCC-0601**

Dear Mike:

Issue

What is the extent of a county board's authority to enforce office hours for elected officials?

Analysis

The Counties Code grants the county board the authority to regulate and fix the days and hours of operation of all offices of all county officers except where otherwise fixed by law.¹ There are no specific provisions provided by law as to the hours of operation of the auditor, coroner, public defender, or state's attorney and therefore, the county board is authorized to control these offices' hours as provided in Section 5-1005(12) of the Counties Code. Several other county officials' hours are regulated specifically by statute. A summary of the officials' hours can be found below.

In counties with a population of 500,000 or more, the county clerk must keep his office open from 9 a.m. to 5 p.m. each working day except Saturday afternoons and legal holidays, and may optionally open the office at 8 a.m.² In counties with a population of less than 500,000, the county clerk must have his office open from 8 a.m. to 5 p.m. and must remain open until noon on the Saturday before a general, primary, or special election.³ The county board may by resolution alter the days or hours of operation of the county clerk.⁴ Any county clerk who fails to keep his office open for the purpose of receiving election returns commits a business offense and must be fined at least \$500 but not more than \$5,000.⁵

¹ 55 ILCS 5/5-1005(12).

² 55 ILCS 5/3-2007(a).

³ 55 ILCS 5/3-2007(b).

⁴ *Id.*

⁵ *Id.*

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A county recorder in first and second class counties must hold his office open from 8 a.m. to 5 p.m. every working day except Saturday.⁶ In third class counties, the county recorder may open his office at 9 a.m.⁷ A county board may at its discretion change and otherwise fix the hours of the recorder by resolution.⁸

A county sheriff in a county having a population of less than 500,000 must keep his office open from 8 a.m. to 5 p.m. each working day except legal holidays.⁹ The county board may change the hours of the sheriff by resolution.¹⁰

A county treasurer must keep his office open from 8 a.m. to 5 p.m. each working day except legal holidays.¹¹ The treasurer's office may close at noon on Saturdays.¹² The county board may change the hours of operation of the treasurer by resolution provided that the office must be open from 8 a.m. to 4 p.m. on the business day before the commencement of a tax sale held in the county and on days when a tax sale is pending.¹³


Conclusion

County officials' office hours are first subject to statutory requirements where they exist and even when they do the county board may change the hours by resolution. Where no statutory authority exists, the county board is authorized to dictate the hours of the county office. If a county official refuses to comply with the statutory or county board determined hours, an action for mandamus may be filed with the circuit court of the county requesting the county officials' compliance.

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.

⁶ 55 ILCS 5/3-5016; First class counties are defined as counties with a population not exceeding 25,000 and second class counties are defined as counties not having a population of more than 25,000, but less than 1,000,000 (55 ILCS 5/4-1001).

⁷ 55 ILCS 5/3-5016; Third class counties are defined as counties with a population of more than 1,000,000 (55 ILCS 5/4-1001).

⁸ 55 ILCS 5/3-5016.

⁹ 55 ILCS 5/3-6019.

¹⁰ *Id.*

¹¹ 55 ILCS 5/3-10008.

¹² *Id.*

¹³ *Id.*