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October 21, 2015

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

RE: House Bill 3104, County Appropriation Process

Dear Mike:

On August 13, 2015, Governor Rauner signed legislation codifying practices in the county appropriation process that are used by counties today. House Bill 3104, sponsored by Representative Steven Andersson, Geneva, Illinois and Senator Pam Althoff, McHenry, Illinois, provides that once a budget is in place, except in cases involving appropriations for personnel or capital, a county may transfer appropriations between funds without board approval. As is currently the case, a county board may transfer appropriations affecting personnel and capital between funds, but only upon the approval of two-thirds of the county board. In no event can a transfer of appropriations between funds affect or exceed the amount appropriated.

In plain English, this means that county staff can make routine transfers between sub funds that are generally set up in the county's general fund for various expenditures. During the debate on the bill on the House floor, Rep. Andersson explained that this is aimed at routine transfers in categories such as commodities and contracts. He used the examples of transferring funds without board approval for purchasing paper clips or road salt. Although they would not need to obtain board approval to transfer funds for these items, they are still limited to the funds previously appropriated.

In spite of the fact that the statute provides that "transfers of appropriations may be made without a vote of the board"¹ (emphasis added), it does not appear that the county board has the authority to prohibit or limit such transfers by resolution or ordinance. As the Attorney General has stated, "a county board is a mere creature of statute and can exercise only those powers expressly granted by statute or necessarily implied therefrom."² With respect to the county board's authority in relation to interfund transfers, with the exception of the requirement of a two-thirds vote by the county board for transfers involving personnel or capital, the Counties

¹ 55 ILCS 5/6-1003

² Ill. Att. Gen. Op. S-1546, August 20, 1979, citing Heidenrich v. Ronske, 26 Ill. 2d 360, 362 (1962).

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Code grants them no other authority.³ As such, it does not appear that the county board can restrict the interfund transfers by ordinance or resolution.

The legislation maintains the current authority for a county board to make a supplemental appropriation to meet an "immediate emergency" with two-thirds approval of the board. Although there were questions during debate on what constitutes an emergency, Rep. Andersson indicated that it was not defined but rather is determined on a case-by-case basis.

Should you have any questions regarding this matter, please contact us.

Sincerely,

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


Herman G. Bodewes


Kerri A. Doll

HGB/KAD/mlm

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.

³ 55 ILCS 5/6-1003