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November 18, 2015

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

Re: May County Employees be Employed by Two Statutory Offices
Our File: UNITCC-0601

Dear Mike:

Issue:

May county employees be employed by two statutory offices, specifically the county clerk and the county treasurer?

Analysis:

The county clerk and county treasurer have been granted the authority to control the internal operations of their respective offices, which includes the authority to procure the necessary equipment, materials, and services needed to perform the offices' duties.¹ The county board authority over each office is limited to the power to appropriate an annual budget for each office; however, once funds are appropriated the county board cannot restrict the use of the funds by the respective office.² The county clerk and county treasurer have the authority to fix the compensation of their deputies and employees subject to the budgetary limitations established by the county board.³ Both of these statutory offices will have broad control over their personnel and the compensation of those personnel.

¹ 55 ILCS 5/3-2003.2; 55 ILCS 5/3-10005.1.

² Ill. Att'y Gen. Op. No. 84-003 (1984).

³ 55 ILCS 5/3-2003.5; 55 ILCS 5/3-10005.4.

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Conclusion:

The county clerk and county treasurer have broad control over the employment of the personnel necessary to fulfill the duties of each office. Each may decide the number of employees necessary and the compensation due to these employees as long as such compensation falls within the limitations of the county budget. Each office may decide to employ individuals on a part time or seasonal basis; however, if another county officer decides to employ the same individual during another time or season, the county could face complications related to the employee's status as a full or part time employee. Other complications could arise with respect to the provision of healthcare, workers compensation benefits, and retirement benefits. While there is no specific statutory prohibition on two statutory offices sharing certain employees, a county will likely be faced with complications making such employment impracticable.

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.