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May 21, 2020

To: UCCI Membership

Re: County Budget Considerations During COVID-19 Pandemic

Given the ongoing COVID-19 pandemic and numerous issues county boards have been facing, UCCI has received numerous questions relating to county budgets. Therefore, this memorandum will serve as a good review of the provisions of the Counties Code that authorize increases or decreases in the county budget after it has been adopted.

Section 6-1001 of the Counties Code¹ requires the county board to adopt an annual budget for the succeeding fiscal year. The annual budget is required to cover a fiscal year period of one year as may be determined by the county board. The vote on such budget shall be taken by ayes and nays and entered on the record of the meeting.

The Counties Code contains provisions that provide some flexibility for dealing with situations that were not anticipated at the time the annual budget was adopted in that the Counties Code allows a county board, under specified limited circumstances, to (1) amend the budget where revenues are less than projected, (2) authorize appropriations in excess of the amount authorized by the budget to address an immediate emergency, (3) make transfers within a fund, and (4) adopt a supplemental budget.

A. Amend Budget When Revenues Less than Projected

The Counties Code provides that at any time after the county board has adopted the annual budget, the county board may adopt an amended budget for the remainder of the year if, by two-thirds vote, the board determines that the revenue received or to be received during the fiscal year is less than the revenue that was projected at the time the board adopted the annual budget. Specifically, section 6-1002 of the Counties Code² provides as follows:

At any point following the adoption of the annual budget, if the county board determines by a 2/3 vote of all members constituting such board, that revenue received, or to be received, by the county during the then present fiscal year totals

¹ 55 ILCS 5/6-1001.

² 55 ILCS 5/6-1002.

an amount substantially less than that projected at the time of adoption of the annual budget for that fiscal year, such board, by like vote, may adopt an amended budget for the remainder of the then present fiscal year. The authority of the county board to amend the annual appropriation ordinance at any point during the fiscal year shall be the same as its authority to determine and adopt the original annual budget; such amended budget shall be prepared as otherwise provided in this Section.

Thus, the Counties Code is clear that a county may amend the budget under appropriate circumstances where revenues are declared to be less than projected at the time the budget was adopted.

B. Immediate Emergency - Appropriations In Excess of Those Authorized by Budget

Section 6-1003 of the Counties Code³ prohibits further appropriations from being made at any other time during the fiscal year after the county budget has been adopted except in the case of an immediate emergency. Specifically, Section 6-1003 states that “Appropriations in excess of those authorized by the budget in order to meet an immediate emergency may be made at any meeting of the board by a two-thirds vote of all the members constituting such board, the vote to be taken by ayes and nays and entered on the record of the meeting.”

Unfortunately, the statute does not define what an immediate emergency is. The lack of a definition was noted in the legislative debates.

Representative Franks: “Is there a definition of ‘emergency’ in the statute?”

Representative Andersson: “Not that I am aware of. I think that’s probably judged on a case by case basis.”⁴

Where a statute does not define a term, courts will look to a dictionary to give a term its ordinary and popularly understood meaning.⁵ “Immediate” is defined as “occurring, acting, or accomplished without loss or interval of time.”⁶ The immediacy can be said to already be encompassed in the use of the term “emergency.” “Emergency” is defined as “an unforeseen combination of circumstances or the resulting state that calls for immediate action” and “an urgent need for assistance or relief.”⁷ Thus, if a county board uses 6-1003 to make appropriations in excess of those authorized by the budget, the board should be prepared to show that the circumstances requiring the excess appropriations were unforeseen at the time the board adopted the budget and also that the circumstances are urgent in that immediate action is required and cannot wait until the next budget cycle.

³ 55 ILCS 5/6-1003.

⁴ 99th Ill. Gen. Assem., House Proceedings, April 16, 2015, at 20 (statements of Representatives Franks and Andersson).

⁵ *LeCompte v. Zoning Board of Appeals*, 2011 IL App (1st) 100423, ¶ 29.

⁶ <https://www.merriam-webster.com/dictionary/immediate> (last visited on April 2, 2020).

⁷ <https://www.merriam-webster.com/dictionary/emergency> (last visited on April 2, 2020).

C. Transfers

While further appropriations are barred, except in the case of an immediate emergency, Section 6-1003 also permits transfers as follows:

After the adoption of the county budget, transfers of appropriations may be made without a vote of the board; however, transfers of appropriations affecting personnel and capital may be made at any meeting of the board by a two-thirds vote of all the members constituting such board, the vote to be taken by ayes and nays and entered on the record of the meeting, provided for any type of transfer that the total amount appropriated for the fund is not affected.⁸

D. Supplemental Budget

The Counties Code does authorize the county board to adopt a supplemental budget, but only in a limited circumstance, *i.e.*, “to provide for payment of the expenses of the county in connection with elections of members of the Constitutional Convention or elections called for submission to the electors of any revision, alteration or amendments of the Constitution adopted by the Constitutional Convention.”⁹

Given the importance of funding to counties in dealing with COVID-19, UCCI strongly recommends exercising caution and checking all available federal guidance before taking action to modify, exceed, or transfer the appropriations authorized in the budget for your county.

At the request and direction of UCCI this memorandum was prepared by
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⁸ 55 ILCS 5/6-1003.

⁹ 55 ILCS 5/6-1004.