



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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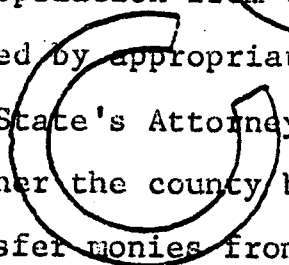
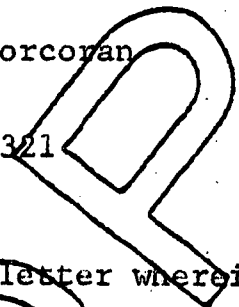
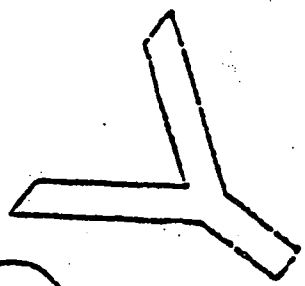
FILE NO. S-1456

COUNTIES:
Budget - Transfer of Funds

Honorable Patrick J. Corcoran
State's Attorney
Hancock County
Carthage, Illinois 62321

Dear Mr. Corcoran:

I have your letter wherein you inquire whether a county board or its authorized committee may transfer monies from an account in the State's Attorney's budget funded by appropriation from the general corporate fund to an account funded by appropriation from the fees and fines collected by the State's Attorney's office. You also inquire generally whether the county board or its authorized committee may transfer monies from one account to another within an officeholder's budget. For the reasons hereinafter stated, it is my opinion that monies in an officeholder's budget may be transferred from one account to another only if both accounts



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are funded by appropriation from the same fund within the county treasury. Therefore, since the accounts are funded from different funds, the specific transfer contemplated from one account of the State's Attorney's budget to another would be beyond the powers of a county board.

A county is a mere creature of statute and can exercise only those powers expressly granted by statute or necessarily implied therefrom. (Heidenrich v. Ronske (1962), 26 Ill. 2d 360, 362.) Therefore, the county board must act within statutory bounds when enacting or modifying its budget.

Section 3 of "AN ACT in relation to the budgets of counties, etc." (Ill. Rev. Stat. 1977, ch. 34, par. 2103) provides as follows:

"After the adoption of the county budget, no further appropriations shall be made at any other time during such fiscal year, except as provided in this Act. Transfers from one appropriation of any one fund to another of the same fund, not affecting the total amount appropriated, 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. By a like vote the board may make appropriations in excess of those authorized by the budget in order to meet an immediate emergency."

It is clear that the county board may, by the affirmative vote of two-thirds of all the members of the board, transfer

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funds from one account in an officeholder's budget, to another, if both accounts were funded by an appropriation from the same fund within the county treasury. Section 3 does not, however, authorize the transfer of monies from an account funded by an appropriation from one fund to an account funded by an appropriation from another.

The fees and fines fund to which you refer is established under section 4 of "AN ACT fixing and providing for the payment of the salaries of state's attorneys and their assistants, etc." (Ill. Rev. Stat. 1977, ch. 53, par. 19). The fund required to be maintained under section 4 is separate and apart from that created by the county corporate tax levied under section 25.05 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 406). Therefore, a transfer from an account funded by appropriation from the corporate general fund to an account funded by appropriation from the fees and fines fund, is not authorized by section 3 of "AN ACT in relation to the budgets of counties, etc." and, since no other express or implied statutory authority for such a transfer exists, would not be an action which a county board has power to take.

Very truly yours,

A T T O R N E Y G E N E R A L