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SPRINGFIELD

**October 5, 1978**

**FILE NO. S-1396**

**COUNTIES:**

**Authority of County Board to Set  
Vacation and Sick Leave Policy  
For Employees of County Health  
Department and Deputies under  
Jurisdiction of Sheriff's Merit  
Commission**

Honorable William J. Cowlin  
State's Attorney of McHenry County  
2200 North Seminary Avenue  
Woodstock, Illinois 60098

Dear Mr. Cowlin:

This responds to your letter wherein you ask whether the McHenry County Board may establish a policy for vacation and sick leave benefits which would be applicable to employees of the county health department and deputies under the jurisdiction of the sheriff's merit commission.

In regard to employees of the county health department, even though the county board of health is only an agency of the county, it has been granted broad statutory powers pertaining to

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the employment and compensation of county health department employees. (Ill. Att'y Gen. Op. No. NP-934, issued July 22, 1975.) Section 14 of "AN ACT in relation to the establishment and maintenance of county and multiple-county public health departments" (Ill. Rev. Stat. 1977, ch. 111 1/2, par. 20c13) provides that the board of health shall:

" \* \* \*

12. Prescribe the powers and duties of all officers and employees, fix their compensation, and authorize payment of the same and all other department expenses from the County Health Fund of the county or counties concerned;

\* \* \* "

(Emphasis added.)

The board of health's express statutory authority to fix the compensation of health department employees precludes the county board from setting the compensation for the employees of the health department.

A paid vacation is a form of compensation. (Textile Workers Union v. Paris Fabric Mills (1952), 22 N. J. Super. 381, 384, 92 A. 2d 40, 41; 48 Am. Jur. 2d Labor and Labor Relations § 1230.) Sick leave is also a type of compensation. (Temple v. Pennsylvania Department of Highways (1971), 445 Pa. 539, 542, 285 A. 2d 137, 139; also see opinion No. S-1338, issued February

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21, 1978.) Because vacation and sick leave are forms of compensation, it is my opinion that the county board of health's power to fix the compensation of health department employees includes the power to set the number of vacation days and the length of sick leave for health department employees. Therefore, the board of health, rather than the county board, is responsible for establishing the vacation and sick leave policy for health department employees.

With regard to deputies under the jurisdiction of the sheriff's merit commission, section 58.1 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 859.1) provides in pertinent part:

"The county board in any county having a population of less than 1,000,000 may, by ordinance, provide for all deputies other than special deputies, and all jail officers as defined in Section 3 1/2 of 'An Act to revise the law in relation to jails and jailers', as now or hereafter amended, employed on a full time basis in the office of Sheriff to be appointed, promoted, disciplined and discharged pursuant to recognized merit principles of public employment and for such employees to be compensated according to a standard pay plan approved by the board. Such ordinance shall provide for the appointment of a Merit Commission consisting of 3 or 5 members appointed by the county sheriff and approved by the county board.  
\* \* \* Such Commission shall promulgate rules,

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regulations and procedures for the operation of  
the merit system and administer the merit system.

\* \* \*

(Emphasis added.)

In opinion No. S-805 (1974 Ill. Att'y Gen. Op. 254, 259-260), I  
examined the county board's authority to set deputies' salaries  
under section 58.1:

\* \* \*

As to salary provisions, a county board has  
limited authority. A county board is empowered under  
the above quoted section to 'approve' a standard pay  
plan. The court in Hammer v. Jefferson Oil & Gas  
Corp., 38 Ill. App. 2d 136, stated at page 139:

'The verb, "approved", does not mean to  
select. It means, according to ordinary  
dictionary definition, "to confirm, ratify,  
sanction or consent to some act or thing of  
another.'

It can therefore be seen that in regard to pay  
plans, a county board's power under section 58.1 of  
said Act (Ill. Rev. Stat. 1973, ch. 34, par. 859.1)  
is relatively inflexible. A county board is only  
empowered to approve or disapprove a pay plan sub-  
mitted by the merit commission. \* \* \*

\* \* \*

The merit commission is required to submit a pay plan  
for the compensation of deputies to the county board; since  
vacation and sick leave are forms of compensation, the pay plan  
may include provisions for vacation and sick leave. The county  
board, however, through its power to approve the pay plan, has

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some control over the vacation and sick leave benefits of deputies. Therefore, although the county board's policy for vacation and sick leave benefits of county employees is not automatically applicable to deputies under the jurisdiction of the merit commission, the county board may influence the vacation and sick leave benefits of deputies through its approval of the pay plan submitted by the merit commission.

Very truly yours,

A T T O R N E Y   G E N E R A L