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March 24, 1977

FILE NO. S-1217

**INTERGOVERNMENTAL COOPERATION:
Can the State's Attorney
Prosecute Municipal Ordinance
Violations.**

Honorable Peter J. Woods
State's Attorney
Ogle County
Oregon, Illinois 61061

Dear Mr. Woods:

This is in response to your letter asking my opinion on whether the county board may contract with municipalities to have the state's attorney's office prosecute ordinance violations. In my opinion, the county board, with the approval of the state's attorney, may so contract.

Sections 3 and 5 of the Intergovernmental Cooperation Act (Ill. Rev. Stat. 1975, ch. 127, pars. 743 and 745) provide:

"§ 743. Any power or powers, privileges or authority exercised or which may be exercised by a public agency of this State may be exercised and enjoyed jointly with any other public agency of this State and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States do not prohibit joint exercise or enjoyment."

"§ 745. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties."

Section 10(a) of article VII of the Illinois Constitution of 1970 provides:

"Units of local government and school districts may contract or otherwise associate among themselves, with the State, with other states and their units of local government and school districts, and with the United States to obtain or share services and to exercise, combine, or transfer any power or function, in any manner not prohibited by law or by ordinance. Units of local government and school districts may contract and otherwise associate with individuals, associations, and corporations in any manner not prohibited by law or by ordinance. Participating units of government may use their credit, revenues, and other resources to pay costs and to service debt related to intergovernmental activities."

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These provisions allow the type of contract mentioned in your request. The constitutional provision on Intergovernmental Cooperation and the Intergovernmental Cooperation Act were designed to encourage cooperation among units of local government. The county board as a unit of government may contract on behalf of, and with the approval of the state's attorney, in matters such as this. Section 5(1) of "AN ACT in regard to attorneys general and state's attorneys" (Ill. Rev. Stat. 1975, ch. 14, par. 5) provides that:

"The duty of each State's attorney shall be:

(1) To commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for his county, in which the people of the State or county may be concerned."

While the statute provides only for actions concerning the people of the State or county, I do not see that this prohibits the expansion of authority under the intergovernmental cooperation provisions.

In People v. Ballard (1975), 59 Ill. 2d 580, the state's attorney prosecuted a defendant for violation of a State statute and a municipal ordinance and counsel for the

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municipality took no part in the prosecution. The court held on page 583:

"* * * We can only conclude that the State's Attorney served as attorney for the city in prosecuting the violation of the municipal ordinance in question. The 1970 Illinois Constitution, article VII, section 10(a) and (c), specifically provides for the sharing of services, powers and functions among various local governmental entities, and encourages inter-governmental cooperation. * * *"

In conclusion, the county board, with the approval of the state's attorney may contract with municipalities to have the state's attorney's office prosecute ordinance violations.

Very truly yours,

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