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FILE NO. S-1335

MENTAL HEALTH:

**Power of County Board to Alter
Community Mental Health Board's
Proposed Budget**

Honorable James R. Fritze
State's Attorney
Iroquois County Court House
Watseka, Illinois 60970

Dear Mr. Fritze:

I have your letter and enclosures concerning the budget submitted by your county's community mental health board. You asked whether the county board has the authority to increase or decrease the amount provided in the board's proposed budget. For reasons to be stated, I conclude that the county board does have such power.

Section 3f of the Community Mental Health Act (Ill. Rev. Stat. 1975, ch. 91 1/2, par. 303f) provides for the mental health board's proposed budget:

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"Annually, each community mental health board shall prepare and submit to the appointing officer and governing body referred to in Section 3a: (a) an annual budget showing the estimated receipts and intended disbursements pursuant to this Act for the fiscal year * * * and (b) an annual report detailing the income received and disbursements made pursuant to this Act during the fiscal year just preceding the date the annual report is submitted * * *."

Section 5 of the Act (Ill. Rev. Stat. 1975, ch. 91 1/2, par. 305) then provides for the governing body of the governmental unit that established the mental health board (in this case, the county board) to levy a tax, if approved by referendum, and appropriate money:

* * *

If a majority of all the votes cast upon the proposition are for the levy of such tax, the governmental body of such governmental unit shall thereafter annually levy a tax not to exceed the rate set forth in Section 4. Thereafter the governing body shall in the annual appropriation bill appropriate from such funds such sum or sums of money as may be deemed necessary, based upon the budget, the report, the local plan and the recommendations by the community mental health board to defray necessary expenses and liabilities in providing for such community mental health facilities and services." (Emphasis added.)

Thus the statute states that the county board shall levy the tax and that it shall appropriate such sums of money "as may be

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deemed necessary." The decision of what sum is necessary can be made only by the county board, which under section 1 of "AN ACT in relation to the budget of counties not required by law to pass an annual appropriation bill" (Ill. Rev. Stat. 1975, ch. 34, par.2101) has the duty to adopt a county budget. The only power of the community mental health board in this regard is to submit a budget showing its "estimated receipts and intended disbursements * * *."

This allocation of power between the county board and the community mental health board is made even clearer by section 3e of the Act (Ill. Rev. Stat. 1976 Supp., ch. 91 1/2, par. 303e) which in sub-paragraph (f) of the first set of lettered sub-paragraphs, provides that the community mental health board shall:

"(f) Within amounts appropriated therefor, execute such programs and maintain such services and facilities as may be authorized under such appropriations, including amounts appropriated under bond issues, if any;" (Emphasis added.)

Section 3e was recently amended by P. A. 80-796, which did not, however, affect the provisions quoted.

In unpublished opinion NP-98 (1969), I advised that:

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" * * * The Community Mental Health Board itself does not 'appropriate'. What it does is to determine as best it can what amounts are necessary to conduct the desired program, and request the County Board to make appropriation of that amount for the purpose of carrying forward the community mental health program. * * *"

The slight changes that have been made in the statute since then do not change my opinion that the governing body (in this case, the county board) is to determine the amount to be appropriated to the community mental health board, which could be either more or less than the mental health board has requested.

Very truly yours,

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