

6408172

PUBLIC OFFICES AND OFFICERS: Coroner – transfer of duties to health officer.

COUNTIES: Supervisors, Board of – may transfer duties of a coroner to health officer.

The board of supervisors of any county which has the required population and a health officer appointed under the provisions of Act No. 306, P.A. 1927, as amended, is authorized by Act No. 143, P.A. 1945, to abolish the office of coroner and transfer its duties to the health officer without vote of the electors.

No. 4345

August 17, 1964.

Mr. Allen E. Keyes
Prosecuting Attorney
Sanilac County
Sandusky, Michigan

By letter under date of June 19, 1964, you have requested my opinion as to whether it is necessary to obtain the approval of the electors as a condition to the transfer of the duties of the office of the coroner to the health officer pursuant to Act No. 143, P.A. 1945, as amended.¹

You point out that the act does not require a referendum, but instead, authorizes by section 1 the board of supervisors to:

“* * * abolish the office of coroner * * * and transfer the duties of the coroner to the health officer appointed under Act No. 306 of the Public Acts of 1927, as amended.”

The office of coroner is statutory rather than a constitutional office.² The legislature has authority to abolish the office and transfer its powers and duties to an appointive rather than an elective official. Nor is a vote of the electorate requisite thereto, but instead, the legislature may authorize the board of supervisors to take the required action.³

Since the enactment of Act No. 143, section 1 thereof has been amended twice⁴ to make the same applicable to more counties by altering the population limitations. However, in both instances the provision of the original act authorizing the board of supervisors to effect such change has been re-enacted. There can be no question as to the legislative intent that the authority conferred by the act is to be vested in the board of supervisors, rather than the electors.

It follows that the office of coroner may be abolished and its duties transferred by action of the board of supervisors of any county which has

¹ C.L. 1948 and C.L.S. 1961 § 52.141 et seq., M.S.A. 1961 Rev. Vol. and M.S.A. 1963 Cum. Supp. § 5.971 (1) et seq. Sec. 1 was amended by Act No. 80, P.A. 1963.

² Section 86 Rev. Stat. 1864, Chap. 14; C.L. 1948 § 52.86, M.S.A. 1961 Rev. Vol. § 5.951.

³ Article VII, Section 8, of the 1963 Constitution, which is a revision without substantive change of Article VIII, Section 8, of the 1908 Constitution.

⁴ Act Nos. 95, P.A. 1960 and 80, P.A. 1963.

the required population and a health officer, appointed under the provisions of Act No. 306, P.A. 1927, as amended, without vote of the electors.

FRANK J. KELLEY,
Attorney General.

640831.1

RETIREMENT SYSTEMS: Judges, Probate – Surplus in expense fund.

Probate Judges' Retirement Board is without statutory power to direct transfer of surplus moneys from the expense fund to the annuity reserve fund under Act 165, P.A. 1954, as amended. Surplus moneys from the expense fund may be transferred to the income fund.

No. 4155

August 31, 1964.

Mr. Lawrence L. Farrell
Executive Secretary
Probate Judges' Retirement System
330 Lewis Cass Building
Lansing, Michigan

You have requested my opinion on the following question:

“Does Act 165, P.A. 1954, the Probate Judges' Retirement Act, authorize the Probate Judges' Retirement Board or the executive secretary of said Board to transfer moneys from the expense fund of the retirement system to the annuity reserve funds where the balance in the expense fund exceeds anticipated expense of the retirement system for the current fiscal year?”

Act 165, P.A. 1954, as amended, being C.L.S. 1961 § 38.901 et seq.; M.S.A. 1962 Rev. Vol. § 27.3178(60.1) et seq., is known as the Probate Judges' Retirement Act.

In Sec. 21 of the act the legislature has created the annuity savings fund into which are paid the contribution of members of the retirement system. Upon a member's retirement from service his accumulated contributions are required to be transferred from the annuity savings fund to the annuity reserve fund.

The annuity reserve fund is established by the legislature pursuant to Sec. 22 of the act. In addition to the accumulated contributions of retired members of the system, this fund also contains 90% of the filing fees required by Sec. 31 of the act. The balance of the filing fees, or 10% thereof, is paid into the expense fund formed under Sec. 24 of the act. This fund has been made available by the legislature to pay the administrative expenses of the retirement system, exclusive of the amounts payable as annuities and other benefits under the act.

Sec. 23 of the act provides for an income fund for the purpose of crediting regular interest on the various funds of the retirement system, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds of the retirement system may be met. This section of the probate judges' retirement act provides in pertinent part as follows: