

director and for fixing his compensation upon the welfare board, and the county supervisors are not empowered to assume, by indirection, such authority as will nullify the will of the legislature with respect to appointment and fixing of compensation.' ”

See also *The People ex rel. Bristow v Supervisors of Macomb County*, 3 Mich 475 (1855); *The Board of Metropolitan Police of the City of Detroit v The Board of Auditors of Wayne County*, 93 Mich 306 (1892); *Attorney General, ex rel. Greenfield v Board of Supervisors of Alcona County*, 167 Mich 666; 133 NW 825 (1911); *Wayne County Jail Inmates v Wayne County Sheriff*, 391 Mich 359; 216 NW2d 901 (1974).

This does not, however, prevent a county from refusing to pay unnecessary and unreasonable expenditures. See, 1 OAG, 1957-1958, No 2029-A, p 28 (January 19, 1957).

It is therefore my opinion that, although a county may deny payment of unnecessary and unreasonable expenditures, it has a duty to reimburse necessary expenses incurred by probation officers attending the annual conference.

FRANK J. KELLEY,
Attorney General.

76/222.1

COUNTIES: Transfer of surplus funds.

COUNTY TREASURER: Transfer of surplus funds.

A county treasurer may not transfer surplus money in a statutorily dedicated fund to a special fund with a deficit in order to relieve the imbalance. If, however, the board of commissioners has established a special fund by resolution, it may also, by resolution, authorize transfers from that fund.

Opinion No. 5110

December 22, 1976.

Mr. Edward Duckworth
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You have written to request an opinion concerning the handling of county funds. Your question may be stated as follows:

Where a deficiency exists in one county fund and a surplus in another, may the Treasurer transfer funds from the fund with the surplus to the fund with the deficiency?

Authority of a county treasurer to transfer funds from one account to another must be conferred by law. The accounting system of a county is subject to the provisions of 1919 PA 71; MCLA 21.41 *et seq*; MSA 3.591 *et seq*. Section 3 of 1919 PA 71 provides:

"A separate account shall be kept of each appropriation, or fund, made to or received . . . by each county office, which shall show the date and manner of each payment therefrom, the name and address of the person or association of persons to whom paid, and for what purpose paid."

Your letter refers to county funds in vague terms and does not mention any particular county fund. Nevertheless, as noted in OAG, 1963-1964, No 4377, p 527, 535-536 (December 17, 1964):

"It is impractical in this opinion to undertake any detailed analysis of the various funds of the county to which moneys are to be deposited when received. It is common knowledge that there are earmarked funds to which specific revenues must be credited by virtue of statutory provisions and which, consequently, do not find their way to the general fund. Examples of this type are the drain fund and the county social welfare fund. Customarily the statute which requires the deposit of the receipts in a designated fund also limits their expenditure to the purposes stated in the statute by which the fund is created. Revenues so required to be deposited in designated funds or credited thereto with corresponding restrictions on expenditures are revenues which are pledged or encumbered for other purposes and not available for allocation to an improvement or building fund by action of the legislative or governing body of the political subdivision." [footnote omitted]

While the foregoing opinion dealt with transfers from the general fund to a special building fund, it illustrates the general rule: county officials may not transfer monies from one statutorily dedicated county fund to another without specific statutory authority.

OAG, 1955-1956, No 2771, p 605 (October 15, 1956), held that a board of commissioners may not transfer a surplus in a special purpose fund to another special fund created for a different purpose. Similarly, OAG, 1955-1956, No 1973, p 190 (April 14, 1955), held that a county with an excess balance in its general fund may not transfer the surplus into a special fund.¹ See also I OAG, 1957-1958, No 2931, p 148 (April 5, 1957). However, should the board of commissioners establish a special fund by its own resolution, it could, by resolution, authorize transfers from that fund.

It is therefore my opinion, a county treasurer may not transfer surplus money in the statutorily dedicated general fund to a special fund with a deficit in order to relieve the imbalance.

FRANK J. KELLEY,
Attorney General.

¹ It may be noted, however, that a temporary loan from one fund to another is proper in case of an emergency if the fund from which the money is borrowed has sufficient income to repay the sum borrowed. OAG, 1951-1952, No 1451, p 326, 327 (August 1, 1951); *People v Westminster Building Corp*, 361 Ill 153, 164; 197 NE 573.