



**OFFICE OF THE STATE'S ATTORNEY**  
COOK COUNTY, ILLINOIS  
CIVIL ACTIONS BUREAU

**ANITA ALVAREZ**  
STATE'S ATTORNEY

500 RICHARD J. DALEY CENTER  
CHICAGO, ILLINOIS 60602  
AREA 312-603-5440

July 22, 2016

Honorable Timothy O. Schneider  
Commissioner – 15<sup>th</sup> District  
Cook County Board of Commissioners  
118 North Clark Street, Room 567  
Chicago, Illinois 60602

**CONFIDENTIAL ATTORNEY CLIENT COMMUNICATION**

*Re: Item 16-4229: Countywide Paid Leave Mandate*

Dear Commissioner Schneider:

We received your request for advice with respect to whether a proposed ordinance (Item 16-4229) that purports to institute a countywide paid sick leave mandate would have to be obeyed by home rule municipalities in Cook County or would only affect the unincorporated areas. Our advice is limited to the sole issue presented. The issue presented, our conclusion and a discussion of the reasons supporting our conclusions follow.

**ISSUE PRESENTED:**

Would an ordinance that requires employers in Cook County to give their employees paid sick leave be applicable countywide or only within the unincorporated areas of Cook County?

**CONCLUSION:**

Such ordinance would be applicable countywide except to the extent that it conflicted with the ordinance of a municipality, home rule or otherwise, in which case the municipal ordinance would prevail within the municipality's jurisdiction.

**DISCUSSION**

Article VII, § 6(c) of the Illinois Constitution provides that “[i]f a home rule county ordinance conflicts with an ordinance of a municipality, the municipal ordinance shall prevail within its jurisdiction.” *It is critical to note that a municipality whose ordinance conflicts with Cook County's ordinance does not have to be a home rule unit of local government for its ordinance to prevail under Section 6(c).*

The Report of the Committee on Local Government of the 1970 Illinois constitutional convention recognized the problem of legislating in the same field by both a municipality and a home-rule county not as a question or preemption of authority but as a matter of resolving conflicts in ordinances. (7 Proceedings 1591, 1646-1650.) In defining the problem to be resolved by section 6(c) the committee proposal states: " \* \* \* there may be differences or actual conflicts and inconsistencies between municipal legislation and county legislation. Some provision must be made to resolve these potential disagreements and conflicts." (p. 1647).

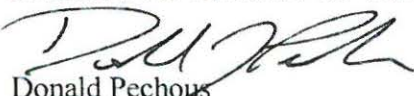
The Illinois Attorney General has opined that "to the extent that a home-rule county ordinance and a municipal ordinance *actually conflict*, the municipal ordinance will be given effect within the municipality's corporate boundaries." See 1996 Ill. AG LEXIS 36 (Ill. AG 1996) (emphasis supplied). The Attorney General relied on *Evanston v. County of Cook*, 53 Ill. 2d 312, 317 (1972) wherein the Court noted that in zoning, regulatory and licensing ordinances, "there are clear opportunities for contradictions and conflicts between the ordinances of the municipalities and ordinances of the county." As such, it appears that, as a general rule, a county may not regulate within a home-rule municipality if that municipality has conflicting ordinances of its own.

Case law has not defined the word "conflict" for purposes of Section 6(c). Accordingly, what would be considered a "conflict" for purposes of Section 6(c) would have to be decided on a case-by-case basis. Thus, in the instant case, if a municipality (home rule or otherwise) were to enact a "conflicting" ordinance relating to paid sick leave, that ordinance would be controlling within the geographic boundaries of the municipality.

We hope that we have been of assistance. Please feel free to call if you have any questions.

Sincerely,

ANITA ALVAREZ  
STATE'S ATTORNEY OF COOK COUNTY



Donald Pechous  
Chief, Civil Actions Bureau