

JEANINE B. NADEL
COUNTY COUNSEL



TELEPHONE:
(707) 463-4446

FAX NUMBER:
(707) 463-4592

DUGLAS L. LOSAK
CHIEF DEPUTY

DEPUTY COUNTY COUNSELS

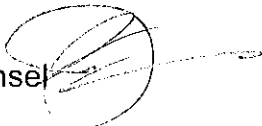
SANDRA L. APPELATE
JULIE S. WERBEL
TERRY N. GROSS
ROSS WALKER

OFFICE OF THE
COUNTY COUNSEL
ADMINISTRATION CENTER
501 LOW GAP ROAD, RM. 1030
UKIAH, CALIFORNIA 95482

CYNTHIA T. MONTESONTI
LEGAL SERVICES MANAGER

August 4, 2010

TO: Department Heads

FROM: Jeanine B. Nadel, County Counsel 

RE: Budget Overruns/Personal Liability Criminal Liability
Op. #10-0715

As the County embarks upon another financially difficult year, the Board of Supervisors has asked me to remind all Department Heads of the need to keep expenditures within the budgeted amount and the provisions of law that mandate adherence to your respective budgets.

Government Code § 29120 provides as follows:

“Except as otherwise provided by law, the board and every other County or special district official and person shall be limited in the incurring or paying of obligations to the amounts of the appropriations allowed by the budget as originally adopted or thereafter revised by additions, cancellation or transfer.”

Government Code § 29121 provides as follows:

“Except as otherwise provided by law, obligations incurred or paid in excess of the unencumbered balance of the amounts authorized in the budget appropriations are not the liability of the county or special district, but the official authorizing the obligation in an amount known by him to be in excess of the unencumbered balance of the appropriation against which it is drawn is liable therefore personally and upon his official bond.” (Emphasis added)

Government Code § 29122 provides in pertinent part:

"The Board shall approve no claim and the auditor shall issue no warrant for any obligation in excess of that authorized therefore in the budget appropriation, except upon an order of a court of competent jurisdiction, for an emergency, or as otherwise provided by law."

* * *

Government Code § 1222 provides:

"Every willful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision is made for the punishment of such delinquency, is punishable as a misdemeanor." (Emphasis added)

As is apparent from the above, personal liability and criminal penalties attach for the willful failure to meet the above—referenced statutory responsibilities.

JBN/ctm

cc: Honorable Board of Supervisors
Carmel Angelo, CEO
Meredith Ford, Auditor-Controller
Clerk of the Board