

Note from the Attorney General's Office:

1996 Op. Att'y Gen. No. 96-055 was overruled in part
by 2012 Op. Att'y Gen. No. 2012-018.

OPINION NO. 96-055**Syllabus:**

1. Pursuant to R.C. 9.37(B), a county auditor may pay the compensation of a county employee by direct deposit of funds by electronic transfer, provided the employee furnishes a written authorization designating a financial institution and an account number to which the payment is to be credited.
2. R.C. 9.37(B) does not permit a county auditor to impose a requirement that all county employees receive payment of their compensation by direct deposit of funds by electronic transfer.

To: Rebecca J. Ferguson, Preble County Prosecuting Attorney, Eaton, Ohio
By: Betty D. Montgomery, Attorney General, November 5, 1996

You have requested my opinion on the question of whether the county may require all its employees to receive their paychecks by direct deposit by electronic transfer. You state in your letter that the county auditor has indicated that by imposing this requirement, "bookkeeping of the county payroll may be streamlined by eliminating the need to sort and reconcile outstanding paychecks, and the county treasurer will only have to make one fund transfer on the pay date rather than make several deposits and transfers as individual paychecks are redeemed."¹

¹ R.C. 319.16 provides, in pertinent part, that "[t]he county auditor shall issue warrants on the county treasurer for all moneys payable from the county treasury, upon presentation of the proper order or voucher and evidentiary matter for the moneys." The county auditor is thus responsible for preparing and issuing a warrant for each county employee whose compensation is payable from the county treasury. *See also* R.C. 325.17 (authorizing a county auditor, county treasurer, probate judge, sheriff, clerk of the court of common pleas, county engineer, and county recorder to appoint and employ and fix the compensation of the necessary deputies, assistants, clerks, bookkeepers, or other employees of their respective offices, and further providing that when so fixed, "the compensation of each such deputy, assistant, bookkeeper, clerk, and other employee shall be paid biweekly from the county treasury, upon the warrant of the auditor").

The answer to your question is found in the language of R.C. 9.37. Division (B) of R.C. 9.37 states as follows:

Any public official may make by direct deposit of funds by electronic transfer, *if the payee provides a written authorization designating a financial institution and an account number to which the payment is to be credited*, any payment such public official is permitted or required by law in the performance of his duties to make by issuing a check or warrant. (Emphasis added.)

As used in R.C. 9.37, "public official" means, *inter alia*, any elected or appointed officer of any political subdivision. R.C. 9.37(A).

R.C. 9.37(B) thus authorizes a county auditor to pay the compensation of a county employee by direct deposit of funds by electronic transfer. R.C. 9.37(B) further provides that a county auditor may effect a payment in that manner if the county employee, as payee, "provides a written authorization designating a financial institution and an account number to which the payment is to be credited."

Pursuant to R.C. 9.37(B), therefore, a county auditor may pay the compensation of a county employee by direct deposit of funds by electronic transfer so long as the employee in question furnishes a written authorization designating a financial institution and an account number to which the payment is to be credited. The logical and reasonable inference from R.C. 9.37(B)'s directive is that a county auditor may not pay the compensation of a county employee by direct deposit of funds by electronic transfer absent a written authorization from the employee designating a financial institution and an account number to which the payment is to be credited. In other words, the authority of a county auditor to pay the compensation of a county employee by direct deposit of funds by electronic transfer depends upon the employee's written authorization.

Given the foregoing, it follows that a county auditor may not impose a requirement that all county employees receive their compensation by direct deposit of funds by electronic transfer. *Cf., e.g.,* R.C. 329.03(B) ("[a]ny board of county commissioners may by adoption of a resolution require the county department of human services to establish a direct deposit system for distributing assistance payments under aid to dependent children, disability assistance, or both....The resolution shall specify for each program for which direct deposit is to be established whether direct deposit is voluntary or mandatory").

It is, therefore, my opinion, and you are advised that:

1. Pursuant to R.C. 9.37(B), a county auditor may pay the compensation of a county employee by direct deposit of funds by electronic transfer, provided the employee furnishes a written authorization designating a financial institution and an account number to which the payment is to be credited.
2. R.C. 9.37(B) does not permit a county auditor to impose a requirement that all county employees receive payment of their compensation by direct deposit of funds by electronic transfer.