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FILE NO. S-448

COUNTIES:
County Board Membership

Honorable Richard S. Simpson
State's Attorney
Lawrence County
Lawrenceville, Illinois 62439

Dear Mr. Simpson:

I have your letter of February 23, 1972, wherein
you state:

"You'll note that first cited statute provides that county board membership shall be determined by lot, which receive 2 and which receive 4 year terms. Cited election statute provides that 1/2 of the membership shall be elected each 2 years after initial election, April, 1972. What should be the procedure in boards whose membership is an odd number, as to whether the larger or smaller whole number elected in 1974?"

Section 2-26.01 of "An Act concerning elections," (Ill. Rev. Stats., 1971, Ch. 46, par. 2-26.01) states as follows:

"In counties under township organization which have a population of less than 3,000,000 the county board members provided for in 'An Act relating to the composition and election of county boards in certain counties', enacted by the 76th General Assembly, shall be elected on the first Tuesday in April of 1972, and 1/2 of the county board members shall be elected every 2 years thereafter."

Section 9 of "An Act relating to the composition and election of county boards in certain counties," (Ill. Rev. Stats., 1971, Ch. 34, par. 839) provides:

"The members elected in April in 1972 and every 10 years thereafter to a county board in a county to which this Act applies shall determine by lot which members shall serve for 2 years and which for 4 years. Their successors shall be elected to a 4 year term. All terms shall commence on the first Monday in May in even-numbered years.

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Unfortunately, the statute does not specify whether the larger or smaller whole number of county board members will receive two or four year terms after the election in April, 1972. The cardinal rule in the construction of Illinois statutes is that

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a statute must be construed so as to ascertain and give effect to the intention of the General Assembly as expressed in the statute, (Lincoln National Life Insurance Company v. McCarthy, 10 Ill. 2d 489). In ascertaining legislative intent the court may look not only to the language, but also to the nature and subject matter of the Act, the occasion, reason, or necessity therefor and the object to be accomplished thereby, (People v. Lieber, 357 Ill. 423; Moyer v. Board of Education of School District No. 186, 391 Ill. 156). It is obvious that the principal reason why one-half of the county board members initially receive two year terms is so that there will be a staggering of terms. All terms subsequently become terms of four years. The legislature primarily has in mind four year terms--not terms of two years. In considering, therefore, not only the language of the statute, I am of the opinion that there is more logic in saying that the larger whole number of county board members will receive four year terms after the election in April, 1972, rather than two year terms. The two year terms are only a temporary measure. It follows then, that in 1974 the smaller whole number will be elected for four year terms. Perhaps this matter will be clarified by the legislature at some time in the future.

Very truly yours,

ATTORNEY GENERAL

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