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SPRINGFIELD
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No. S-754

**ELECTIONS:
Special Election for
County Board Vacancy**

Honorable Arthur A. Jones
State's Attorney
Edgar County
Court House
Paris, Illinois 61944

Dear Mr. Jones:

I have your letter wherein you state:

"The County Board of Edgar County is composed of seven supervisors who were elected on April 4, 1972. One of the Supervisors died on January 1, 1974. At the time of his election he drew a four year term by lot and consequently had until May 4, 1976 remaining in his term.

On December 7, 1973 the County Board passed a resolution postponing the election of those board members whose terms expired on May 1, 1974 to November 5, 1974 (these members having drawn two year terms by lot after their election on April 4, 1972.)

Honorable Arthur A. Jones - 2

* * * Candidates for vacancies on the County Board are to be chosen by primary election rather than by political caucus. * * *

A) Is the vacancy created by the death of the Board member to be filled by appointment? If so, when must an election be held to fill the vacancy created by the member's death?

B) If the vacancy is to be filled by election on November 5, 1974, what is the period for filing by candidates for the vacancy?

C) Can candidates for the vacancy created by the Board member's death be chosen by a caucus of the political parties for election on November 5, 1974?

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Section 9 of "AN ACT relating to the composition and election of county boards in certain counties" (Ill. Rev. Stat. 1973, ch. 34, par. 839) provides in part:

" * * * If a vacancy occurs on the county board, the board shall, within 60 days of the date the vacancy occurs, appoint some person, possessing the qualifications of a board member, to serve until the next election of county board members in the county at which time an election shall be held to fill the vacancy for the unexpired term.

* * *

Under this provision, it is clear that county boards must fill any vacancy in county board membership by appointment, and that the appointee is to serve until a successor is elected to fill the unexpired term at the next election for county board

Honorable Arthur A. Jones - 3

members. The election in this case would be the one scheduled for November 5, 1974. Such an election would be a special election even though it occurs at the time of the regular general election. Ill. Rev. Stat. 1973, ch. 46, par. 1-3.

Article 7 of the Election Code applies to nomination of candidates for county board membership in counties such as yours that have opted for the primary election method for selecting candidates for county board membership. (Ill. Rev. Stat. 1973, ch. 46, par. 7-1.) Section 7-5 of the Election Code (Ill. Rev. Stat. 1973, ch. 46, par. 7-5) provides for primary nomination by established political parties for officers such as county board members who are to be elected on the first Tuesday after the first Monday in November.

Therefore, in answer to your second and third questions, it is my opinion that the established parties cannot choose candidates for the vacancy on the Edgar County Board by political caucus. Since the political parties are required to fill nominations for county board membership by the primary election method, a special primary election must be called to nominate candidates for said vacancy. The statutory timetable for such

Honorable Arthur A. Jones - 4

a special primary would be as follows: section 7-61 of the Election Code (Ill. Rev. Stat. 1973, ch. 46, par. 7-61) provides that notice of the special primary be given 15 days prior to the maximum time provided for filing a petition for such a primary as prescribed in section 7-12 of the Election Code (Ill. Rev. Stat. 1973, ch. 46, par. 7-12) which is 99 days. Therefore, it is necessary to give notice of the primary 114 days prior to the date of the special primary. Section 7-5 of the Election Code, supra, requires that the primary should be held seven weeks prior to the general election. (See, Opinion S-735, issued April 17, 1974.) Nomination petitions for independent candidates for the county board vacancy would have to be filed at least 92 days prior to the date of the election. Ill. Rev. Stat. 1973, ch. 46, par. 10-6.

Very truly yours,

A T T O R N E Y G E N E R A L