



**WILLIAM J. SCOTT**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

June 11, 1976

FILE NO. S-1105

**COUNTIES:**  
Submission of Question  
of Public Policy to  
the Electorate

Honorable Robert J. Bier  
State's Attorney  
Adams County  
Quincy, Illinois 62301

Dear Mr. Bier:

I have your letter wherein you ask whether the Adams County Board may by resolution place before the voters of the county the question of whether or not to enact a county zoning ordinance. In my opinion the county board may not on its own initiative place such an advisory referendum on the ballot.

The authority of a county board to pass zoning regulations is found in section 1 of "AN ACT in relation to

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county zoning" (Ill. Rev. Stat. 1975, ch. 34, par. 3151) which provides in pertinent part that:

"\* \* \* [T]he board of supervisors or board of county commissioners, as the case may be, of each county, shall have the power to regulate and restrict the location and use of buildings, structures and land \* \* \*; to divide the entire county outside the limits of such cities, villages and incorporated towns into districts of such number, shape, area and of such different classes \* \* \*; to prohibit uses, buildings or structures incompatible with the character of such districts respectively; and to prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder; \* \* \* "

Nothing in this or any other provision of the Act can be construed as requiring the approval of county voters in this matter. Neither is such a requirement to be found in those portions of article VII of the Illinois Constitution of 1970, dealing with referenda at the local government level.

Similarly, I find nothing in The Election Code (Ill. Rev. Stat. 1975, ch. 46, pars. 1-1 et seq.) which would authorize a county board to place a referendum on the ballot on its own initiative in the situation you describe. Section 28-4 of The Election Code (Ill. Rev. Stat. 1975, ch.

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46, par. 28-4) does, as you point out, provide that in certain situations the governing body of a unit of local government "may by resolution" provide for the submission of certain matters to the voters of the governmental unit. However, section 28-4 also makes it clear that it applies only in those cases in which:

"\* \* \* Article VII or paragraph (a) of Section 5 of the Transition Schedule of the Constitution authorizes any action to be taken by or with respect to any unit of local government, as defined in Section 1 of Article VII of the Constitution, by or subject to approval by referendum \* \* \*."

Since the proposed referendum you describe is not one authorized by article VII, section 28-4 is inapplicable.

You also draw my attention to section 28-1 of The Election Code (Ill. Rev. Stat. 1975, ch. 48, par. 28-1) which deals with referenda. It is evident, however, from the portion of the section quoted in your letter that this section requires "a written petition filed by 25% of the registered voters" of the county before "the proper election officers" are required to submit the question involved to the county electorate at large.

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Therefore, it is my opinion that the county board of Adams County may not of its own initiative submit any question of public policy concerning county zoning regulation to the voters of Adams County.

Very truly yours,

A T T O R N E Y   G E N E R A L