



JIM RYAN
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STATE OF ILLINOIS



July 14, 1995

FILE NO. 95-009

COMPENSATION:
Salary of Supervisor of Assessments

Honorable Gregory B. Grigsby
State's Attorney, Christian County
Christian County Courthouse
Taylorville, Illinois 62568-2244

Dear Mr. Grigsby:

I have your letter wherein you state that in June, 1994, the appointed supervisor of assessments of Christian County resigned. The county board then appointed a person to fill the position until December 1, 1994, when the county's first elected supervisor of assessments took office. At the time of the interim appointment, the county board reduced the salary of the office by \$3,000, from \$32,000 per annum to \$29,000. No further action was taken to fix the salary either prior to the election, or prior to the beginning of the term of the newly elected supervisor. You ask whether the salary of the elected supervisor was fixed in conformity with law. For the reasons hereinafter stated, it is my opinion that the supervisor is entitled to receive no less than the minimum salary required by statute,

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which is \$31,920 per annum. The board cannot now, however, constitutionally increase the salary of the newly elected supervisor of assessments above that amount.

The salary of the supervisor of assessments is to be fixed by the county board pursuant to section 3-40 of the Illinois Property Tax Code (35 ILCS 200/3-40 (West 1993 Supp.)), which provides, in pertinent part:

"Compensation of supervisors of assessments.

(a) A supervisor of assessments shall receive annual compensation in an amount fixed by the county board subject to the following minimum amounts:

* * *

In counties with 30,000 or more but less than 60,000 inhabitants, not less than \$9,000;

* * *

(b) Elected supervisors of assessments who began a term of office before December 1, 1990 shall be compensated at the rate of their base salary. 'Base salary' is the compensation paid for their position before July 1, 1989.

(c) Elected supervisors of assessments beginning a term of office on or after December 1, 1990 shall, beginning December 1, 1993, receive their base salary plus at least 12% of base salary.

* * *

"

The \$3,000 reduction in salary voted by the county board in July, 1994, did not reduce the salary below the minimum amount permit-

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ted by subsection 3-40(a) for appointed supervisors. The reduced salary does not equal at least the base salary for the office plus 12% thereof, however.

Article VII, section 9(b) of the Illinois Constitution of 1970 provides:

" * * *

(b) An increase or decrease in the salary of an elected officer of any unit of local government shall not take effect during the term for which that officer is elected.

* * *

"

This constitutional provision applies only to elected officers of units of local government. It does not prohibit an increase or decrease in the salary of an appointed supervisor of assessments during the term for which he or she is appointed.

(1972 Ill. Att'y Gen. Op. 17.) Therefore, the decrease in compensation voted by the county board in July, 1994, while the office remained appointive, was within the authority of the county board.

Subsection 3-40(c) provides that elected supervisors of assessments beginning a term of office after 1990 shall, beginning December 1, 1993, receive their base salary plus at least 12% of base salary. Base salary is defined in subsection 3-40(b) as the compensation paid for the position before July 1, 1989. There is no indication that the General Assembly intended, for purposes of determining the base salary for the office, to

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differentiate between the salary of an appointed supervisor and that of an elected supervisor. Further, it is apparent that the county board had fixed a salary for the office of supervisor of assessments; thus, this is not a case in which a new office was created and there was a failure to fix any compensation whatsoever, but simply a change in the method of selection of an existing office.

In opinion No. 94-016, issued June 9, 1994, my predecessor concluded with respect to a parallel provision in the Counties Code that the minimum 12% adjustment effective in December, 1993, should be applied to the actual salary paid before July 1, 1989, not to the minimum provided in the statute. The reasoning in that opinion is equally applicable to section 3-40.

Before July 1, 1989, the supervisor of assessments received a salary of \$28,500. That base salary, plus 12% thereof, equals \$31,920. The salary set by the county board in July, 1994, which was not adjusted prior to the election of the new supervisor, was \$29,000. While, as noted above, that amount exceeded the minimum salary fixed for appointed supervisors, it does not conform to the requirements of section 3-40 for elected supervisors of assessments.

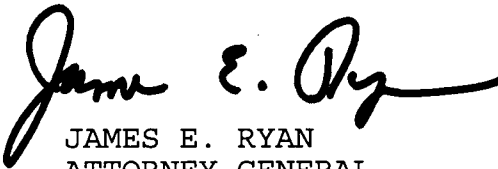
When the county board has fixed an officer's salary at a rate below that provided for by statute, the officer is enti-

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tled to be compensated at the statutory rate. (1975 Ill. Att'y Gen. Op. 10, 11.) Action cannot be taken during the term of an elected officer to increase the salary to a rate greater than the minimum fixed by law without resulting in a mid-term increase in compensation which is prohibited by article VII, section 9(b) of the constitution, however. See 1975 Ill. Att'y Gen. Op. 318, 321 (although self-executing cost of living increases for elected county officers made by reference to objectively determinable and extraneous standards are not unconstitutional, a salary increase involving discretionary action is impermissible).

It is my opinion, therefore, that because the July, 1994, action of the county board resulted in the fixing of salary for the office of supervisor of assessments in an amount less than the applicable statutory minimum, the salary of that office must be increased to the minimum fixed by statute, or \$31,920. The salary for the office may not otherwise be increased during the current term of the elected supervisor of assessments.

Sincerely,



JAMES E. RYAN
ATTORNEY GENERAL