



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

March 9, 1979

FILE NO. S-1413

BILLS:
Retroactive Effect of
Statute

Honorable Thomas J. Difanis
State's Attorney of Champaign County
Court House
Urbana, Illinois 61801

Dear Mr. Difanis:

In your letter of January 23, you ask as of what date Public Act 80-1473 applies to limit counties' liability for the salaries of their judges. It is my opinion that the legislature did not intend for Public Act 80-1473 to apply retroactively. Therefore, the limitation of counties' liability takes effect on December 14, 1978, the date on which the Governor's veto was overridden.

I base my conclusion on the case of People ex rel. Amer. Fed. of S., C. & M. Emp. v. Walker (1975), 61 Ill. 2d 112, 332 N.E. 2d 401. The facts in that case were as follows: Legislation to provide pay increases for some State employees was passed by both houses of the

Honorable Thomas J. Difanis - 2.

legislature on July 1, 1974, and was presented to the Governor on July 11. On September 5, the Governor exercised his amendatory veto, which was overridden by the legislature on December 4. The legislature had provided that the Act would become effective on July 1, 1974, and that the pay increase would go into effect on September 1, 1974. Since the legislation did not become law until December 4, however, the question arose as to whether State employees were entitled to the increase as of September 1 or only as of December 4. Ruling that December 4 was the date as of which the increase had become effective, the court stated that unless a clear intention to give them retroactive effect is expressed, statutes are always given prospective application. The court found that the failure to change the September 1 date in the process of overriding the Governor's veto did not by itself indicate an intent to make the law apply retroactively. The court stated that to do so, "a more explicit expression of this intent would be necessary."

The facts in the situation you present concerning Public Act 80-1473 are similar to those in Walker. The legislation was originally passed on June 26, 1978, and contained a provision stating that it would become effective on July 1, 1978. There are no other provisions concerning

Honorable Thomas J. Difanis - 3.

the effective date of the Act. It was vetoed by the Governor on September 15, 1978, and the veto was overridden on December 14, 1978. The legislature is presumed to know the interpretation placed on the statute governing the effective date of laws (Ill. Rev. Stat. 1977, ch. 131, par. 21 et seq.) and hence knew, under Walker, that an effective date clause alone does not evidence an intention to make the statute retroactive if the statute does not become law prior to its effective date. Furthermore, there is no indication of the requisite intent in the floor debates, either on the dates when the bill was considered or at the time the veto was overridden. In my opinion, Public Act 80-1473 is not retroactive. Consequently, counties' liability for the salaries of their judges is not limited to \$500 a month until after December 14, 1978, at which time it is to be applied on a pro-rata basis for the month of December and in full thereafter.

Very truly yours,

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