



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO. S-1419

ELECTIONS:
Effect of 1981 Reapportionment
Process on 1982 County Board
Re-election

Honorable Paul L. Stone
State's Attorney
Moultrie County Courthouse
Sullivan, Illinois 61951

Dear Mr. Stone:

This responds to your letter in which you request an opinion as to whether all Moultrie County board members must run for re-election in 1982 even if both the number of members elected remains the same after the 1981 reapportionment and the procedure for electing members at large is retained. It is my opinion that they must do so.

There are two statutes pertaining to your question. When read together, they indicate the reason for the requirement that all board members run for re-election in the second year following the decennial Federal census. The first is section 2 of "AN ACT relating to * * * county boards * * *" (Ill. Rev. Stat. 1977, ch. 34, par. 832).

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This section requires county boards of counties with a population of less than 3,000,000 inhabitants to apportion the county every ten years so that each board member represents the same number of inhabitants. It also requires the board to determine whether board members shall be elected at large or from districts:

"By July 1, 1971, and each 10 years thereafter, the county board of each county having a population of less than 3,000,000 inhabitants and the township form of government shall reapportion its county so that each member of the county board represents the same number of inhabitants. In reapportioning its county, the county board shall first determine the size of the county board to be elected, which may consist of not less than 5 nor more than 29 members and may not exceed the size of the county board in that county on the effective date of this Act. The county board shall also determine whether board members shall be elected at large from the county or by county board districts."

The second provision is section 2-26.01 of The Election Code (Ill. Rev. Stat. 1977, ch. 46, par. 2-26.01), which states:

"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', approved October 2, 1969, as amended, shall be elected on the first Tuesday in April of 1972. One half of the county board members shall be elected every 2 years thereafter, except that in 1982, and every 10 years thereafter, following each decennial Federal census, all county board members shall be elected.
* * *"

Since Moultrie County is a county with a population of less than 3,000,000, both these provisions apply to it.

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In your letter you indicated that all Moultrie County board members were elected at large in 1972. You state that if it is determined during the reapportionment process in 1981 that the number of county board members elected shall remain the same and the procedure of electing board members at large is retained, a new election in 1982 would be purposeless. While I appreciate the observation, the requirement is not completely purposeless. The requirement helps ensure that the decision of how the board's members are elected is made objectively and without direct personal interest on the part of existing board members. Without this requirement, those already on the board whose terms would not expire until 1984 would have a disincentive to vote to change the method of election; by voting to retain the present system, they would keep their positions another two years. Imposing this requirement was an act by the legislature to ensure that only the interests of the voters would be considered in the decision of whether or not to elect board members at large or by district.

Regardless of the significance of the section, however, the requirement that all members stand for re-election is absolute; there is no indication that it is conditioned on a changed apportionment, or on any other factor. Accordingly, it is my opinion that the section clearly requires all county

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board members to run for re-election in 1982, regardless of the outcome of the 1981 reapportionment process.

Very truly yours,

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