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SPRINGFIELD

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FILE NO. S-1277

COUNTIES:  
Dog Registration

Honorable Tracy Resch  
State's Attorney  
Clark County  
Marshall, Illinois 62441

Dear Mr. Resch:

I have your recent letter wherein you requested an opinion on the following question:

May the county board eliminate dog registration fees authorized by section 3 of the Animal Control Act (Ill. Rev. Stat. 1975, ch. 8, par. 353), thereby precluding owners of sheep, goats, cattle, horses, mules, swine and poultry from receiving reimbursement for animals killed or injured by dogs by reason of the fact there is no money in the county's Animal Control Fund?

In my opinion, the answer to your question is Yes.

Prior to August 27, 1974, section 6 of the Animal Control Act (Ill. Rev. Stat. 1973, ch. 8, par. 356) stated:

"§ 6. Every owner of a dog 4 months or more of age shall cause such dog to be registered and

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shall pay an annual fee for such dog at a place designated by the Board. The annual registration fee shall be \$4 for each dog, except that individual registration fees will not be required for dogs confined in kennels at all times. The owner of such confined dogs shall pay a registration fee of \$15 for 20 dogs or less, and \$7.50 for each additional group of 20 or less dogs, based on the maximum number of dogs in said kennel at any one time. The Board may decrease this fee subject to approval by the Department. Upon payment of required fee, a registration certificate shall be issued. When an owner fails to register his dog, the Board of the county in which the dog owner resides shall cause the annual registration fee to be collected from the owner, and a registration certificate issued.

\* \* \*

Public Act 78-1166, effective August 27, 1974, repealed the above provision and added to section 3 of the Act (Ill. Rev. Stat. 1975, ch. 8, par. 353) the following language:

"The Board is authorized to require the registration of dogs and to impose a registration fee not to exceed \$4 for each animal."

This change, along with other minor changes in the wording of the Animal Control Act imposed by Public Act 78-1166, makes very clear the intent of the legislature to abandon mandatory registration and to adopt instead a permissive approach. Since the statute merely authorizes the Board to require registration of dogs, it is apparent that the Board may use its discretion in determining whether it will

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require such registration. All registration fees collected are to be placed in an animal control fund by the county treasurer.

Section 19 of the Act (Ill. Rev. Stat. 1975, ch. 8, par. 369) deals with reimbursement of owners of domestic animals killed or injured by dogs. This provision repeatedly refers to the animal control fund as the source for such reimbursement. If there is no money in this fund, it follows that there can be no recovery.

Therefore, it is my opinion that the county board has the discretion to abolish the dog registration fee regardless of the effect of such abolition on the animal control fund and the ability of the county to reimburse owners of domestic animals killed or injured by dogs.

Very truly yours,

A T T O R N E Y   G E N E R A L