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SPRINGFIELD

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FILE NO. S-283

COUNTIES:
Election of Board Members

Honorable L. E. Ellison
State's Attorney
Whiteside County
Central Trust Building
Sterling, Illinois

Dear Sir:

I have your recent letter which states as follows:

"We respectfully request your opinion on the following:

Under the provisions of the act entitled 'AN ACT relating to the composition and election of county boards in certain counties' (Chapter 34, Section 831, et seq. Illinois Revised Statutes), may the county board provide for the election of members on a non-partisan basis or must

the members be elected under a partisan label after being nominated at either a caucus or primary as provided in Chapter 46, Section 7-1.01 Illinois Revised Statutes?

The current members of the Whiteside County Board of Supervisors were all selected on a non-partisan basis, and it is the wish of the board to provide for non-partisan selection of its members through the filing of petitions rather than by partisan nomination as the Election Code would seem to require. We would appreciate your opinion whether the non-partisan election is possible under the new statute."

As you know, county board members may be nominated by an established political party pursuant to the provisions of Paragraph 7-1 (primary) or 7-1.01 (caucus) of Chapter 46, 1969 Illinois Revised Statutes. The nomination of county board members by established political parties pursuant to the provisions of Article VII of the Election Code does not prevent their nomination by a new political party or as independents, pursuant to the provisions of Article 10 of the Election Code.

Paragraph 7-1 of Chapter 46 of the 1969 Illinois Revised Statutes provides as follows:

"Except as herein otherwise provided, the nomination of all candidates for all elective State, congressional, county (including county board members in counties not providing for nominations by caucus under Section 7-1.01), city, village and incorporated town and municipal officers, clerks of the Appellate Courts, trustees of sanitary districts, township officers in townships of over 5,000 population co-extensive with or included wholly within cities or villages not under the commission form of government, township officers in townships of 7,500 or more population adjacent to cities of 75,000 or more population, and for the election of precinct, township, ward and State central committeemen, and delegates and alternate delegates to National nominating conventions by all political parties, as defined in Section 7-2 of this Article 7, shall be made in the manner provided in this Article 7, and not otherwise. * * * *"

Paragraph 7-1.01 of Chapter 46 provides as

follows:

"In any county that has been divided into county board districts pursuant to 'An Act relating to the composition and election of county boards in certain counties', enacted by the 76th General Assembly, the county board may provide by resolution, for nomination of county board members under this Section. In

that event, this Section shall govern such nominations and shall prevail in case of conflict with any other Section of this Act.

Nominations by established political parties for candidates for county board member shall be held in the manner following:

On the first Tuesday in February preceding the date of any election at which county board members are to be elected, a caucus shall be held by the voters of each political party in each county board district, to nominate its candidates for the county board offices to be filled at such election, notice of which caucus shall be given at least 10 days before the holding thereof, by publication in some newspaper having a general circulation in such county board district.

* * * * *

Because of the foregoing statutes, I am of the opinion that provision must be made for nomination of candidates by established political parties either at a primary or at a caucus. However, candidates may be nominated by a newly established political party or as independents pursuant to the provisions of Article 10 of the Election Code!

Very truly yours,

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