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FILE NO. S-857

FEES AND SALARIES:
Compensation of the
County Board

Honorable Jack Hoogasian
State's Attorney
County of Lake
County Building
Waukegan, Illinois 60085

Dear Mr. Hoogasian:

This responds to your request for an opinion in regard to changes in the salaries of the members and chairman of a county board in those counties under township organization which have a population of less than 3,000,000. You have drawn my attention to section 8 of "AN ACT relating to the composition and election of county boards in certain counties" (Ill. Rev. Stat. 1973, ch. 34, par. 838) and to section 39.1 of "AN ACT concerning fees and salaries, etc." (Ill. Rev. Stat. 1973, ch. 53, par. 58.1.) It is your contention that these two provisions to some extent operate against one another and make it unclear whether the salaries of county board members

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may be changed before any general election at which county board members are elected, or only at the time the board is reapportioned, which is every ten years.

Section 8 of "AN ACT relating to the composition and election of county boards in certain counties", supra, provides as follows:

"§ 8. At the time it reapportions its county under this Act, the county board shall determine whether the salary to be paid the members to be elected shall be computed on a per diem basis or on an annual basis and shall fix the amount of that salary. In addition, the county board shall determine the amount of any additional compensation for the chairman of the county board."

Section 39.1 of "AN ACT concerning fees and salaries, etc.", supra, provides as follows:

"§ 39.1. County board members elected pursuant to 'An Act relating to the composition and election of county boards in certain counties', enacted by the 76th General Assembly, shall receive such compensation as is fixed by the county board in accordance with the method of compensation selected by the county board. Such compensation shall be set before the general election at which county board members are elected. The chairman of the county board shall receive such additional compensation as determined by the county board in reapportioning the county.

County board members and the chairman of the county board are also entitled to travel and expense allowances as determined by the county board."

Both of these provisions were enacted by the 76th General Assembly, were approved on June 27, 1969, and relate to the same subject matter, the salary of county board members.

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Section 6 of "AN ACT to revise the law in relation to the construction of statutes" (Ill. Rev. Stat. 1973, ch. 131, par. 4.2) provides in part as follows:

"§ 6. Two or more Acts which relate to the same subject matter and which are enacted by the same General Assembly shall be construed together in such manner as to give full effect to each Act except in case of an irreconcilable conflict. * * * "

Applying this statute, it is clear that the salary of county board members may be changed before any general election at which county board members are elected in accordance with section 39.1 of "AN ACT concerning fees and salaries, etc.", supra. If this were not the case, this provision would not be given its full effect. Such an interpretation does not conflict with section 8 of "AN ACT relating to the composition and election of county boards in certain counties". That Act provides only that the board shall fix the amount of salary at the time of reapportionment. It does not limit the setting or changing of salary to that time only.

It is also clear that the amount of additional compensation for the chairman of the county board may be set only at the time the board is reapportioned. Such limitation is set by both provisions. This does not mean that the total

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salary of the chairman of the board may not be changed for if the salaries of the county board members are changed, the salary of the chairman, as a county board member, would also be changed. It is only the additional amount of compensation that he receives as chairman of the board that may not be changed during the effective period of a decennial apportionment.

I, therefore, am of the opinion that salaries of county board members may be changed prior to any general election at which county board members are elected, but subject to section 9(b) of article VII of the Illinois Constitution of 1970 which provides that "an increase or decrease in the salary of an elected official of any unit of local government shall not take effect during the term for which that official is elected". Therefore, if a county board adopts an ordinance changing the salaries of the members, it will be effective only as to that half of the members whose terms begin after the ordinance has been adopted. As to whether such an ordinance will also effectively change the salaries of the other members at the beginning of their next term, consideration should be given section 39.1 of "AN ACT concerning fees and salaries, etc.", supra, which provides "such compensation shall be set before the general election at which county board members are elected".

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I am also of the opinion that the additional compensation the chairman of the county board receives may be changed only at the time the board is reapportioned. Since, in accordance with section 2-26.01 of the Election Code (Ill. Rev. Stat. 1973, ch. 46, par. 2-26.01), all members of the board are elected at the election after the decennial reapportionment, the change will be effective at the beginning of the next term in accordance with section 9(b) of article VII of the Illinois Constitution of 1970.

Very truly yours,

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