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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

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FILE NO.: S-369

ELECTIONS:

Honorable F. Lawrence Lenz
State's Attorney
Stephenson County
Courthouse
Freeport, Illinois 61032

Dear Mr. Lenz:

I have your recent letter in which you state:

"The Stephenson County Board has established new board districts as required. Subsequently the Board altered the election precincts in the City of Freeport. Freeport territorial limits are co-extensive with the township in which the city is situated. All election precincts in Freeport Township have been altered.

"The Republican Party cast the highest number of votes for Governor in the last preceding general election in Freeport Township.

"The Attorney General's Opinion (1916-817) provided that judges for general election may be appointed by the city council rather than the county board. I have been asked to request your opinion on the following:

1. In view of the prior opinion by the Attorney General must the county board allow the city council to appoint the judges for general election in the township?
2. Under the circumstances described above, are the election judges for Freeport Township required to be selected on the basis of three judges for the Republican Party and two judges for the Democratic Party?"

You have subsequently advised this office that your question pertains to elections for state and county officers rather than town elections. Town elections are governed by the provisions of the Township Organization Act. (Ill. Rev. Stats. 1969, ch. 139, pars. 1 et seq.) Elections for other purposes, such as for State and county officers, are governed by the provisions of The Election Code, Ill. Rev. Stats. 1969, ch. 46, pars. 1-1 et seq.; see Smoda v. Gallagher, 412 Ill. 271.

In your first question you have asked whether the county board must allow the city council to appoint the judges for general election in the township. It is

my understanding that you are not referring to township elections, but rather to elections for state and county officers. In Smoda v. Gallagher, 412 Ill. 271 at p. 276 the court said:

" * * * The Township Organization Act and not the other general or special election laws now in force governs the mode of conducting elections within the town for town officers, the qualification of voters, the designation of the polling places, and the canvassing of the results of the election. In essence, town officers are still elected at the 'town meeting,' though for convenience more than one polling place within the town may be designated where votes may be cast for such officers on the day of the town meeting. In the Williams case cited above, we said at pages 633, 634: 'The foregoing provisions, it is believed, are all that have any special bearing on this case. They apply to town elections exclusively, and this fact must be kept constantly in view in the consideration of this case. Elections for other purposes, such as for State and county officers, are governed by the general Election law applicable to counties under township organization, which consists of different and independent statutory provisions, and the whole difficulty in this case has evidently arisen from confounding the two systems pertaining to elections in counties under township organization. * * * "

The appointment of judges of election outside of the jurisdiction of boards of election commissioners, for county and

state elections is governed by the provisions of Article 13 of The Election Code. (Ill. Rev. Stats. 1969, ch. 46, pars. 13-1 thru 13-16.) It is my understanding that none of your municipalities have Boards of Election Commissioners. Since your county is under township organization, Section 13-2 of The Election Code (Ill. Rev. Stats. 1969, ch. 46, par. 13-2) is applicable. The pertinent portion of said section reads as follows:

"In counties under the township organization the county board shall at its annual meeting in September in each odd-numbered year except in counties containing a population of 500,000 inhabitants or over and except when such judges are appointed by election commissioners, select in each election precinct in the county, 5 capable and discreet electors to be judges of election who shall possess the qualifications required by this Act for such judges. * * * "

"No more than 3 persons of the same political party shall be appointed judges in the same election district or undivided precinct. The election of the judges of election in the various election precincts shall be made in the following manner: The county board of supervisors shall select and approve 3 of the election judges in each precinct from a certified list furnished by the chairman of the County Central Committee of the party which cast the greatest number of votes at the preceding general election for Governor in such

election precinct and shall also select and approve 2 judges of election in each election precinct from a certified list furnished by the chairman of the County Central Committee of the party which cast the second highest number of votes for Governor at the preceding general election in such election precinct. In the event of a tie vote for Governor by the parties casting the highest aggregate vote at the preceding general election for such office in any election precinct the chairman of the County Central Committee of such parties shall determine by lot, in such manner as they may agree upon, which party shall be entitled to select 3 judges and which party shall select 2 judges in such precinct, and they shall so certify to the county board, which shall select the judges in such election precinct in the manner hereinbefore provided. If there is a tie vote for Governor in more than one election precinct in a county, the determination by lot shall permit the successful party to choose, alternately the election precincts in which it will select 3 judges; and the other party shall have the second choice, alternately. * * * "

Because I am of the opinion that the foregoing statutory provision is applicable, the judges of election are to be selected by the county board and not the city council.

In your second question you have asked whether the election judges of Freeport township are required to

be selected on the basis of three judges for the Republican party and two judges for the Democratic party. You will note that the statute requires the county board to select three judges from the party which cast the greatest number of votes at the preceding general election for Governor in such election precinct and two judges from the party casting the second highest number of votes at the preceding general election in such election precinct. In this particular case three of the judges would be selected from the Republican party and two from the Democratic party.

You have subsequently asked who has the primary responsibility of determining the precinct boundaries for county and state elections. The pertinent provisions are found in Section 11-2 of The Election Code (Ill. Rev. Stats. 1969, ch. 46, par. 11-2.) which states as follows:

"The County Board in each county, except in counties having a population of 3,000,000 inhabitants or over, shall, at its regular meeting in June, divide its election precincts which contain more than 800 voters, into election districts so that each district shall contain, as near as may be practicable, 500 voters, and not more in any case than 800.

Whenever the County Board ascertains that any election precinct contains more than 600 registered voters, it may divide such precinct, at its regular meeting in June, into election precincts so that each precinct shall contain, as nearly as may be practicable, 500 voters. In determining whether a division of precincts should be made, the county board may anticipate increased voter registration in any precinct in which there is in progress new construction of dwelling units which will be occupied by voters more than 30 days before the next election. Each district shall be composed of contiguous territory in as compact form as can be for the convenience of the electors voting therein. The several county boards in establishing districts shall describe them by metes and bounds and number them. And so often thereafter as it shall appear by the number of votes cast at the general election held in November of any year, that any election district or undivided election precinct contains more than 800 voters, the County Board of the county in which the district or precinct may be, shall at its regular meeting in June, or an adjourned meeting in July next, after such November election, redivide or readjust such election district or election precinct, so that no district or election precinct shall contain more than the number of votes above specified.

* * * "

It can be observed from the foregoing provision that the County Board has the responsibility of determining election precinct boundaries for county and state elections.

Very truly yours,

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