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SPRINGFIELD

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FILE NO. S-1133

ELECTIONS:
Registration of
Military Personnel

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

Dear Mr. Hoogasian:

I have your letter wherein you ask whether one who swears to the supporting affidavit required by section 6-67.01 of The Election Code (Ill. Rev. Stat. 1975, ch. 46, par. 6-67.01) must be a registered voter. Section 6-67.01 allows a non-registered person in military service to vote in an election held pursuant to Article 6 of The Election Code if he signs an appropriate affidavit and if a supporting

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affidavit is signed by a qualified voter. Section 6-67.01 states in part:

"The affidavit of any such person shall be supported by the affidavit of a resident and qualified voter of any such precinct and ward
* * * "

The only issue to be resolved is whether the qualified voter who swears to the supporting affidavit must be a registered voter.

Section 6-67.01 sets out the form of the supporting affidavit. The affiant must swear that he is "entitled to vote in this election". Generally, only those persons who are registered are entitled to vote in elections held pursuant to Article 6 of The Election Code. Section 6-27 of the Code (Ill. Rev. Stat. 1975, ch. 46, par. 6-27) provides in pertinent part as follows:

" * * *
After the first registration provided by this Article, the vote of no person, other than an elector voting pursuant to Article 20 of this Act or exempt under Section 6-67.01 or 6-67.02 of this Article from registration, shall be received in any election conducted under the provisions of this Article 6 or Articles 14 and 18 of this Act unless such person has registered under the provisions of this Article in the precinct in which such person resides. * * * "

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Because registration is a requirement for voting in Article 6 elections, a person who swears that he is entitled to vote at such an election must be a registered voter. Therefore, the qualified voter who swears to the supporting affidavit must be registered.

This conclusion is confirmed by examining the meaning of the term "qualified voter" in section 6-67.01. Where a meaning is attributed to a word and it again appears in the same statute, it should be given consistent meaning unless a contrary legislative intent is clearly expressed. (Chapman v. County of Will, 55 Ill. 2d 524.) Section 6-67.01 describes the affidavit that a non-registered person in military service must submit at the polling place. The affidavit states in part as follows:

* * * * I am qualified to vote under and by virtue of the Constitution and laws of the State of Illinois, and that I am a legally qualified voter of this precinct and ward except that I have, because of such service, been unable to register as a voter; * * * *

The term "qualified voter" in the affidavit clearly means one who is registered since the affidavit swears that he is qualified except for the fact that he is not registered.

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It must be presumed that the term "qualified voter" has the same meaning in other parts of section 6-67.01. Thus, the requirement that a "qualified voter" must swear to the supporting affidavit refers to a registered voter.

The court in Stout v. Black, 8 Ill. App. 3d 167, used a similar analysis when it held that "qualified voter" meant registered voter in section 10-3 of The Election Code (Ill. Rev. Stat. 1975, ch. 46, par. 10-3). The court based its decision on the fact that the legislature had clearly indicated that "qualified voter" in section 10-4 of the Code (Ill. Rev. Stat. 1975, ch. 46, par. 10-4) referred to a registered voter. Because both section 10-3 and 10-4 dealt with nominating petitions, the court was convinced that the legislature intended the term "qualified voter" to have the same meaning in both sections.

In conclusion, for the reasons stated above, it is my opinion that the supporting affidavit required by section 6-67.01 of The Election Code must be sworn to by a registered voter.

Very truly yours,

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