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SPRINGFIELD

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FILE NO. S-1399

ELECTIONS:
Voter Registration for
Election of Fire Protection
District Trustees

Honorable William D. Henderson
State's Attorney of McDonough County
Court House
Macomb, Illinois 61455

Dear Mr. Henderson:

I have your letter wherein you ask whether voters are required to be registered in order to vote for the election of trustees of a fire protection district. It is my opinion that unless the board of trustees of the district has adopted the provisions of article 4 of the Election Code (Ill. Rev. Stat. 1977, ch. 46, par. 4-1 et seq.), registration is not a requirement for voting for the election of trustees of the fire protection district.

Honorable William D. Henderson - 2.

Section 4a of "AN ACT in relation to fire protection districts" (Ill. Rev. Stat. 1977, ch. 127 1/2, par. 24.1) enables the electors of a fire protection district to have an elected, rather than an appointed, board of trustees. The election of trustees is governed by the provisions of the Election Code. Section 4a provides in pertinent part:

" * * *

* * * Except as otherwise provided in this Act, the provisions of 'The Election Code' shall apply to and govern the nomination and election of trustees.

* * *

The provisions of article 4 of the Election Code describe the registration requirements for elections in counties having a population of less than 500,000. The application of the registration requirements is detailed in section 4-1 of the Election Code (Ill. Rev. Stat. 1977, ch. 46, par. 4-1) which reads in pertinent part as follows:

"Except as provided in this Article 4, it is unlawful for any person residing in a county containing a population of less than 500,000, to vote at any primary, general or special election at which any state, county or township

officers are to be nominated or elected, or at any election at which propositions submitted by a constitutional convention are to be voted on or at any election at which officers of a city, village or incorporated town with a population of 500 or more are to be nominated or elected, unless such person is at the time of such election a registered voter under the provisions of this Article 4.

The provisions of this Article do not apply to electors voting in an election of any city, village or incorporated town with a population of less than 500 or in any park district, school district, drainage district, road district or sanitary district election, except as provided in Section 4-24 or Section 4-26. * * *

The first paragraph of section 4-1 specifies the elections for which registration is a requirement. Because the election of fire protection district trustees is not included in those elections, registration generally is not a requirement for voting for the election of district trustees.

The second paragraph of section 4-1 provides that section 4-26 of the Election Code (Ill. Rev. Stat. 1977, ch. 46, par. 4-26) may make the registration requirements in article 4 applicable to certain special districts. It is clear from the provisions of section 4-26 that in addition to the districts listed in section 4-1, other special districts, including fire protection districts, may adopt the registration requirements in article 4. Section 4-26 provides in pertinent part:

Honorable William D. Henderson - 4.

"In any county having a population of less than 500,000, any municipality, as defined in Section 1-1-2 of the Illinois Municipal Code, as now and hereafter amended, with a population of less than 500, which has not adopted and is not operating under the provisions of Articles 6, 14 and 18 of this Act, and in any such county, any park district, school district, drainage district, road district, or sanitary district or other municipality as defined in Section 1-3, paragraph 5 of this Act may, by ordinance duly adopted by the legislative authority thereof, adopt this Article 4 and make it applicable to all elections held therein for the nomination at a primary and the election of the officers thereof. * * *

* * *

(Emphasis added.)

Paragraph 5 of section 1-3 of the Election Code (Ill. Rev. Stat. 1977, ch. 46, par. 1-3) defines "municipality" as "any political or governmental subdivision". Therefore, the board of trustees of a fire protection district may adopt the provisions of article 4 of the Election Code pursuant to section 4-26 of the Code.

In summary, the provisions of the Election Code govern the election of fire protection district trustees. Generally, the Code does not require voters for the election of district trustees to be registered. The board of trustees of the district, however, may make registration a requirement for voting by adopting an appropriate ordinance pursuant to section 4-26 of the Election Code.

Honorable William D. Henderson - 5.

It should be noted that House Bill 2554, which concerns the implementation of the schedule of consolidated elections established by Public Act 80-936, would require the voters at fire protection district elections to be registered. The bill was amendatorily vetoed by the Governor on September 19, 1978.

Very truly yours,

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