



NEIL F. HARTIGAN

ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

November 10, 1983

FILE NO. 83-022

COUNTIES:

Authority of County to Levy a Tax to
Construct a County Jail under Section 1 of
"AN ACT authorizing certain counties to
levy an additional tax for the housing
of county offices and departments"

Honorable Edmond H. Rees
State's Attorney, Macoupin County
Courthouse
Post Office Box 480
Carlinville, Illinois 62626

Dear Mr. Rees:

I have your letter wherein you inquire whether a tax
may be levied pursuant to section 1 of "AN ACT authorizing
certain counties to levy an additional tax for the housing of
county offices and departments" (Ill. Rev. Stat. 1981, ch. 34,
par. 2154) for the purpose of constructing a county jail. For
the reasons hereinafter stated, it is my opinion that the

Honorable Edmond H. Rees - 2.

construction of a county jail is a proper purpose for which a tax may be levied under the provisions of the aforementioned statute.

Section 1 of "AN ACT authorizing certain counties to levy an additional tax for the housing of county offices and departments" provides as follows:

"Upon the adoption of a resolution approved by not less than two-thirds of the members of the board, the county board of any county having less than 80,000 inhabitants may levy an annual tax of not to exceed .04% of value, as equalized or assessed by the Department of Revenue, on all taxable property of the county, for the purpose of providing housing for county offices and departments. Such tax shall be levied and collected in like manner as the general taxes of the county and shall be paid into the 'County Offices Fund' which is hereby created. Such tax shall be in addition to all other taxes which the county is or may be authorized to levy and shall not be included in any limitation of rate or amount but shall be excluded therefrom and in excess thereof. Such tax shall not be levied for more than 5 years, except that if the same procedure is followed as is provided in this Act for the original levy, the tax may be levied for an additional period not to exceed 5 years." (Emphasis added.)

The office of sheriff is provided for in article VII, section 4(c) of the 1970 Illinois Constitution. The powers and duties of the sheriff are set forth in "AN ACT to revise the law in relation to sheriffs" (Ill. Rev. Stat. 1981, ch. 125, par. 1 et seq.). Section 15 of that Act (Ill. Rev. Stat. 1981, ch. 125, par. 15) provides in part:

Honorable Edmond H. Rees - 3.

" * * *

Each sheriff shall keep and maintain his or her office at the county seat of the county for which he or she is sheriff * * *."

Furthermore, section 14 of this Act (Ill. Rev. Stat. 1981, ch. 125, par. 14) makes the sheriff the custodian of the jail.

Section 1 of "AN ACT to revise the law in relation to jails and jailers" (Ill. Rev. Stat. 1981, ch. 75, par. 1), requires each county to maintain a county jail. The cost of keeping, maintaining, and furnishing the jail is placed upon the county, pursuant to section 24 of the same Act (Ill. Rev. Stat. 1981, ch. 75, par. 24).

It is clear from these constitutional and statutory provisions that the office of the sheriff is a county office or department within the purview of section 1 of "AN ACT authorizing certain counties to levy an additional tax for the housing of county offices and departments", and the county jail is one of the facilities of the county, the construction, maintenance and operation of which is mandated by law, requiring appropriate housing. Therefore, it is my opinion that a tax may be levied under the provisions of section 1 for the purpose of constructing a county jail.

Very truly yours,


ATTORNEY GENERAL