



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Jim Ryan
ATTORNEY GENERAL

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FILE NO. 96-029

REVENUE:
Qualifications to Serve on
Board of Review in a
Commission County

Honorable Dennis Doyle
State's Attorney, Monroe County
Monroe County Courthouse
Waterloo, Illinois 62298

Dear Mr. Doyle:

I have your letter wherein you inquire whether members of an appointed board of review in counties not under township organization are required to meet the training and proportional representation requirements set out in sections 6-5, 6-10 and 6-15 of the Property Tax Code (35 ILCS 200/6-5, 6-15 (West 1994) and 35 ILCS 200/6-10 (West 1994), as amended by Public Act 89-126, effective July 11, 1995). For the reasons hereinafter stated, it is my opinion that appointed board of review members in counties not under township organization are required to satisfy the educational requirements which are applicable to the county commissioners whom they replace; they are not, however, subject to the proportional representation requirements which are

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applicable to boards of review in counties under township organization. Moreover, it is also my opinion that appointed board of review members in counties not under township organization serve at the pleasure of the board of county commissioners.

Article 6 of the Property Tax Code (35 ILCS 200/6-5 et seq. (West 1994)) provides for the creation and operation of boards of review. Sections 6-5, 6-10 and 6-15 of the Property Tax Code set forth, inter alia, the requirements for appointed boards of review in counties under township organization, providing respectively, in pertinent part:

"In counties under township organization with less than 3,000,000 inhabitants in which no board of review is elected under Section 6-35, there shall be an appointed board of review to review the assessments made by the supervisor of assessments. When there is no existing appointed board of review, the chairman of the county board shall appoint, with approval of the county board, 3 citizens of the county to comprise the board of review for that county, 2 to serve for a one year term commencing on the following June 1, and one to serve for a 2 year term commencing on the same date. When an appointed board of review already exists, successors shall be appointed and qualified to serve for terms of 2 years commencing on June 1 of the year of appointment and until their successors are appointed and qualified. Vacancies shall be filled in like manner as original appointments, for the balance of the unexpired term. Members of the county board may be appointed to the board of review. A member of the board of review may be reappointed. No person may serve on the

board of review who is not qualified by experience and training in property appraisal and property tax administration." (Emphasis added.)

"In any county to which Section 6-5 applies and which has 100,000 or more inhabitants, no person may serve on the board of review who has not passed an examination prepared and administered by the Department to determine his or her competence to hold the office. The examination shall be conducted by the Department at some convenient location in the county. * * * The county board of any other county may, by resolution, impose a like requirement in its county. In counties with less than 100,000 inhabitants, the members of the board of review shall within one year of taking office successfully complete a basic course in assessment practice approved by the Department." (Emphasis added.)

"The board of review appointed under Section 6-5 shall consist of 2 members affiliated with the political party polling the highest vote for any county office in the county, and one member of the party polling the second highest vote for the same county office at the last general election prior to any appointment made under this Section. Each member of the board of review shall receive an annual salary to be fixed by the county board and paid out of the county treasury." (Emphasis added.)

A board of review may be appointed in counties not under township organization pursuant to section 6-30 of the Property Tax Code (35 ILCS 200/6-30 (West 1994)), which provides:

"In counties not under township organization with less than 3,000,000 inhabitants in which no board of review is elected under Section 6-35, the board of county commissioners shall constitute the board of review. They shall have all the powers and perform all the duties conferred

on or required by boards of review and shall within one year of taking office successfully complete a basic course in assessment practice approved by the Department. Alternatively, the board of county commissioners may appoint a 3-member board of review. County commissioners shall receive no additional compensation for serving on the board of review. Members of a board of review appointed by the board of county commissioners shall receive a per diem for their services as established by the board of county commissioners." (Emphasis added.)

The primary rule of statutory construction is to ascertain and give effect to the intent of the General Assembly. (People v. Tucker (1995), 167 Ill. 2d 431, 435.) Legislative intent is best evidenced by the language used in the statute. (Bubb v. Springfield School Dist. (1995), 167 Ill. 2d 372, 381.) Where the language of a statute is clear and unambiguous, it must be given effect as written. Branson v. Department of Revenue (1995), 168 Ill. 2d 247, 254.

Under section 6-30 of the Property Tax Code, in those counties not under township organization in which no board of review is elected, the county commissioners serve, ex-officio, as the board of review. In the alternative, however, the commissioners are authorized to appoint a three member board of review to serve in their stead. Because the commissioners serve ex officio as the board of review, no separate term of office is prescribed therefor, and no independent proportional representation requirements are (or could be) imposed. The General Assembly has not incorporated, by reference or otherwise,

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the provisions of sections 6-5, 6-10 or 6-15 of the Code into section 6-30 thereof. The requirements of those sections have not been made applicable, either expressly or impliedly, to boards of review in non-township counties. Consequently, there is no basis upon which to presume that the General Assembly intended for those requirements to be applicable to boards of review appointed in non-township counties, when their language is specifically keyed to boards of review in counties under township organization. Therefore, it is my opinion that appointed board of review members in counties not under township organization are not generally required to satisfy the statutory requirements that are applicable to appointed board of review members in counties under township organization.

Notwithstanding this conclusion, it is my opinion that appointed board of review members in non-township counties are required to comply with the educational requirements set out in section 6-30 of the Code, wherein it is provided that county commissioners who serve as board of review members "* * * shall within one year of taking office successfully complete a basic course in assessment practice * * *." There is no express educational requirement for appointed board of review members serving at the direction of the county commissioners. The educational requirements applicable to the county commissioners and similar requirements applicable to boards of review in counties under township organization, however, clearly

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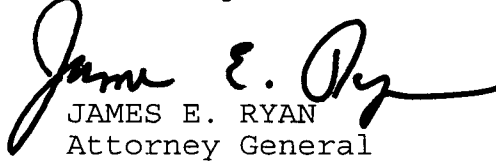
demonstrate the intent of the General Assembly to ensure that each member of a board of review possesses a minimum level of knowledge regarding property appraisal and property tax administration. When the commissioners delegate their authority to serve as a board of review to others, their appointees assume office cum onere and are therefore subject to the restrictions placed upon their offices. To conclude otherwise would result in the incongruity of requiring county commissioners, when electing to serve ex-officio as the board of review, to complete a basic course in assessment practice while excusing appointed board of review members from that training requirement. Clearly, there is no rational basis for excluding appointed board of review members in non-township counties from meeting the educational requirements which are applicable to the commissioners they replace. Consequently, it is my opinion that under section 6-30 of the Code, appointed board of review members in counties not under township organization must complete a basic course in assessment practice within one year of taking office.

I also note that section 6-30 does not prescribe a term of office for board of review members appointed pursuant to its provisions. The terms of office specified in section 6-5 of the Code for board of review members in counties under township organization have not been made applicable to boards of review in counties not under township organization. It is well established that where a term of office is not fixed by constitutional or

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statutory provision, appointed officers hold their positions at the pleasure of the appointing authority. (Anderson v. City of Jacksonville (1942), 380 Ill. 44, 45; Dumke v. Anderson (1976), 44 Ill. App. 3d 626, 632.) Therefore, it is my opinion that appointed board of review members in non-township counties serve at the pleasure of the county commissioners who have appointed them.

Sincerely,


JAMES E. RYAN
Attorney General