



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

April 13, 1979

FILE NO. S-1425

OFFICERS:
Political Affiliation Required
For Members of County Board
of Review

Honorable Michael M. Mihm
State's Attorney
Peoria County
Court House
Peoria, Illinois 61602

Dear Mr. Mihm:

This responds to your letter wherein you inquire about the composition of the Peoria County Board of Review. In your letter you state that Peoria County is a county under township organization containing less than 1,000,000 inhabitants in which no board of review has been elected pursuant to section 10 of the Revenue Act of 1939. (Ill. Rev. Stat. 1977, ch. 120, par. 491.) Therefore, you point out that your county is subject to the provisions of section 8 of the Revenue Act of 1939 (Ill. Rev. Stat. 1977, ch. 120, par. 489), which provides that the board of review shall at

Honorable Michael M. Mihm -2.

all times consist of three members: two 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 in the county at the last general election in the county prior to the time any appointment is made under this section. You have furnished the information that the election held in November 1978 was the last general election in the county. A Republican candidate polled the highest vote for any county office (Superintendent of the Educational Service Region) in that election. The candidate for the office of Superintendent of the Educational Service Region ran unopposed; consequently, no member of any party polled a second highest vote for the same county office. The county office receiving the highest vote for any county office for which more than one political party slated candidates was the office of sheriff. The Democratic candidate won the election for the office of sheriff and the Republican candidate polled the second highest vote in the race for the office of sheriff.

You indicate that the Board of Review of Peoria County is currently comprised of two members of the Democratic party and one member of the Republican party. The terms of the

Honorable Michael M. Mihm -3.

Democratic members expire in 1979 and the county board must approve the appointment of two members of the Board of Review before June 1, 1979. You ask whether one member of the Republican party and one member of the Democratic party should be appointed effective June 1, 1979, or whether two members of the Democratic party should be appointed effective June 1, 1979.

Section 8 of the Revenue Act does not expressly say that the county office which polled the highest vote for a political party shall be an office in which there was a contest but such language should be implied. The statute states that one member shall be affiliated with the party polling the second highest vote for "the same county office". It is necessarily implied that this office must be one in which more than one political party slated a candidate; otherwise there may not be a second highest vote, a situation which exists in your county. A statute should be so read and construed, if possible, that no word, clause or sentence is rendered superfluous or meaningless. (Peacock v. Judges Retirement System of Illinois (1957), 10 Ill. 2d 498; Donahoo v. Board of Education of School District No. 303 (1953), 413 Ill. 422.) Necessary implications and intendments

Honorable Michael M. Mihm -4.

from the language used in a statute may be resorted to in order to ascertain legislative intent. (U.S. v. Jones, 204 F. 2d 745.) At page 754 of that opinion the court said:

"In construing any statute, anything within the clear intention of the legislative body enacting it is within the statute, though not within the strict letter of the law. People ex rel. v. Stratton, 335 Ill. 455, 167 N.E. 31; People v. Elgin Home Protective Ass'n, 359 Ill. 379, 194 N.E. 584. Statutes are to be construed as a whole. Village of Glencoe v. Hurford, 317 Ill. 203, 148 N.E. 69. The court must read the entire act and from the words used determine the legislative intent. Armour Grain Co. v. Pittsburgh, C., C. & St. L. R. Co., 320 Ill. 156, 150 N.E. 650. So, though the term arrest is not used in the statute, the language employed necessarily implies that such power was included.

Necessary implication refers to a logical necessity; it means that no other interpretation is permitted by the words of the Acts construed; and so has been defined as an implication which results from so strong a probability of intention that an intention contrary to that imputed cannot be supported. 42 C.J.S., page 405 and cases there cited. The term is used where the intention with regard to the subject matter may not be manifested by explicit and direct words, but is gathered by implication or necessary deduction from the circumstances and the general language. Burford v. Huesby, 35 Cal. App. 2d 643, 96 P. 2d 380; Goldfein v. Continental Ins. Co., 125 Neb. 112, 249 N.W. 78; 42 C.J.S., page 406. Consequently that which is implied in a statute is as much a part of it as that which is expressed, for a statutory grant of a power carries with it, by implication, everything necessary to carry out the power and make it effectual and complete. * * * "

Under the facts presented in your letter, the political

Honorable Michael M. Mihm -5.

party polling the highest vote for a county office for which more than one political party was slated was the Democratic party. This was for the office of sheriff in which the Democratic candidate won the election. I am therefore of the opinion that two members of the Democratic party should be appointed for the new terms which commence on June 1, 1979.

Very truly yours,

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