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SPRINGFIELD

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FILE NO. S-1426

COUNTIES:  
Method of Establishment  
of Holidays For County Officers

Honorable James E. Dull  
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Dear Mr. Dull:

This responds to your request for an opinion in reference to the setting of holidays for county personnel for the year. You ask who in the county has the right to set the holidays for the officeholders and their employees.

It is first necessary to examine pertinent powers of a county board found in section 24 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 303) which authorizes county boards to:

" \* \* \*

Thirteenth--To authorize the closing on Saturday mornings of all offices of all county officers at the county seat of each county, and

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to otherwise regulate and fix the days and the hours of opening and closing of such offices, except when the days and the hours of opening and closing of the office of any county officer are otherwise fixed by law; provided, however, that the power herein conferred, shall not apply to the office of State's Attorney and the offices of judges and clerks of courts and, in counties of 500,000 or more population, the offices of county clerk.

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Thus, a county board has the authority to regulate and fix the days and hours of opening and closing of county offices except when the days and hours of opening and closing are otherwise fixed by law. Under this authority the county board may determine the number of holidays for employees of county offices, except for the State's Attorney, judges, circuit clerks, and in counties over 500,000 in population, the county clerk, and except where holidays for certain officers are otherwise established by law. It therefore becomes necessary to examine the statutes pertaining to the various county offices to ascertain if there is any specific provision concerning the establishment of holidays which prevails over the foregoing general provision.

Section 4a of "AN ACT to revise the law in relation to county treasurer" (Ill. Rev. Stat. 1977, ch. 36, par. 4a) provides as follows:

"The county treasurer shall keep his office open and attend to the duties thereof from eight o'clock in the forenoon to five o'clock in the

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afternoon on each working day excepting such days as under law are legal holidays, and may close his office at 12 o'clock on Saturday of each week; Provided, that the county treasurer shall not be compelled to open his office before the hour of nine o'clock a.m. and, by permission of the county board, the treasurer may close his office all day Saturday: Provided, further, that the hours of opening and closing of the office of the county treasurer may be changed and otherwise fixed and determined by the county board of any county. Any such action taken by the county board shall be by an appropriate resolution passed at a regular meeting."

This section specifically provides that the office of the county treasurer is not to be open on legal holidays. This specific statutory provision prevails. While the hours of opening and closing may be changed by the county board, the days may not be.

There are similar statutory provisions for sheriffs, recorders, and county clerks. See section 15 of "AN ACT to revise the law in relation to sheriffs" (Ill. Rev. Stat. 1977, ch. 125, par. 15), section 9.05 of "AN ACT to revise the law in relation to recorders" (Ill. Rev. Stat. 1977, ch. 115, par. 9.05), and section 4 of "AN ACT to revise the law in relation to county clerks" (Ill. Rev. Stat. 1977, ch. 35, par. 4). However, section 4 of "AN ACT to revise the law in relation to county clerks" does provide specially that the days on which such office shall be open may be changed and otherwise fixed and determined by the county board:

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\* \* \*

Provided, that the days on which such office shall be open and the hours of opening and closing of the office of the county clerk may be changed and otherwise fixed and determined by the county board of any county. Any such action taken by the county board shall be by an appropriate resolution passed at a regular meeting.

\* \* \*

"

Therefore, it is clear that in the case of the county clerk's office in counties of less than 500,000 population, the county board, if it so desired, could establish a holiday schedule which might grant more or less holidays than the legal holidays which are provided for in this statute.

Thus it is necessary to determine the legal holidays in Illinois. The legal holidays are established by State statutes. The principal statute is section 17 of "AN ACT to revise the law in relation to promissory notes, bonds, due bills and other instruments in writing (Ill. Rev. Stat. 1977, ch. 98, par. 18), which states in part as follows:

"The first day of January, commonly called New Year's Day, the third Monday in February, the 30th day of May, the fourth day of July, the second Monday in October, the twenty-fifth day of December, commonly called Christmas Day, the first Monday in September, to be known as Labor Day, the twelfth of February, November 11 to be known as Veterans Day, any day appointed or recommended by the Governor of this State or the President of the United States as a day of fast or Thanksgiving, any day proclaimed by the Governor, the days upon which the general elections for members of the House of Representa-

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tives are held, and in cities of 200,000 inhabitants or more from 12 o'clock noon to 12 o'clock midnight of the last day of the week commonly called Saturday, are legal holidays and half holidays, the term half holidays including the period from noon to midnight of each Saturday which is not a holiday. \* \* \* When any such holidays fall on Sunday, the Monday next following shall be held and considered such holiday. \* \* \*

\* \* \*

In addition to the legal holidays mentioned in the foregoing statute, Good Friday is declared also to be a legal holiday in section 1 of "AN ACT making the Friday before Easter Sunday a legal holiday" (Ill. Rev. Stat. 1977, ch. 98, par. 20b). Thus the holidays of the county treasurer's, sheriff's, recorder's, and clerk's (unless changed by the county board) offices are the legal holidays set forth in the foregoing statutes.

The county board has the authority to fix the holidays of the offices of county auditor, coroner and county departmental officers under the provisions of section 24 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 303) inasmuch as there is no other statutory provision on this subject relating to these offices.

Next to be considered are the holidays for the circuit judges, State's Attorney, and circuit clerk. The county board does not have the authority to regulate and fix

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the days and the hours of opening or closing of the offices of State's Attorney, judges and clerks of courts since such is prohibited by subparagraph 13 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1977, ch. 34, par. 303), and there is no other statute which authorizes the county board to regulate the days and the hours of opening or closing of these offices. Consequently, the county board does not have the authority to fix the holidays of these offices.

There does not appear to be any statutory provision regarding the work days of the State's Attorney. Consequently, I am of the opinion that he has implied authority to establish the holidays for his office.

Section 6 of "AN ACT to revise the law in relation to clerks of courts" (Ill. Rev. Stat. 1977, ch. 25, par. 6) provides as follows:

"The clerks of the Circuit Courts shall keep their offices at the court house of their respective counties, and shall keep their offices open and attend to the duties thereof during such hours on each day, and on such days as may be ordered by the rule of the court in such county, which rule may be changed from time to time as the court may see fit."

Under the above provision the court by rule determines the days that the office of the clerk of the circuit court shall be open. The court, therefore, by rule would establish the holidays for the office of clerk of the circuit

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court. See, Supreme Court Rule 21(a), Ill. Rev. Stat. 1977, ch. 110A, par. 21(a).

With regard to the holidays for the judges of the circuit court, your attention is directed to paragraph (c) of section 7 of article VI of the 1970 Illinois Constitution which provides as follows:

"(c) Circuit Judges in each circuit shall select by secret ballot a Chief Judge from their number to serve at their pleasure. Subject to the authority of the Supreme Court, the Chief Judge shall have general administrative authority over his court, including authority to provide for divisions, general or specialized, and for appropriate times and places of holding court."

Paragraph (b) of Supreme Court Rule 21 (Ill. Rev. Stat. 1977, ch. 110A, par. 21) provides as follows:

"(b) The chief judge of each circuit may enter general orders in the exercise of his general administrative authority, including orders providing for assignment of judges, general or specialized divisions, and times and places of holding court."

It can be observed from the foregoing constitutional provision and Supreme Court Rule that the chief judge of the circuit court establishes by his general order the times and places of holding court. Under the authority of these provisions, in my opinion, the chief judge of the circuit court could set the holidays for the judges of the circuit court.

Thus, in conclusion I am of the opinion that the

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holiday of the offices of county treasurer, sheriff, recorder, and (unless changed by the county board) the clerk are the legal holidays as set by statute. The holidays of the office of State's Attorney are determined by the State's Attorney; those of the circuit clerk are determined by rule of the circuit court; those of judges are determined by order of the chief judge. Holidays of other county officers and employees are determined by the county board.

This opinion pertains only to setting of holidays. With regard to opening of county offices on Saturday, see opinion No. NP-538, issued November 9, 1972.

Very truly yours,

A T T O R N E Y   G E N E R A L