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STATE OF ILLINOIS
SPRINGFIELD

September 13, 1982

FILE NO. 82-031

COUNTIES:

Authority of County Board to Abolish
Tuberculosis Sanitarium and
Sanitarium Board

Honorable Ronald C. Dozier
State's Attorney, McLean County
McLean County Law and Justice Center
104 West Front Street, Room 102
Bloomington, Illinois 61701

Dear Mr. Dozier:

I have your letter in which you inquire whether Public Act 82-655, effective January 1, 1982, permits a county board to discontinue, without referendum, the tax for tuberculosis care and treatment authorized pursuant to sections 22 and 23 of "AN ACT relating to the care and treatment by counties of persons afflicted with tuberculosis, etc." (Ill. Rev. Stat. 1981, ch. 34, pars. 5124, 5125). You also inquire whether a county board may abolish a tuberculosis care and treatment board established pursuant to section 24 of the Act (Ill. Rev.

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Stat. 1981, ch. 34, par. 5126). For the reasons hereinafter stated, I agree with your conclusion that Public Act 82-655 does not authorize a county board to discontinue the tax for tuberculosis care and treatment or abolish the county's tuberculosis care and treatment board without referendum.

The provisions of "AN ACT relating to the care and treatment by counties of persons afflicted with tuberculosis, etc." (Ill. Rev. Stat. 1981, ch. 34, par. 5101 et seq.) authorize two methods of providing for the care and treatment of persons afflicted with tuberculosis. The first is set forth in section 1 of the Act (Ill. Rev. Stat. 1981, ch. 34, par. 5101), which authorizes the establishment of a tuberculosis sanitarium operated by the board authorized in section 3 (Ill. Rev. Stat. 1981, ch. 34, par. 5104) and the levying of a tax therefor to establish a fund known as the Tuberculosis Sanitarium Fund. The second method, under sections 22 through 28 (Ill. Rev. Stat. 1981, ch. 34, pars. 5124 through 5130), empowers a county board to provide for the care and treatment of inhabitants afflicted with tuberculosis and to levy a tax therefor to establish a fund known as the Tuberculosis Care and Treatment Fund. The chairman or president of the county board, with the approval of the county board, is authorized to appoint a board to administer this fund and provide for care and treatment. (Ill. Rev. Stat. 1981, ch. 34, par. 5126.)

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You have stated that, in the early 1970s, your county discontinued the tax for the tuberculosis sanitarium board, sold the tuberculosis sanitarium, and by referendum under sections 22 and 23 of the Act (Ill. Rev. Stat. 1981, ch. 34, pars. 5124, 5125), provided for the levy of a tuberculosis care and treatment tax. A tuberculosis care and treatment board was established and continues to operate.

Section 1a of the Act (Ill. Rev. Stat. 1981, ch. 34, par. 5101a), which was added by Public Act 82-655, provides in pertinent part:

"After October 1, 1982, the county board of each county which has established a tuberculosis sanitarium and appointed a board pursuant to this Act may, by resolution abolish such board and sanitarium * * * :

* * *

(Emphasis added.)

By its plain words, section 1a applies only to the sanitarium established pursuant to section 1 of the Act (Ill. Rev. Stat. 1981, ch. 34, par. 5101). It contains no reference to the care and treatment provisions contained in section 22 of the Act (Ill. Rev. Stat. 1981, ch. 34, par. 5124) or to the board of directors appointed pursuant to section 24 of the Act (Ill. Rev. Stat. 1981, ch. 34, par. 5126). Therefore, it is clear that new section 1a applies only to a sanitarium and its board.

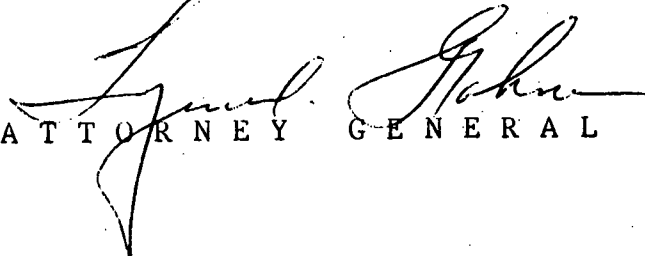
The only method for discontinuance of the care and treatment tax and board is by referendum held pursuant to

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section 29 of the Act (Ill. Rev. Stat. 1981, ch. 34, par. 5131). Public Act 82-655 does not purport to apply to or affect this section or any care and treatment programs conducted under section 22 (Ill. Rev. Stat. 1981, ch. 34, par. 5124). A non-home-rule county can exercise only such powers as are expressly given by law, or such as arise by necessary implication from powers granted. Dahnke v. People (1897), 168 Ill. 102, 114; Andrews et al. v. County of Madison (1977), 54 Ill. App. 3d 343, 350-51.

Therefore, it is my opinion that Public Act 82-655 does not authorize your county board to discontinue its tax for tuberculosis care and treatment or its tuberculosis care and treatment board.

Very truly yours,


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