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STATE OF ILLINOIS
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SPRINGFIELD

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FILE NO. S-535

FEEs AND SALARIES:
Compensation of County
Board Members

Honorable L. Stanton Dotson
State's Attorney Coles County
Courthouse
P. O. Box 297
Charleston, Illinois

Dear Mr. Dotson:

I have your recent letter wherein you state:

"Please send this office an official Attorney General's Opinion stating whether or not members of the County Board can receive two fees per day for attending two official County Board committee meetings or a County Board meeting and a committee meeting on the same day. On December 2, 1964, your predecessor wrote an opinion which is published as the first opinion in the 1965 Attorney General's Opinion stating that the Board of Supervisors could not receive two fees per day. Said opinion interpreted

Ill. Rev. Stats. 1971, Chap. 53, Sec. 58, which became ineffective on May 1, 1972.

"The Coles County Board was re-apportioned by resolution based on Ill. Rev. Stats. 1971, Chap. 34, Sec. 831 et seq., and compensation for County Board members was fixed by separate resolution at the rate of \$35.00 per day for the County Board Meetings and \$25.00 per day for committee meetings except for the Chairman who received \$50.00 per day. Said resolution which was passed by the former supervisors is attached hereto and made a part hereof by reference.

"On July 11, 1972, the new County Board passed the following rule: "No committeeman shall be entitled to compensation for committee work on the day the Board is in session, except by permission of the Board. Committees shall not sit during the session, except by permission of the Board No member shall be paid for more than one committee meeting on any given date except by leave of the Board. In no case shall compensation for more than two committee meetings on one day be paid." It appears to me that Ill. Rev. Stats. 1971, Chap. 53, Sec. 58.1 needs interpretation to decide the aforesaid question, and said statute differs substantially from Sec. 58.

"The Coles County Board and the undersigned State's Attorney would deeply appreciate your opinion regarding the validity of the present Board rules quoted aforesaid. Thank you for your opinion in this matter."

The information which you submitted indicates that on June 14, 1971 the former county board passed a resolution

which provided that the county board members shall receive \$35.00 per day for each day said members attend county board meetings and \$25.00 per day for each day said members attend committee meetings. It was further provided that the chairman of the board was to receive an additional amount of \$50.00 per month during his tenure as chairman.

You have further advised that on July 11, 1972 the new county board passed the following rule:

"No committeeman shall be entitled to compensation for committee work on the day the Board is in session, except by permission of the Board. Committees shall not sit during the session, except by permission of the Board No member shall be paid for more than one committee meeting on any given date except by leave of the Board. In no case shall compensation for more than two committee meetings on one day be paid."

You have asked my opinion as to the validity of the foregoing rule.

First of all, your attention is called to subsection (b) of Section 9 of Article VII of the 1970 Illinois Constitution which provides:

"(b) An increase or decrease in the salary of an elected officer of any unit of local

government shall not take effect during the term for which that officer is elected."

Because of the foregoing constitutional provision it is apparent that any provision of the rule adopted on July 11, 1972 which would have the effect of increasing or decreasing the salary of a county board member would be invalid since the rule was adopted during the terms of the county board members. Furthermore, Section 38 of "AN ACT to revise the law in relation to counties.", (Ill. Rev. Stat. 1971, ch. 34, par. 304) provides as follows:

"The time of fixing the compensation of county officers, which compensation is to be fixed by the county board, shall be at the meeting of such board next before the regular election of the officers whose compensation is to be fixed, but in case where such compensation is not fixed, the board shall proceed, at the next regular or special meeting held thereafter, to fix such compensation."

Section 39.1 of "AN ACT concerning fees and salaries, * * * ", (Ill. Rev. Stat. 1971, ch. 53, par. 58.1) provides:

"County board members elected pursuant to 'An Act relating to the composition and election of county boards in certain counties', enacted by the 76th General Assembly, shall receive such compensation as is fixed by the county board in accordance with the method of compensation selected by the county board. Such

compensation shall be set before the general election at which county board members are elected. The chairman of the county board shall receive such additional compensation as determined by the county board in reapportioning the county.

"County board members and the chairman of the county board are also entitled to travel and expense allowances as determined by the county board."

Those portions of the rule adopted on July 11, 1972 which would have the effect of increasing or decreasing the compensation of the county board members would be in direct conflict with the above statutory provisions. Where there is a conflict between a statutory provision and a rule or resolution of the county board, the rule or resolution of the county board must give way to the statute. See Ruby Chevrolet v. Department of Revenue, 6 Ill. 2d 147, 151; Chicago Cosmetic Co. v. City of Chicago, 374 Ill. 384, 393.

In order to answer your question it is necessary to turn our attention to the provisions of the June 14, 1971 resolution of the county board. In this resolution the compensation for county board members was fixed at the rate of \$35.00 per day for county board meetings and \$25.00 per

day for committee meetings. The chairman was to be paid an additional \$50.00 per month. It has been held that a per day or per diem compensation covers the entire 24 hours in a day, County of Christian v. Merrigan, 191 Ill. 484. See also Opinion No. F-1297 issued by this office on December 2, 1964, found at page 7 of the 1964 Illinois Attorney General's Opinions. Consequently, a county board member who attended a meeting of the county board and also one or more county board committee meetings on the same day may only receive one per diem of \$35.00. If he attended two or more committee meetings on the same day he could receive only one per diem of \$25.00.

The rule adopted by your county board on July 11, 1972 attempts to impliedly authorize the county board to permit a board member to receive payment for more than one board committee meeting on the same day or for a board meeting and also for more than one board committee meeting on the same day. These provisions are, in my opinion, invalid. As previously indicated, per day or per diem compensation covers the entire 24 hours.

Very truly yours,

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