



**OFFICE OF THE ATTORNEY GENERAL**  
STATE OF ILLINOIS

May 10, 1996

**Jim Ryan**  
ATTORNEY GENERAL

FILE NO. 96-023

OFFICERS:  
Filling Vacancy in Elective  
Office of Supervisor of Assessments

Honorable Gregory B. Grigsby  
State's Attorney, Christian County  
101 South Main Street  
Taylorville, Illinois 62568-2244

Dear Mr. Grigsby:

I have your letter wherein you inquire whether a vacancy in the office of Supervisor of Assessments, which is an elective office in Christian County, should be filled by appointment for the remainder of the term, pursuant to section 3-10 of the Property Tax Code (35 ILCS 200/3-10 (West 1994)), or by appointment only until the next general election, pursuant to section 25-11 of the Election Code (10 ILCS 5/25-11 (West 1994)). For the reasons hereinafter stated, it is my opinion that the vacancy should be filled in accordance with section 25-11 of the Election Code.

You have stated that Christian County's elected supervisor of assessments recently died as a result of an automobile

Honorable Gregory B. Grigsby - 2.

accident. More than 28 months of the four year term of office remained to be served at the time of her death.

Section 3-5 of the Property Tax Code (35 ILCS 200/3-5 (West 1994)) establishes the office of supervisor of assessments, and provides for the appointment of such an officer "[i]n counties \* \* \* in which no county assessor has been elected under section 3-45". The final paragraph of section 3-10 of the Code, which permits the dismissal of the supervisor of assessments upon certain conditions, provides:

" \* \* \*

Vacancies shall be filed [sic] by appointment for a full term. In the event of a vacancy, the county board may appoint an acting supervisor of assessments, but an acting supervisor may serve for no more than 60 days until a qualified person is appointed to fill the remainder of the term."

Section 3-45 of the Property Tax Code (35 ILCS 200/3-45 (West 1994)) provides:

"Election of county assessor--Counties of less than 3,000,000.

In counties having an elected board of review under Section 6-35, a county assessor shall be elected. To be elected as county assessor, a person must have at least 2 years experience in the field of property sales, assessments, finance or appraisals.

The county clerk must determine if candidates for assessor have qualified under this Code prior to certification of their nominating petitions. The election of the county assessor shall be at the same time and in the same manner as other county officials

are elected under the general election law. The county assessor shall hold office for a 4 year term and until a successor is elected and qualified. Vacancies shall be filled in the same manner as are vacancies in other county elective offices." (Emphasis added.)

Lastly, section 25-11 of the Election Code provides:

"When a vacancy occurs in any elective county office in a county which is not a home rule unit, the county board shall declare that such vacancy exists and notification thereof shall be given to the county central committee or the appropriate county board district committee of each established political party within 3 days of the occurrence of the vacancy. The vacancy shall be filled within 60 days by appointment of the chairman of the county board with the advice and consent of the county board. The appointee shall be a member of the same political party as the person he succeeds was at the time of his election and shall be otherwise eligible to serve. The appointee shall serve the remainder of the unexpired term. However, if more than 28 months remain in the term, the appointment shall be until the next general election at which time the vacated county office shall be filled by election for the remainder of the term. In the case of a vacancy in a seat on a county board which has been divided into districts under 'An Act relating to the composition of an election of county boards in certain counties', approved October 2, 1969, as amended, the appointee must also be a resident of the county board district.

Except as otherwise provided by county ordinance or by law, in any county which is a home rule unit, vacancies in elective county offices, other than the office of chief executive officer, shall be filled by the county board." (Emphasis added.)

Honorable Gregory B. Grigsby - 4.

I note that prior to the codification of the Property Tax Code (P.A. 88-455, effective January 1, 1994), the language of sections 3-5 and 3-10 thereof was part of section 3a of the Revenue Act of 1939 (35 ILCS 205/3a (West 1992) (repealed)), while the language of section 3-45 of the Code was contained in another section which provided for a referendum to replace an elected board of assessors with a single elected assessor (see 35 ILCS 205/5B (West 1994) (repealed)).

The method of selection of officers, other than constitutional officers, is generally a matter within the discretion of the General Assembly. (People v. Chicago Transit Authority (1946), 392 Ill. 77, 98.) The primary rule of statutory construction is that the intention of the legislature should be determined and given effect. (People v. Robinson (1982), 89 Ill. 2d 469.) In ascertaining legislative intent, one should consider the statute in its entirety, noting the subject it addresses and the legislature's apparent objective in enacting it. (Gill v. Miller (1983), 94 Ill. 2d 52.) A statute should be so construed, if possible, that no word, clause or sentence is rendered meaningless or superfluous. People v. Lutz (1978), 73 Ill. 2d 204.

Section 3-45 of the Property Tax Code is applicable only in those counties having an elected board of review under section 6-35 of the Code (35 ILCS 200/6-35 (West 1994)). I am advised that, although Christian County has an elected board of

Honorable Gregory B. Grigsby - 5.

review, the board is elected pursuant to the terms of a county-wide referendum held pursuant to article VII, section 4(c) of the Constitution. Therefore, the language of section 3-45, which specifically requires that vacancies be filled in the same manner as are vacancies in other county elective offices, does not govern in these circumstances.

Section 3-5 of the Property Tax Code provides that a supervisor of assessments may be "either appointed as provided in this section, or elected". The last sentence of that section provides that the term of office shall be four years from the date of appointment and until a successor is appointed and qualified. No reference is made to the term of an elected supervisor of assessments. Section 3-10, the language of which was formerly in the same section as that of section 3-5, provides that a vacancy is to be filled by appointment for a full term.

For an appointive office, the term of which begins on the date of the appointment, filling a vacancy by appointment to a full term is practicable. However, an elective office must necessarily be filled by election at the end of the current term. Consequently, appointment to "a full term", with respect to an elective office, is neither reasonable nor practicable. Terms of office of elected officials must necessarily correspond to the State's schedule of consolidated elections. Consequently, a

Honorable Gregory B. Grigsby - 6.

vacancy in an elective office is ordinarily filled for no longer than the remainder of the current term.

Moreover, I note that section 3-10 does not, in any event, purport to authorize the appointment of a successor only for the remainder of the current term, which is what has apparently been suggested in these circumstances. Consequently, that is not an option under that section. Therefore, based upon the procedural history of this statute, together with the language thereof, it appears that the reference to filling a vacancy by appointment in section 3-10 is intended to apply only to appointed supervisors. While section 3-5 (as well as former section 3a of the Revenue Act of 1939) clearly provides that supervisors of assessments may be elected, it is primarily focused upon the attributes of the appointive office. The recodification of former section 3a into several sections did not change that focus. It is therefore necessary to look to other laws for the mechanism for filling vacancies in the elective office of supervisor of assessments.

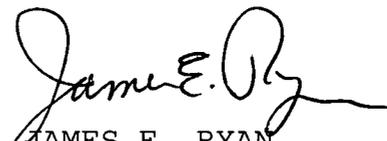
Under the constitution, elected county officers serve four year terms, unless those terms are changed in one of the ways provided therein. (Ill. Const. 1970, art. VII, sec. 4(c).) The filling of vacancies in elective county offices is specifically provided for in section 25-11 of the Election Code. In the absence of a statutory provision expressly pertaining to asses-

Honorable Gregory B. Grigsby - 7.

sors who are elected pursuant to referendum, it is my opinion that a vacancy in the office of supervisor should be filled in accordance with section 25-11 of the Counties Code. Therefore, when the office of elected supervisor of assessments becomes vacant with more than 28 months remaining in the term, it should be filled by appointment only until the next election, at which time it should be filled by election for the remainder of the term.

This construction is in keeping with the general principle that when an elective office becomes vacant, the people should be given the opportunity to fill it through the elective process as soon as practicable. (State ex rel. Lanier v. Hall (1946), 74 N.D. 426, 23 N.W.2d 44, 48.) The filling of a vacancy in an elective office by a special election serves the right of citizens to vote for elected officials and to be served by those selected. Wayne County Republican Committee v. Wayne County Board (1976), 70 Mich. App. 620, 247 N.W.2d 571, 573.

Sincerely,

  
JAMES E. RYAN  
ATTORNEY GENERAL