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COUNTIES: Supervisors' Intercounty Committee.
JURISTIC ENTITIES: Supervisors' Intercounty Committee.
SOCIAL SECURITY: Juristic Entities.

Supervisors' intercounty committee is not a juristic entity for purposes of the social security enabling act.

No. 4159

July 16, 1965.

Mr. Lawrence L. Farrell, Administrator
Social Security Contribution Fund
State Employees' Retirement Board
330 Lewis Cass Building
Lansing, Michigan

You have asked for my opinion on the following question:

Is the Supervisors' Intercounty Committee a separate juristic entity as defined in the social security enabling act, Act No. 205, P.A. 1951, as amended, section 2(f), capable of entering into an agreement with the State Employees Retirement Board to provide social security coverage for employees of the Committee?

The so-called social security enabling act, Act 205, P.A. 1951, as amended, being C.L.S. 1961 § 38.851, et seq.; M.S.A. 1960 Rev. and 1963 Cum. Supp., § 17.801 et seq., provides for the coverage of certain officers and employees of the state and its instrumentalities under the Federal social security act. Sec. 2 thereof (as last amended by Act No. 83, P.A. 1961) provides in pertinent part:

"Sec. 2. For the purposes of this act—

"(f) The term 'political subdivision' includes the regents of the university of Michigan, the state board of agriculture, and an instrumentality (1) of the state, (2) of 1 or more of its political subdivisions, or (3) of the state and 1 or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the state or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the state or subdivision: * * *."

Under Sec. 3 of Act 205, supra, your board is the "department" authorized to enter into agreements with the Federal agency for coverage of eligible employees of the state and its political subdivisions under the Federal act.

Authority for creation of a supervisors' intercounty committee is set forth in Act 217, P.A. 1957, being C.L.S. 1961 § 123.641, et seq.; M.S.A. 1961 Rev., § 5.400(1) et seq. In Sec. 1 thereof the legislature has specified that the boards of supervisors of two or more counties may establish and organize an intercounty committee, to be known as the supervisors' intercounty committee, for the purpose of studying area governmental problems of mutual interest and concern, including such matters as facility studies on sewers, water, drains, roads, parks and other projects, and formulating recommendations for action thereon by the member county boards of supervisors.

Sec. 2 authorizes the committee to employ personnel to coordinate and conduct surveys relating to the foregoing problems. The committee may also enter into agreements for such surveys to be conducted by other public or private agencies. Sec. 2 also provides that the committee shall submit recommendations and an annual report of its activities to the several member county boards of supervisors.

Other provisions of the act provide that member county boards of supervisors may authorize the allocation of county funds to meet the expenses of the committee, and further, the committee may accept gifts and grants from the state and local governments, as well as from private sources, "if the grants are made for furtherance of the objectives for which the committee is established." Sec. 4 provides that the committee may accept services of personnel, use of equipment, office space and other necessary services from member counties, and such items may be considered as part of the financial support of the contributing county.

Please be advised that I am of the opinion that a supervisors' intercounty committee is not a juristic entity within the meaning of the aforequoted definition, and is incapable of entering into an agreement with the state employees' retirement board to provide social security coverage for employees of the committee.

The term "juristic entity," it was observed in O.A.G. No. 4037, 1963-1964, January 2, 1963, page 1, is not a term of art but is to be given its ordinary meaning of an entity recognized by law. It was there reiterated, at page 5, that

"The plain purpose of the state statute (Act 205, supra) is to require, as an essential condition of eligibility, that an agency be not only a political subdivision and instrumentality of the state, but that it be a legally separate entity, so that the state may have a legally responsible employer other than the state to deal with in making the agreement for coverage." (Words in parentheses supplied)

Upon consideration of Act 217, supra, it appears that the recommendations and services furnished by the committee to boards of member counties do not differ in character from services usually rendered to the respective boards by committees of the several boards charged with responsibility in like matters. The legislative intention is to authorize committees of the several boards to make joint surveys and studies in the specified areas of matters of mutual concern to the member counties and report as a committee to the member boards. Doubtless, if the legislature had been so disposed, it could have provided for joint meetings of the several county boards of supervisors for the purpose of giving consideration to matters of mutual concern to the several counties. It chose, however, to authorize a course of action familiar in county government—indeed, at other levels of government—that is, the employment of committees for the limited purpose of making recommendations with reference to governmental problems which are of interest to the member counties and, undoubtedly, common to all county boards of supervisors.

I am not persuaded that it was the legislative intention that the supervisors' intercounty committee authorized by Act 217 is to function as a

juristic entity separate and apart from the constituent counties. Its limited powers, the nature of its authority and its mode of operation are indicia to the contrary. Moreover, certain attributes sometimes indicative of a juristic entity are absent. The legislature has not declared the committee to be a body corporate, nor has it conferred upon the committee capacity to sue or be sued. It has only limited authority to contract and to receive property. As observed, support of the committee, personnel, services or materials, may be offered by member counties in lieu of finances. The privilege of such choice of support by member counties weighs against a conclusion of independent status of the committee.

I, therefore, conclude that the supervisors' intercounty committee is not a juristic entity for the purpose of the statute in discussion; hence, the committee is not authorized to enter into an agreement under Act 205, supra, with your board.

FRANK J. KELLEY,
Attorney General

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PUBLIC OFFICES AND OFFICERS: Term of office of Representatives in the Legislature.

Members of the House of Representatives are presently elected for two-year terms. Were an amendment providing for four-year terms ratified at the 1966 general November election, such amendment would become effective 45 days after the election. Whether the same would have the effect of extending the term of those elected at that election to four years would depend upon the intention of the people in adopting said amendment as expressed therein.

No. 4452

July 16, 1965.

Hon. James H. Karoub
House of Representatives
The Capitol
Lansing, Michigan

You have requested my opinion upon the following question:

"Can a candidate for the office of State Representative, running for election in the 1966 general election under the provisions of the present constitution (which stipulates a 2-year term for that office), serve a 4-year term beginning January 1, 1967 if the majority electorate adopted such a referendum at the same general election (1966)?"

Section 3 of Article IV of the Constitution specifies:

"The House of Representatives shall consist of 110 members elected for two-year terms . . ."

Your question contemplates a proposal to amend such constitutional provision so as to provide for the election of members to the House of Representatives for four-year terms and the submission of the proposed amendment