

No. 11 - July 11, 1988  
Boards of Review  
Additional Members - Appointment

TO: All Assessing Officers

FROM: Property Tax Division  
Department of Treasury

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

TOWNSHIPS:

Board action to increase  
membership of board of review

Term of member of expanded board  
of review

A township board may expand the membership of the board of review from three to six or nine members at any time.

The term of office of an appointed member of an expanded board of review commences upon filing the oath of office and ends at noon on January 1 of the next following odd-numbered year.

Opinion No. 6524

Honorable Harmon Cropsey  
State Senator  
The Capitol  
Lansing, MI 48909

JUN 14 1988

You have requested my opinion on two questions relating to the expansion of a township board of review from three to nine members. In your letter, you indicate that the township board recently expanded the membership of its board of review and that there is some uncertainty about when the new members begin their term.

Your questions are:

"Can a board of review be expanded at any time or must the expansion coincide with the other terms starting January 1 of each odd year?"

"Is it legal for the newly appointed members to serve on the board of review before January 1 of the next odd year?"

Since your questions are related, they will be considered together.

Boards of review are established to hear appeals by taxpayers from property valuations made by assessors for ad valorem property tax purposes. MCL 211.28 and 211.30; MSA 7.28 and 7.30. Timely appeal to the board of review is generally a prerequisite for appeal to the Michigan Tax Tribunal. MCL 205.735(1); MSA 7.650(35)(1). A board of review is to complete its review of assessments by the first Monday in April of each year. MCL 211.30a; MSA 7.30(1).

MCL 211.28; MSA 7.28, provides for the appointment of the members of the township board of review by the township board:

"(1) ... Members appointed to the board of review shall serve for terms of 2 years beginning at noon on January 1 of each odd-numbered year. Each member of the board of review shall qualify by taking the constitutional oath of office within 10 days after appointment. The township board may fill any vacancy which shall occur in the membership of the board of review. ...

"(2) The township board may appoint 3, 6, or 9 electors of the township, who shall constitute a board of review for the township. ..."

From the foregoing, it is clear that the township board is given the option of appointing three, six, or nine electors of the township as members of the township's board of

review. Since no time is specified as to when the township board is to act with respect to the composition of the township board of review, there appears to be no statutory restriction on the township board's increasing the number of members of its township board of review whenever such an increase appears to be advisable.

The six new positions, created by the decision of the township board to expand a board of review from three to nine members, are vacant until those positions are filled by appointments made by the township board. In Attorney General ex rel O'Hara v Montgomery, 275 Mich 504, 512; 267 NW 550 (1936), the court described a vacant office in the following terms:

"An office is vacant when it is empty,-- when it is unoccupied,--when there is no one who, of right, may exercise its functions."

MCL 168.370(1); MSA 6.1370(1), states that vacancies in appointive offices are to be filled by appointment for the remainder of the unexpired term:

"If a vacancy occurs in an ... appointive township office, the vacancy shall be filled by appointment by the township board, and the person appointed shall hold the office for the remainder of the unexpired term.

The duration of the term of membership on the township board of review per MCL 211.28(1); MSA 7.28(1), is

for two years beginning at noon on January 1 of each odd-numbered year. While not expressly stated in the statute, it follows directly that the term of the vacant positions, as well as the other positions, ends at noon on January 1 of each odd-numbered year. Accordingly, members of a township board of review, appointed by the township board to fill the six new positions resulting from the decision to expand the board of review, would, upon qualification, hold office for the remainder of the two-year term which ends at noon on January 1, 1989.

It is my opinion, in answer to your first question, that a township board may expand the membership of a township board of review at any time pursuant to the authority granted to the township board in MCL 211.28(2); MSA 7.28(2), which provides that the township board may appoint three, six, or nine electors of the township who shall constitute the board of review for the township.

It is my opinion, in answer to your second question, that the term of office for a member of a township board of review, where that member is appointed as part of an expansion of an ongoing board, commences upon filing the oath of office and ends at noon on January 1 of the next following odd-numbered year.

  
FRANK J. KELLEY  
Attorney General