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JUSTICE BUILDING, LITTLE ROCK 72201

(501) 371-2007

January 4, 1984

OPINION NO. 84-1

Honorable Jerry Bookout
Arkansas State Senator
P. O. Box 415
Jonesboro, AR 72401

Dear Senator Bookout:

This is in response to your request for an opinion on the following questions:

1. Whether the Northeast Arkansas District Fair Advisory Board [Ark. Stat. Ann. §78-1625 (Repl. 1981)] can meet in an official capacity prior to January, 1984 to designate the location and date for the District Fair.
2. Are proxy votes allowed on this type of commission or Board?
3. If the Board does not settle on a place or date for the District Fair, does the Northeast Arkansas Fair still exist? Would the Fair remain in Mississippi County if there is no decision from the Advisory Board, or must a designation be made?

The subject statute specifically states, "Beginning with the year 1984, and each year thereafter, the Northeast Arkansas District Fair Advisory Board shall determine the location and date of the Northeast Arkansas District Fair and Livestock Show." This language unequivocally suggests that the Board cannot meet in an official capacity until January, 1984.

In response to your second inquiry, there are no statutory provisions for proxy voting by such Boards. Proxy voting is a device reserved for corporate entities.

Finally, §78-1625 states that the Board "shall" determine the location and date of the District Fair. Such language is mandatory and it is always presumed by the Court that the legislature intended to use words in the usual and natural meaning. Arkansas State Highway Commission v. Mobey, 229 Ark. 261, 315 S.W.2d 900 (1958). The Board is performing ministerial functions that affect the public. This coupled with the mandatory language of the statute, renders the

Honorable Jerry Bookout
January 4, 1984
Page two

Board amenable to a mandamus action if it does not perform the duties set forth in §78-1625. The Board must make a decision as to when or where the Fair will be held.

The foregoing opinion, which I hereby approve, was prepared by Deputy Attorney General, E. Jeffery Story.

Yours truly,

A handwritten signature in cursive script, appearing to read "Steve Clark", written in dark ink.

STEVE CLARK
Attorney General

SC/EJS/js