



TYRONE C. FAHNER

ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

April 30, 1981

FILE NO. 81-010

COMPENSATION:
Salary of a State's Attorney

Honorable Charles R. Hartman
State's Attorney
Stephenson County
Courthouse
Freeport, Illinois 61032

Dear Mr. Hartman:

I have your letter wherein you ask certain questions with regard to the application of provisions of section 7 of "AN ACT concerning fees and salaries, etc." (Ill. Rev. Stat. 1980 Supp., ch. 53, par. 7), which sets salaries for State's Attorneys. You ask what is the minimum legal salary to be paid to a State's Attorney of a county with a population of 30,000 or more, and less than 1,000,000, after December 1, 1980. You also ask whether the State of Illinois is required to pay 66 2/3% of the \$50,500 salary set in subparagraph (d) of said section 7 (Ill. Rev. Stat. 1980 Supp., ch. 53, par. 7), or

Honorable Charles R. Hartman - 2.

66 2/3% of a lesser salary set by a county board. For the reasons hereinafter stated, it is my opinion that the minimum legal salary for a State's Attorney in a county with a population of 30,000 or more, and less than 1,000,000, is \$42,600 plus 66 2/3% of the increase which became effective on the first Monday in December, 1980 (66 2/3% of \$7,900) or a total minimum salary of \$47,866.67. I am also of the opinion that the State of Illinois is required to pay 66 2/3% of the \$50,500 salary set in subparagraph (d) of said section 7 (Ill. Rev. Stat. 1980 Supp., ch. 53, par. 7) for a total payment by the State in the amount of \$33,666.67.

Section 7 of "AN ACT concerning fees and salaries, etc." (Ill. Rev. Stat. 1980 Supp., ch. 53, par. 7), as amended by Public Act 81-1204, provides in pertinent part:

"As of the first Monday in December, 1976, there shall be allowed to the several state's attorneys in this State, except the state's attorney of Cook County, the following annual salary:

* * *

(d) to each state's attorney in counties of 30,000 or more inhabitants, and less than 1,000,000 inhabitants, \$42,600 until the first Monday in December, 1980, and \$50,500 thereafter.

(e) each state's attorney shall receive 66 2/3% of the salary increase provided for in this amendatory Act of 1979, but he or she shall not receive 33 1/3% of such increase unless his or her county board appropriates funds to pay 33 1/3% of such increase.

(f) the State shall furnish 66 2/3% of the total annual compensation to be paid to each state's attorney in Illinois.

Honorable Charles R. Hartman - 3.

(g) said amounts furnished by the State shall be payable monthly from the state treasury to the county in which each state's attorney is elected.

(h) except as provided in paragraph (e), each county shall be required to furnish 33 1/3% of the total annual compensation to be paid to each state's attorney in Illinois.

* * *

A statute must be construed so as to ascertain and give effect to the intention of the General Assembly as expressed in the statute. (Lincoln National Life Insurance Company v. McCarthy (1957), 10 Ill. 2d 489, 494; Scotfield v. Board of Education of Community Consolidated School District No. 181 et al. (1952), 411 Ill. 11, 15.) Legislative intent is to be gathered from the entire statute rather than any one part thereof. In People ex rel. Nelson v. Olympic Hotel Building Corporation (1950), 405 Ill. 440, the court stated at pages 444-445:

* * *

It is true there is no need of construction to ascertain the meaning of a statute where the language is clear and unambiguous and the intention of law-making power is manifestly apparent therefrom. (Bergeson v. Mullinix, 399 Ill. 470; People v. Lund, 382 Ill. 213.) However, it is a well-settled rule of statutory construction that, in construing statutes, the intention of the legislature will control and that the several provisions of the statute should be construed together in the light of the general purpose and object of the act, so as to give effect to the main intent and purpose of the legislature as therein expressed. (People ex rel. Hutchcraft v. Louisville and Nashville Railroad Co. 396 Ill. 502; People ex rel. Curren

v. Schommer, 392 Ill. 17; People ex rel. Rice v. Wilson Oil Co. 364 Ill. 406; People ex rel. Harding v. Goldberg, 332 Ill. 346; State Public Utilities Com. v. Monarch Refrigerating Co. 257 Ill. 528; People v. Price, 257 Ill. 587.) The history of the legislation, considered with the objects to be accomplished and reading the entire section together, indicates its purpose. People ex rel. Hutchcraft v. Louisville and Nashville Railroad Co. 396 Ill. 502; Morris v. The Broadview, Inc. 385 Ill. 228.

* * *

It is clear that subparagraph 7(d) of "AN ACT concerning fees and salaries, etc." (Ill. Rev. Stat. 1980 Supp., ch. 53, par. 7(d)) increased the annual salary of a State's Attorney in counties of 30,000 or more and less than 1,000,000 inhabitants from \$42,600 to \$50,500, commencing the first Monday in December 1980, an increase of \$7,900.00. In determining the intention of the General Assembly, however, consideration must be given to the provisions of subparagraph 7(e) of this Act (Ill. Rev. Stat. 1980 Supp., ch. 53, par. 7(e)), which must be construed with subparagraph 7(d). Subparagraph 7(e) clearly states that each State's Attorney is to receive 66 2/3% of the salary increase provided for in Public Act 81-1204, but that he is not to receive 33 1/3% of the increase unless the county board so provides. Therefore, in instances where the county board does not appropriate any funds to pay any of the remaining 33 1/3% of the increase, it is apparent that the State's Attorney would only receive 66 2/3% of the

Honorable Charles R. Hartman - 5.

increase provided for in Public Act 81-1204. Regardless of the action of the county board, a State's Attorney must receive 66 2/3% of \$7,900 (the amount of the increase) or \$5,266.67, in addition to the previous minimum salary of \$42,600. I am therefore of the opinion that the minimum legal salary of a State's Attorney in counties of 30,000 or more, and less than 1,000,000 is \$5,266.67 plus \$42,600, or a total of \$47,866.67.

Your second question is whether the State of Illinois is required to pay 66 2/3% of the \$50,500 salary stated in subparagraph (d) of said section 7 (Ill. Rev. Stat. 1980 Supp., ch. 53, par. 7) or 66 2/3% of a lesser salary set by a county board.

Subparagraph 7(f) of "AN ACT concerning fees and salaries, etc." (Ill. Rev. Stat. 1980 Supp., ch. 53, par. 7(f)) provides that the "State shall furnish 66 2/3% of the total annual compensation to be paid to each state's attorney in Illinois". This subparagraph, however, must be construed together with subparagraphs 7(e) and (h). Subparagraph 7(e), which provides that each State's Attorney shall receive 66 2/3% of the salary increase provided for in Public Act 81-1204, states that "he or she shall not receive 33 1/3% of such increase unless his or her county board appropriates funds to pay 33 1/3% of such increase". Subparagraph 7(h) states that "except as provided in paragraph (e), each county shall be

Honorable Charles R. Hartman - 6.

required to furnish 33 1/3% of the total annual compensation to be paid to each state's attorney in Illinois". The obvious import of subparagraphs 7(e), (f), and (h), when construed together, is that the State is to pay 66 2/3% of the compensation for the State's Attorney that was in effect in the county prior to the first Monday in December 1980, and in addition, that the State is to pay 66 2/3% of the salary increase provided for in Public Act 81-1204. These provisions clearly indicate that the State's Attorney is not to receive the 33 1/3% of the salary increase, for which the county would be responsible, unless the county board appropriates funds to pay 33 1/3% of the increase.

The conclusion that 66 2/3% of the salary increase provided for in Public Act 81-1204 is to be paid by the State is supported by the debate in the Illinois Senate on this bill on November 8, 1979. Senator Knuppel, sponsor of the bill in the Illinois Senate, stated in part:

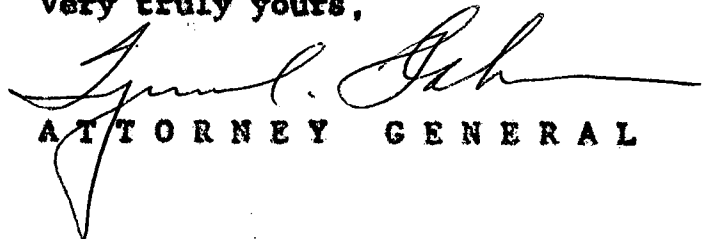
" * * * Here two-thirds of the increase comes from the State, and that would be received. The other third would not be received, this is not an imposition on the county unless the county board approves it. It is an imposition on the State Treasury only."

For the above stated reasons, I am of the opinion that for any county with a population of 30,000 or more, and less than 1,000,000, commencing the first Monday in December 1980, the State of Illinois is required to pay 66 2/3% of the \$50,500

Honorable Charles R. Hartman - 7.

salary stated in subparagraph (d) of section 7 (Ill. Rev. Stat. 1980 Supp., ch. 53, par. 7) for a total payment by the State of \$33,666.67. This conclusion carries out the intent of section 7, as amended by Public Act 81-1204, inasmuch as the State would pay 66 2/3% of the increase in salary in addition to 66 2/3% of the salary before the increase.

Very truly yours,



James L. Ash

ATTORNEY GENERAL