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ATTORNEY GENERAL
STATE OF ILLINOIS



July 14, 1995

FILE NO. 95-010

COMPENSATION:
Minimum Salary for County Officers

Honorable Greg McClintock
State's Attorney, Warren County
Warren County Courthouse
Monmouth, Illinois 61462

Dear Mr. McClintock:

I have your letter wherein you inquire whether a county board was authorized to fix certain county officers' salaries for the term beginning December 1, 1994, in an amount less than their base salary plus 12%, as calculated under sections 4-6001 and 4-6003 of the Counties Code (55 ILCS 5/4-6001, 4-6003 (West 1992)). For the reasons hereinafter stated, it is my opinion that county boards were required to fix the salary of those officers covered by sections 4-6001 and 4-6003 in an amount equal to or greater than the statutorily defined base salary plus 12% of base salary. To the extent that the salary set for those officers is less than the statutory minimum, the officers are entitled to be compensated at the minimum rate.

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Section 4-6001 of the Counties Code provides, in pertinent part:

"* * * (a) In all counties of less than 2,000,000 inhabitants, the compensation of Coroners, County Treasurers, County Clerks, Recorders and Auditors shall be determined under this Section. The County Board in those counties shall fix the amount of the necessary clerk hire, stationery, fuel and other expenses of those officers. The compensation of those officers shall be separate from the necessary clerk hire, stationery, fuel and other expenses, and such compensation * * * shall be fixed within the following limits:

* * *

To each such officer in counties containing 14,000 or more inhabitants, but less than 30,000 inhabitants, not less than \$14,500 per annum.

* * *

(b) Those officers beginning a term of office before December 1, 1990 shall be compensated at the rate of their base salary. 'Base salary' is the compensation paid for each of those offices, respectively, before July 1, 1989.

(c) Those officers beginning a term of office on or after December 1, 1990 shall be compensated as follows:

* * *

(4) Beginning December 1, 1993, base salary plus at least 12% of base salary.

* * *

(Emphasis added.)

Section 4-6003 provides, in pertinent part:

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"* * * (a) The County Board, in all counties of less than 2,000,000 inhabitants, shall fix the compensation of sheriffs * * * and such compensation shall be fixed within the following limits:

* * *

To each such sheriff in counties containing 10,000 or more inhabitants but less than 20,000 inhabitants, not less than \$31,000 per annum.

* * *

(b) Those sheriffs beginning a term of office before December 1, 1990 shall be compensated at the rate of their base salary. 'Base salary' is the compensation paid for each of those offices, respectively, before July 1, 1989.

(c) Those sheriffs beginning a term of office on or after December 1, 1990 shall be compensated as follows:

* * *

(4) Beginning December 1, 1993, base salary plus at least 12% of base salary.

* * *

(Emphasis added.)

You have stated that your sheriff's "base salary", as defined in subsection 4-6003(b) of the Code, was \$34,000. As required by subsection 4-6003(c), the sheriff's salary was increased by 3% each year during the term beginning December 1, 1990, so that, beginning December 1, 1993, the sheriff's salary was \$38,079.86 per annum (\$34,000 + 12%). In November, 1994, however, the county board, apparently believing that subsection

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4-6003(c) applied only to the term beginning December 1, 1990, fixed the sheriff's salary for the term beginning December 1, 1994, at \$35,761.96, with an increase of 3% each December 1 thereafter during the term. Similarly, although the base salary for the county treasurer pursuant to section 4-6001 was \$25,000, resulting in a minimum salary requirement beginning December 1, 1993, of \$28,000 (\$25,000 + 12%), the county board fixed the treasurer's salary for the term beginning December 1, 1994, at \$24,500, with 3% annual increases.

Both subsections 4-6001(c) and 4-6003(c) refer to officers who begin a term of office on or after December 1, 1990. Generally, only one term for each of the offices to which the sections apply began on that date. Any other terms, including the one beginning December 1, 1994, began or will begin after that date. Further, subsections 4-6001(c)(4) and 4-6003(c)(4) set a minimum salary "beginning December 1, 1993" without specifying that such minimum salary would terminate at the end of one year or of one term.

The fundamental principle of statutory construction is to ascertain and give effect to the intention of the General Assembly by giving the language of a statute its plain and ordinary meaning. (Thomas v. Greer (1991), 143 Ill. 2d 271, 278.) The General Assembly has the power to define terms in any reasonable manner (Ruva v. Mente (1991), 143 Ill. 2d 257, 263),

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and when an Act defines its own terms, those terms must be construed according to the statutory definitions given to them. Beecher Medical Center, Inc. v. Turnock (1990), 207 Ill. App. 3d 751, 754.

Applying these rules of construction, in opinion No. 94-016, issued June 9, 1994, my predecessor concluded that section 4-6001 required counties to pay officers for the years 1990, 1991, 1992 and 1993 based upon the base salary actually received by the officers before July 1, 1989, together with the required percentage increases thereof, and not based upon the statutory minimum listed in 4-6001(a). I concur with that conclusion.

Based upon the plain language of these statutes, it is my opinion that, for terms of office beginning after December 1, 1993, including those beginning on December 1, 1994, the salary of the officers whose compensation is set pursuant to sections 4-6001 and 4-6003 must be fixed in the amount of the salary prescribed for each of those offices before July 1, 1989, plus at least 12% of that amount. The statutory language does not permit a reduction in compensation below that amount for those officers for terms of office beginning after December 1, 1993.

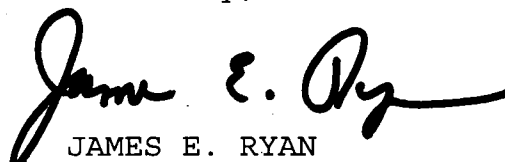
When a county board has fixed an officer's salary at a rate below that provided for by statute, the officer is nonetheless entitled to be compensated at the statutory rate. (1975

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Ill. Att'y Gen. Op. 10, 11.) Although discretionary action may not be taken during the term to increase the salary to a rate greater than the statutory minimum without resulting in a prohibited mid-term increase in compensation (Ill. Const. 1970, art. VII, sec. 9(b)), increasing the officers' compensation to the minimum amount required by law would not be unconstitutional. (See 1975 Ill. Att'y Gen. Op. 318, 321.) Moreover, to the extent that the county ordinance adopted in November, 1994, provides for salary increases which will exceed the statutory minimum for the sheriff in the third and fourth years of his current term (\$38,900.54 and \$40,053.40 respectively), those ordinances are valid. See 1976 Ill. Att'y Gen. Op. 134, 135.

Therefore, it is my opinion that the sheriff of Warren County is entitled to receive a salary of \$38,079.86 beginning December 1, 1994, until November 30, 1996. For the final two years of his term, beginning December 1, 1996, and continuing through November 30, 1998, he will be entitled to receive the greater amounts established by the county board's November, 1994, ordinance. The county treasurer is entitled to receive a salary of \$28,000 per annum during the current term of office.

Sincerely,


JAMES E. RYAN
ATTORNEY GENERAL