

AN ACT concerning local government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Counties Code is amended by changing Sections 3-9001, 3-9002, 3-9004, 3-9005, 3-9006, 3-9008, 3-9009, and 3-9012 as follows:

(55 ILCS 5/3-9001) (from Ch. 34, par. 3-9001)

Sec. 3-9001. Oath; bond. Before entering upon the respective duties of their office, the state's attorneys shall each be commissioned by the governor, and shall take the following oath or affirmation:

I do solemnly swear (or affirm, as the case may be), that I will support the constitution of the United States and the constitution of the state of Illinois, and that I will faithfully discharge the duties of the office of state's attorney according to the best of my ability.

Each State's attorney shall also execute a bond, to the People of the State of Illinois, (or, if the county is self-insured, the county through its self-insurance program may provide bonding) with good and sufficient securities in the penal sum of \$5,000, to be approved by the circuit court for the ~~his~~ respective county, which approval shall be indorsed upon the bond. The bond, with the approval thereof

indorsed, shall be entered of record in the circuit court, and then forwarded by the county clerk to the secretary of state, to be filed in the Secretary of State's ~~his~~ office. Each of the bonds shall be conditioned upon the faithful discharge of the duties of the office, and the paying over all moneys as provided by law, which bond shall run to and be for the benefit of the state, county, corporation or person injured by a breach of any of the conditions thereof.

(Source: P.A. 88-387.)

(55 ILCS 5/3-9002) (from Ch. 34, par. 3-9002)

Sec. 3-9002. Commencement of duties. The State's attorney shall enter upon the duties of the ~~his~~ office on the first day in the month of December following the ~~his~~ election of the State's Attorney on which the State's attorney's office is required, by statute or by action of the county board, to be open.

(Source: P.A. 86-962.)

(55 ILCS 5/3-9004) (from Ch. 34, par. 3-9004)

Sec. 3-9004. Failure to give bond or take oath. If any person elected to the office of State's attorney shall fail to give bond, or take the oath required of the State's Attorney ~~him~~, within twenty days after the person ~~he~~ is declared elected, the office shall be deemed vacant, and if, being required to give additional bond, as provided in Section

3-9003 hereof, the person ~~he~~ fails to do so within twenty days after notice of such requirements, the State's Attorney ~~his~~ office may, in the discretion of the governor, be declared vacant and filled as provided by law.

(Source: P.A. 86-962.)

(55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

Sec. 3-9005. Powers and duties of State's Attorney.

(a) The duty of each State's Attorney shall be:

(1) To commence and prosecute all actions, suits, indictments and prosecutions, civil and criminal, in the circuit court for the ~~his~~ county, in which the people of the State or county may be concerned.

(2) To prosecute all forfeited bonds and recognizances, and all actions and proceedings for the recovery of debts, revenues, moneys, fines, penalties and forfeitures accruing to the State or the ~~his~~ county, or to any school district or road district in the ~~his~~ county; also, to prosecute all suits in the ~~his~~ county against railroad or transportation companies, which may be prosecuted in the name of the People of the State of Illinois.

(3) To commence and prosecute all actions and proceedings brought by any county officer in the county officer's ~~his~~ official capacity.

(4) To defend all actions and proceedings brought

against the ~~his~~ county, or against any county or State officer, in the county or State officer's ~~his~~ official capacity, within the ~~his~~ county.

(5) To attend the examination of all persons brought before any judge on habeas corpus, when the prosecution is in the ~~his~~ county.

(6) To attend before judges and prosecute charges of felony or misdemeanor, for which the offender is required to be recognized to appear before the circuit court, when in the State's Attorney's ~~his~~ power so to do.

(7) To give the State's Attorney's ~~his~~ opinion, without fee or reward, to any county officer in the ~~his~~ county, upon any question or law relating to any criminal or other matter, in which the people or the county may be concerned.

(8) To assist the Attorney General whenever it may be necessary, and in cases of appeal from the ~~his~~ county to the Supreme Court, to which it is the duty of the Attorney General to attend, the State's Attorney ~~he~~ shall furnish the Attorney General at least 10 days before such is due to be filed, a manuscript of a proposed statement, brief and argument to be printed and filed on behalf of the people, prepared in accordance with the rules of the Supreme Court. However, if such brief, argument or other document is due to be filed by law or order of court within this 10-day period, then the State's Attorney shall furnish

such as soon as may be reasonable.

(9) To pay all moneys received by the State's Attorney ~~him~~ in trust, without delay, to the officer who by law is entitled to the custody thereof.

(10) To notify, by first class mail, complaining witnesses of the ultimate disposition of the cases arising from an indictment or an information.

(11) To perform such other and further duties as may, from time to time, be enjoined on the State's Attorney ~~him~~ by law.

(12) To appear in all proceedings by collectors of taxes against delinquent taxpayers for judgments to sell real estate, and see that all the necessary preliminary steps have been legally taken to make the judgment legal and binding.

(13) To notify, by first-class mail, the State Superintendent of Education, the applicable regional superintendent of schools, and the superintendent of the employing school district or the chief school administrator of the employing nonpublic school, if any, upon the conviction of any individual known to possess a certificate or license issued pursuant to Article 21 or 21B, respectively, of the School Code of any offense set forth in Section 21B-80 of the School Code or any other felony conviction, providing the name of the certificate holder, the fact of the conviction, and the name and

location of the court where the conviction occurred. The certificate holder must also be contemporaneously sent a copy of the notice.

(b) The State's Attorney of each county shall have authority to appoint one or more special investigators to serve subpoenas and summonses, make return of process, and conduct investigations which assist the State's Attorney in the performance of the State's Attorney ~~his~~ duties. In counties of the first and second class, the fees for service of subpoenas and summonses are allowed by this Section and shall be consistent with those set forth in Section 4-5001 of this Act, except when increased by county ordinance as provided for in Section 4-5001. In counties of the third class, the fees for service of subpoenas and summonses are allowed by this Section and shall be consistent with those set forth in Section 4-12001 of this Act. A special investigator shall not carry firearms except with permission of the State's Attorney and only while carrying appropriate identification indicating the special investigator's ~~his~~ employment and in the performance of the special investigator's ~~his~~ assigned duties.

Subject to the qualifications set forth in this subsection, special investigators shall be peace officers and shall have all the powers possessed by investigators under the State's Attorneys Appellate Prosecutor's Act.

No special investigator employed by the State's Attorney shall have peace officer status or exercise police powers

unless the special investigator ~~he or she~~ successfully completes the basic police training course mandated and approved by the Illinois Law Enforcement Training Standards Board or such board waives the training requirement by reason of the special investigator's prior law enforcement experience or training or both. Any State's Attorney appointing a special investigator shall consult with all affected local police agencies, to the extent consistent with the public interest, if the special investigator is assigned to areas within that agency's jurisdiction.

Before a person is appointed as a special investigator, the person's ~~his~~ fingerprints shall be taken and transmitted to the Department of State Police. The Department shall examine its records and submit to the State's Attorney of the county in which the investigator seeks appointment any conviction information concerning the person on file with the Department. No person shall be appointed as a special investigator if the person ~~he~~ has been convicted of a felony or other offense involving moral turpitude. A special investigator shall be paid a salary and be reimbursed for actual expenses incurred in performing the special investigator's ~~his~~ assigned duties. The county board shall approve the salary and actual expenses and appropriate the salary and expenses in the manner prescribed by law or ordinance.

(c) The State's Attorney may request and receive from

employers, labor unions, telephone companies, and utility companies location information concerning putative fathers and noncustodial parents for the purpose of establishing a child's paternity or establishing, enforcing, or modifying a child support obligation. In this subsection, "location information" means information about (i) the physical whereabouts of a putative father or noncustodial parent, (ii) the putative father or noncustodial parent's employer, or (iii) the salary, wages, and other compensation paid and the health insurance coverage provided to the putative father or noncustodial parent by the employer of the putative father or noncustodial parent or by a labor union of which the putative father or noncustodial parent is a member.

(d) (Blank).

(e) The State's Attorney shall have the authority to enter into a written agreement with the Department of Revenue for pursuit of civil liability under subsection (E) of Section 17-1 of the Criminal Code of 2012 against persons who have issued to the Department checks or other orders in violation of the provisions of paragraph (1) of subsection (B) of Section 17-1 of the Criminal Code of 2012, with the Department to retain the amount owing upon the dishonored check or order along with the dishonored check fee imposed under the Uniform Penalty and Interest Act, with the balance of damages, fees, and costs collected under subsection (E) of Section 17-1 of the Criminal Code of 2012 or under Section 17-1a of that Code

to be retained by the State's Attorney. The agreement shall not affect the allocation of fines and costs imposed in any criminal prosecution.

(f) In a county with less than 2,000,000 inhabitants, and only upon receipt of a written request by the superintendent of the county Veterans Assistance Commission for the county in which the State's Attorney is located, the State's Attorney shall have the discretionary authority to render an opinion, without fee or reward, upon any question of law relating to a matter in which the county Veterans Assistance Commission may be concerned. The State's Attorney shall have the discretion to grant or decline such a request.

(Source: P.A. 101-275, eff. 8-9-19.)

(55 ILCS 5/3-9006) (from Ch. 34, par. 3-9006)

Sec. 3-9006. Internal operations of office; simultaneous county board tenure.

(a) Internal operations of the office. The State's Attorney shall control the internal operations of the State's Attorney's ~~his or her~~ office and procure the necessary equipment, materials, and services to perform the duties of that office.

(b) Simultaneous county board tenure. A duly appointed Assistant State's Attorney may serve as an Assistant State's Attorney and, simultaneously, serve as a county board member for a county located outside of the jurisdiction of the

State's Attorney Office that the Assistant State's Attorney ~~he or she~~ serves. An Assistant State's Attorney serving as a county board member is subject to any internal mechanisms established by the State's Attorney to avoid conflicts of interest in the performance of the individual's ~~his or her~~ duties as an Assistant State's Attorney.

(Source: P.A. 95-1014, eff. 12-15-08.)

(55 ILCS 5/3-9008) (from Ch. 34, par. 3-9008)

Sec. 3-9008. Appointment of attorney to perform duties.

(a) (Blank).

(a-5) The court on its own motion, or an interested person in a cause or proceeding, civil or criminal, may file a petition alleging that the State's Attorney is sick, absent, or unable to fulfill the State's Attorney's ~~his or her~~ duties. The court shall consider the petition, any documents filed in response, and if necessary, grant a hearing to determine whether the State's Attorney is sick, absent, or otherwise unable to fulfill the State's Attorney's ~~his or her~~ duties. If the court finds that the State's Attorney is sick, absent, or otherwise unable to fulfill the State's Attorney's ~~his or her~~ duties, the court may appoint some competent attorney to prosecute or defend the cause or proceeding.

(a-10) The court on its own motion, or an interested person in a cause or proceeding, civil or criminal, may file a petition alleging that the State's Attorney has an actual

conflict of interest in the cause or proceeding. The court shall consider the petition, any documents filed in response, and if necessary, grant a hearing to determine whether the State's Attorney has an actual conflict of interest in the cause or proceeding. If the court finds that the petitioner has proven by sufficient facts and evidence that the State's Attorney has an actual conflict of interest in a specific case, the court may appoint some competent attorney to prosecute or defend the cause or proceeding.

(a-15) Notwithstanding subsections (a-5) and (a-10) of this Section, the State's Attorney may file a petition to recuse the State's Attorney ~~himself or herself~~ from a cause or proceeding for any other reason the State's Attorney ~~he or she~~ deems appropriate and the court shall appoint a special prosecutor as provided in this Section.

(a-20) Prior to appointing a private attorney under this Section, the court shall contact public agencies, including, but not limited to, the Office of Attorney General, Office of the State's Attorneys Appellate Prosecutor, or local State's Attorney's Offices throughout the State, to determine a public prosecutor's availability to serve as a special prosecutor at no cost to the county and shall appoint a public agency if they are able and willing to accept the appointment. An attorney so appointed shall have the same power and authority in relation to the cause or proceeding as the State's Attorney would have if present and attending to the cause or proceedings.

(b) In case of a vacancy of more than one year occurring in any county in the office of State's attorney, by death, resignation or otherwise, and it becomes necessary for the transaction of the public business, that some competent attorney act as State's attorney in and for such county during the period between the time of the occurrence of such vacancy and the election and qualification of a State's attorney, as provided by law, the vacancy shall be filled upon the written request of a majority of the circuit judges of the circuit in which is located the county where such vacancy exists, by appointment as provided in The Election Code of some competent attorney to perform and discharge all the duties of a State's attorney in the said county, such appointment and all authority thereunder to cease upon the election and qualification of a State's attorney, as provided by law. Any attorney appointed for any reason under this Section shall possess all the powers and discharge all the duties of a regularly elected State's attorney under the laws of the State to the extent necessary to fulfill the purpose of such appointment, and shall be paid by the county the State's Attorney ~~he~~ serves not to exceed in any one period of 12 months, for the reasonable amount of time actually expended in carrying out the purpose of such appointment, the same compensation as provided by law for the State's attorney of the county, apportioned, in the case of lesser amounts of compensation, as to the time of service reasonably and

actually expended. The county shall participate in all agreements on the rate of compensation of a special prosecutor.

(c) An order granting authority to a special prosecutor must be construed strictly and narrowly by the court. The power and authority of a special prosecutor shall not be expanded without prior notice to the county. In the case of the proposed expansion of a special prosecutor's power and authority, a county may provide the court with information on the financial impact of an expansion on the county. Prior to the signing of an order requiring a county to pay for attorney's fees or litigation expenses, the county shall be provided with a detailed copy of the invoice describing the fees, and the invoice shall include all activities performed in relation to the case and the amount of time spent on each activity.

(Source: P.A. 99-352, eff. 1-1-16.)

(55 ILCS 5/3-9009) (from Ch. 34, par. 3-9009)

Sec. 3-9009. Private fee and employment prohibited. The State's attorney shall not receive any fee or reward from or in behalf of any private person for any services within the State's Attorney's ~~his~~ official duties and shall not be retained or employed, except for the public, in a civil case depending upon the same state of facts on which a criminal prosecution shall depend.

(Source: P.A. 86-962.)

(55 ILCS 5/3-9012) (from Ch. 34, par. 3-9012)

Sec. 3-9012. Compensation. A State's attorney who serves 2 or more counties shall receive such compensation from the State Treasury as is provided by law for the State's attorney of a single county. The State's Attorney ~~He~~ shall be paid by the counties such compensation as may be agreed upon by the county boards within the salary range prescribed by law applicable to a single county with a population equal to the combined population of the counties the State's Attorney ~~he~~ serves. Unless the county boards agree upon a lesser amount, the State's Attorney ~~he~~ shall be paid the highest permissible salary within such range. The amount to be paid by the counties shall be apportioned among them on the basis of their population. Seventy-five percent (75%) of the amount provided by law to be paid from the State treasury for the services of the State's attorney in the case of a single county is payable to each of the counties served by the same State's attorney, except that the amounts paid to those counties under this Section in any year may not exceed, in the aggregate, the annual salary paid to that State's attorney from both county and State funds, in which case reduction of the State's contribution to each county shall be reduced proportionately according to population of each participating county.

(Source: P.A. 86-962.)

Section 10. The Military Veterans Assistance Act is amended by changing Section 10 as follows:

(330 ILCS 45/10) (from Ch. 23, par. 3090)

Sec. 10. The executive powers of the commission shall be vested in a superintendent elected by the commission from among those who served in the armed forces of the United States. The superintendent, designated Superintendent of Veterans Assistance of the county, shall, under the direction of the commission, have charge of and maintain an office in the county building or other central location, to be used solely by the commission for carrying on its assistance work. The county shall provide the office and furnish all necessary supplies, including telephone, printing, stationery and postage therefor.

The county board shall, in any county where a Veterans Assistance Commission is organized, in addition to sums appropriated for assistance and emergency assistance purposes under this Act, appropriate such additional sums, upon recommendation of the Veterans Assistance Commission and as approved by the county board, to properly compensate the officers and employees required to administer such assistance. Such county board approval shall be based upon recognized and established salary guidelines developed by the county and used by the county to compensate county employees. If the county

does not have established employee salary guidelines, the county board shall provide funds to the commission to compensate the superintendent and his employees in a just manner. The county board shall also provide funds to the commission to reimburse the superintendent, officers, delegates and employees for certain expenses which are approved by the commission. The superintendent and other employees shall be employees of the Veterans Assistance Commission, and no provision in this Section or elsewhere in this Act shall be construed to mean that they are employees of the county.

Superintendents, subject to rules formulated by the commission, shall select, as far as possible, secretaries and other employees from among honorably discharged military veterans as defined in Section 2, or their surviving spouses.

In a county with less than 2,000,000 inhabitants, the superintendent may, in conformance with subsection (f) of Section 3-9005 of the Counties Code, request legal assistance from the State's Attorney serving the county in which the Veterans Assistance Commission is located.

Superintendents of all counties subject to this Act, when required by the commission, shall give bond in the sum of \$2,000 for the faithful performance of their duties.

All persons elected or selected to fill positions provided for in this Section shall be exempt from the operation and provisions of any civil service act or laws of this State, and

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the secretary of the commission shall be appointed by the superintendent. However, if "The Illinois Public Aid Code", as amended, becomes applicable in any county, the Department of Human Services may exercise the powers therein designated in relation to employees engaged in the administration of assistance under this Act.

(Source: P.A. 89-507, eff. 7-1-97.)

Section 99. Effective date. This Act takes effect upon becoming law.