



ROLAND W. BURRIS
ATTORNEY GENERAL
STATE OF ILLINOIS

June 9, 1994

FILE NO. 94-016

COMPENSATION:
Calculation of Statutory
County Officer Salary
Increases

Honorable Brett Irving
State's Attorney, Pike County
Pike County Courthouse
Pittsfield, Illinois 62363

Dear Mr. Irving:

I have your letter wherein you inquire whether the salary increases provided for certain county officers in subsection 4-6001(c) of the Counties Code (Ill. Rev. Stat. 1991, ch. 34, par 4-6001(c); 55 ILCS 5/4-6001(c) (West 1992)) are to be calculated as a percentage of the actual salary fixed for the offices as of June 30, 1989, or as a percentage of the statutory minimum salaries then in effect for the offices which are covered by that provision. For the reasons hereinafter stated, it is my opinion that the salary increases in question are to be calculated as percentages of the salaries which were actually paid to the incumbents of those offices as of June 30, 1989.

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

"Officers in counties of less than 2,000,000. (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 compensation of those officers * * * (except for coroners in those counties with less than 2,000,000 population in which the coroner's compensation is set in accordance with Section 4-6002) 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:

(1) Beginning December 1, 1990, base salary plus at least 3% of base salary.

(2) Beginning December 1, 1991, base salary plus at least 6% of base salary.

(3) Beginning December 1, 1992, base salary plus at least 9% of base salary.

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

* * *

"

(Emphasis added.)

The population of Pike County is between 14,000 and 30,000 inhabitants. Consequently, under subsection 4-6001(a) of the Code, the minimum salary provided by law for the officers in question prior to July 1, 1989, was \$14,500 per annum. According to your letter, however, the compensation of the Pike County officers whose compensation is governed by section 4-6001 had actually been fixed at the rate of \$20,500 per annum for their terms ending December 1, 1990. Effective with the new terms beginning December 1, 1990, the salaries for those officers were fixed by the county board at the rate of \$22,500 per annum.

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), 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.

Subsection 4-6001(c) of the Counties Code provides that certain county officers whose terms of office began on or after

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December 1, 1990, are to be compensated at the rate of their "base salary plus at least" the specified percentage of the "base salary" for each year of the term. The General Assembly has defined the term "base salary" to mean that compensation which was paid to the incumbents of each office before July 1, 1989.

The clearly expressed intention of the General Assembly was to enact a schedule of pay raises with the amount of the raise being calculated, not as a percentage of the minimum statutory salary, but as a percentage of the salary which was actually received by the officers before July 1, 1989. The General Assembly's floor debates reveal that both supporters and opponents of the bill understood that the effect of the bill would be to provide raises, in the nature of cost of living increases expressed as a percentage of the salary which was actually thus being paid, to every county officer covered by the statutes. See Remarks of Senators Fawell, DeAngelis, Schaffer and D'Arco, June 23, 1989, Senate Debate on House Bill No. 227, at 239-243; Remarks of Senators D'Arco and Fawell, June 30, 1989, Senate Debate on House Bill No. 227, at 92-93; Remarks of Representative Steczo, June 30, 1989, House Debate on House Bill No. 227, at 127-28.

In accordance with the plain language of the statute, it is my opinion that the raises for which subsection 4-6001(c) of the Counties Code provides are to be calculated as a percentage of the salaries which were fixed for the incumbents of

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the offices in question as of June 30, 1989, and not as a percentage of the minimum salary otherwise fixed by statute. In the case of Pike County, the base salary for each office is \$20,500, and three percent thereof is \$615. Thus, beginning December 1, 1990, the salary was required to have been fixed at a rate of at least \$21,115, with raises to at least \$21,730 on December 1, 1991, and at least \$22,345 on December 1, 1992. The salary of \$22,500 set for the term beginning December 1, 1990, consequently, satisfies the statutory requirement for these three years.

Beginning December 1, 1993, however, each of the officers is entitled, under subsection 4-6001(c), to receive a salary of at least \$22,960 (\$20,500 plus 12%). When the 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 rate fixed by statute. (1975 Ill. Att'y Gen. Op. 10,11.) However, action may not be taken during the term to increase the salary to a rate greater than the minimum statutory amount without resulting in a mid-term increase in compensation which is prohibited by article VII, section 9(b) of the constitution. See 1975 Ill. Att'y Gen. Op. 318, 321 (although self-executing cost of living increases for elected county officers made by references to objectively determinable and extraneous standards are not unconstitutional, a salary increase involving discretionary action is impermissible).

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It is my opinion, therefore, that the county board is required to provide a salary of \$22,960 to each county officer whose compensation is to be fixed under subsection 4-6001(c) of the Counties Code, for the year beginning December 1, 1993.

Respectfully yours,

A handwritten signature in cursive script, reading "Roland W. Burris".

ROLAND BURRIS
Attorney General