



WILLIAM J. SCOTT
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD



February 4, 1976

FILE NO. S-1044

COUNTIES:
Sheriff

Honorable C. Brett Bode
State's Attorney of Tazewell County
Tazewell County Court House
Pekin, Illinois 61554

Dear Mr. Bode:

This responds to your request for an opinion concerning the hiring of, and payment of salary for, a non-deputy administrative assistant by the sheriff of Tazewell County. You state that the Tazewell County sheriff has hired such an individual, but that the county board, as part of its annual appropriation ordinance and budget, enacted a salary and job classification schedule for the sheriff's office which makes no provision for an administrative assistant nor sets a salary for such position. The sheriff proposes to pay this individual

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out of funds appropriated and budgeted for his office under the line item in the budget designated "Deputy hire" which includes funds for the payment of non-deputy personnel, such as jailers and radio operators, as well as deputies. Your specific question is whether the sheriff can set the salary of such an administrative assistant and provide for the payment of such salary within the limit of funds budgeted to his office for payment of deputy and non-deputy personnel under his command.

In opinion No. S-393 (1972 Ill. Att'y. Gen. Op. 11) as you note, I advised that the sheriff had the implied power to appoint an administrative assistant. The county board, however, under its authority provided in section 25.34 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1973, ch. 34, par. 429.18) may alter the duties, powers or functions of a county officer other than those specifically imposed by law. The power of the sheriff to hire an administrative assistant is only implied; therefore, the county board, if it desired, could limit or revoke that power. Whether the Tazewell County Board has done this through its adoption of a salary and job classification for the sheriff's office, which does not make provision for an administrative

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assistant, is a matter which you will have to determine.

If you determine that the county board has not altered the sheriff's power to hire an administrative assistant, I am of the opinion, based on the information you have provided me, that he could pay the salary of the administrative assistant out of funds appropriated for "Deputy hire". There is nothing in "AN ACT in relation to the budgets of counties, etc." (Ill. Rev. Stat. 1973, ch. 34, pars. 2101 et seq.) which specifies the detail in which county boards must make appropriations or defines the terms used by a county board in making appropriations. I am aware of no other provision which would do this except that provision in section 1 of "AN ACT in relation to the compensation of sheriffs, etc." (Ill. Rev. Stat. 1974 Supp., ch. 53, par. 37a) which provides only that the compensation of the sheriff shall be fixed separately from his necessary expenses. Since your letter implies that the line item "Deputy hire" has traditionally been used by the county board to provide the appropriation for non-deputy hire as well as deputy hire, this would be an

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appropriate line item from which to pay an administrative
assistant.

Very truly yours,

A T T O R N E Y G E N E R A L