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FILE NO. S-993

OFFICERS:

**State Payment to
Counties For Salaries
of Assistant State's
Attorneys**

**Frank A. Kirk
Director
Department of Local Government Affairs
303 East Monroe Street
Springfield, Illinois 62706**

Dear Director Kirk:

I have your letter wherein you request an opinion as to what sum of money the Department of Local Government Affairs is required to pay to Randolph County as the State's share of the compensation to assistant state's attorneys under the applicable provisions of section 7 of "AN ACT concerning fees and salaries and to classify the several counties of this State with reference thereto". (Ill. Rev. Stat. 1974 Supp., ch. 53, par. 7.) This section provides in pertinent part as follows:

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"§ 7. * * * In counties where a state mental health institution, as hereinafter defined, is located, one assistant state's attorney shall receive for his services, payable monthly from the state treasury to the county in which he is appointed, the following:

* * *

To each assistant state's attorney in counties containing not less than 30,000 inhabitants and not more than 40,000 inhabitants, the sum of \$4,500 per annum;

* * *

At the request of the county governing authority, in counties where a state penal institution, as hereinafter defined, is located, and in counties in which three or more state correctional institutions are located, one assistant state's attorney shall receive for his services, payable monthly from the state treasury to the county in which he is appointed, the following:

* * *

(2) \$15,000 per year for one assistant state's attorney in counties having a state penal institution or three or more state correctional institutions with a total average daily inmate population of between 750 and 2,000 inmates.

* * *

Such salaries shall be paid to the state's attorney and the assistant state's attorney in equal monthly installments by such county out of the county treasury provided that the State of Illinois shall reimburse each county monthly from the state treasury the amount of such

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salary. This section shall not prevent the payment of such additional compensation to the state's attorney or assistant state's attorney of any county, out of the treasury of that county as may be provided by law.

* * *

You state that a State mental health institution is located in Randolph County and that the county has a population of more than 30,000 and fewer than 40,000 inhabitants. Thus, under the quoted provision the county is entitled to \$4,500 for the salary of an assistant state's attorney. There is also located in the county a State penal institution with an average daily inmate population of between 750 and 2,000. The county board has requested reimbursement as required by this statute. Thus, the county is also entitled to \$15,000 for the salary of an assistant state's attorney. The county, however, employs only one assistant state's attorney. Your question in substance then is whether the statute requires that two different assistant state's attorneys be employed in order for the county to receive payment under each of the two applicable provisions specified above.

I am of the opinion that for the reasons discussed below that the Department of Local Government Affairs is re-

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quired to pay to Randolph County the aggregate of the two amounts specified under the two provisions of section 7 referred to above, without regard to whether the funds are applied toward the salary of one or more than one assistant state's attorney.

Section 7 provides specifically for reimbursement from the State to certain counties for salaries of assistant state's attorneys. Generally, however, by this section the State recognizes that the presence of State institutions in a county increases the cost of operating that county's state's attorney's office and requires the reimbursement of some of those costs. It is with this purpose in mind that the statute should be interpreted.

There is no explicit expression of legislative intent to require a county to employ different assistants under the provision of section 7 applicable to your question, before the salaries of such assistants are to be reimbursed. The section does not even indicate that the services rendered by the assistant must be related to the mental health or penal institutions located in the county. That there is no requirement that services be related to the institutions is borne out by the fact that the amount of compensation provided in relation to mental health institutions is related only to the population

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of the county and not that of the institutions. There is no particular relationship between the size of a county and the number of persons in a mental health institution located within that county.

Furthermore, section 2 of "AN ACT fixing and providing for the salaries of state's attorneys and their assistants, etc." (Ill. Rev. Stat. 1973, ch. 53, par. 18) provides in part:

"§ 2. Where assistant State's Attorneys are required in any county, the number of such assistants and the salaries to be paid such assistants shall be determined by the board of county commissioners or supervisors, as the case may be, and the salaries of such assistants shall be paid out of the county treasury * * * "

It is a general rule that all statutes relating to the same subject must be compared and so construed with reference to each other that effect may be given to all provisions of each if it can be done by a fair and reasonable construction.

It is presumed that the several statutes relating to one subject are governed by one spirit and policy and that the legislature intended them to be operative and harmonious.

(People v. Gardner, 15 Ill. App. 3d 255, 257.) Under section 2 the county board has the power to determine the number and salaries of assistant state's attorneys. Given the existence and the plain meaning of the language of this section, there

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is no basis for inferring that section 7 of "AN ACT concerning fees and salaries, etc." requires that a different assistant be employed in order for a county to receive reimbursement under the provisions of section 7 relating to mental health and penal institutions other than that of a full-time assistant.

Thus, the Department of Local Government Affairs is required to reimburse Randolph County for the full amount to which it is entitled under both provisions of section 7. However, such reimbursement cannot exceed the salary of the assistant state's attorney.

Very truly yours,

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