

**COUNTY OF MARSHALL
RESOLUTION 2022- 47
RESOLUTION ESTABLISHING THE SALARY FOR
THE MARSHALL COUNTY SHERIFF**

WHEREAS, Section 5-1010 of the Counties Code [55 ILCS 5/5-1010] requires the County Board to establish the salary of County officers at a meeting prior to the election of the officers whose salary is being established; and

WHEREAS, Section 2(a) of the Local Government Officer Compensation Act [50 ILCS 145/2(a)] requires the salary of elected officers for local governments to be established at least one hundred eighty (180) days prior to the start of their term; and

WHEREAS, Section 2(b) of the Local Government Officer Compensation Act [50 ILCS 145/2(b)] requires the salary of elected officers of a county be set by ordinance or resolution of the County Board; and

WHEREAS, the Public Act 102-0699 was enacted on April 19, 2022; and

WHEREAS, the Public Act 102-0699 amends the Counties Code by adding Section 3-6007.5 [55 ILCS 5/3-6007.5] as follows:

Section 3-6007.5. Sheriff's salary.

- (a) As used in this Section, "salary" is exclusive of any other compensation or benefits.
- (b) The salary of a sheriff elected or appointed after the effective date of this amendatory Act of the 102nd General Assembly in a non-home rule county shall not be less than 80% of the salary set for the State's Attorney under Section 4-2001 for the county in which the sheriff is elected or appointed.
- (c) The State shall furnish 66 2/3% of the total annual salary to be paid to a sheriff. Said amounts furnished by the State shall be payable monthly by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General Revenue Fund to the county in which the sheriff is elected or appointed. The county shall furnish 33 1/3% of the total annual salary.

; and

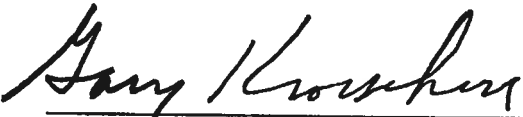
WHEREAS, Section 4-2001 of the Counties Code establishes the methods used to set the salary of the State's Attorney.

NOW, THEREFORE, BE IT RESOLVED that the annual salary for the Marshall County Sheriff shall be as follows:

1. Effective December 1, 2022, the Marshall County Sherriff's salary shall be set at no less than eighty percent (80%) of the Marshall County State's Attorney's salary as is set by the State of Illinois pursuant to Section 4-2001 of the Counties Code.
2. In addition to the salary provided for in Paragraph 1, the Sheriff shall an annual stipend to be paid by the Illinois Department of Revenue out of the Personal Property Tax Replacement Fund in the amount of six thousand five hundred dollars (\$6,500.00) as required by Section 4-6003(d) of the Counties Code [55 ILCS 5/4-6003(d)].

PRESENTED, APPROVED, AND RESOLVED by the County Board of Marshall County, Illinois at the may 19, 2022.

AYE 10 NAY 0 ABSENT 2



Marshall County Board Chairman
Gary Kroesch

Attest:



Marshall County Clerk & Recorder
Jill M. Kenyon



Illinois Department of Revenue
Property Tax Division
101 W. Jefferson St.
Springfield, IL 62702
Rev.PropertyTax@illinois.gov

FILED

MAY -5 2022

Cheryl M. Henson
MARSHALL COUNTY CLERK/RECORDER

May 2022

New Sheriff Salary Reimbursement Program - PA 102-0699

PA 102-0699 (HB 4700) created a salary reimbursement program for County Sheriffs, effective July 1, 2022, and set forth new salary requirements for an elected or appointed sheriff. The new statute can be found in 55 ILCS 5/3-6007.5 of the Illinois Compiled Statutes. Below is some guidance to assist you with implementing this program in your county.

New Law – PA 102-0699

Sec. 3-6007.5. Sheriff's salary.

(a) As used in this Section, "salary" is exclusive of any other compensation or benefits.

(b) The salary of a sheriff elected or appointed after the effective date of this amendatory Act of the 102nd General Assembly in a non-home rule county shall not be less than 80% of the salary set for the State's Attorney under Section 4-2001 for the county in which the sheriff is elected or appointed.

(c) The State shall furnish 66 2/3% of the total annual salary to be paid to a sheriff. Said amounts furnished by the State shall be payable monthly by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General Revenue Fund to the county in which the sheriff is elected or appointed. The county shall furnish 33 1/3% of the total annual salary.

What this means

Subsec. (a) defines the sheriff's salary as being exclusive of any other compensation or benefits.

Subsec. (b) requires that the salary of a sheriff elected or appointed in a non-home rule county after April 19, 2022, the effective date of the law, shall not be less than 80% of the salary set for the State's Attorney under Section 4-2001 (55 ILCS 5/4-2001) for the county in which the sheriff is elected or appointed. This means that a sheriff who is appointed or elected after April 19, 2022 in a non-home rule county must be paid at least 80% of the salary being paid to the State's Attorney. If a sheriff is currently in the middle of a term or is finishing a term, the new salary requirement will not take effect until they are next appointed or elected to office.

Subsec. (c) requires the State to reimburse the county with 66 2/3% (.6666) of the annual salary paid to the sheriff. These reimbursements will be paid on a monthly basis starting with the July 2022 salary reimbursement to be paid in August.



Illinois Department of Revenue
Property Tax Division
101 W. Jefferson St.
Springfield, IL 62702
Rev.PropertyTax@illinois.gov

How to qualify

To qualify for the 66 2/3% salary reimbursement for elected or appointed sheriffs, the county will be required to furnish required documentation to establish the sheriff salary. This process has been modeled after the current Supervisor of Assessments and Public Defender salary reimbursement programs for ease of implementation for both the county and IDOR.

Each county will need to submit a completed PTAX-451, Salary Adjustment for Supervisor of Assessments, Public Defender, or Sheriff, form to IDOR to establish the person holding office as the sheriff and to report the annual salary being paid. Documentation to support the salary being paid must be attached to the form and can be either a county resolution stating the salary being paid, a copy of the county board minutes where the salary was last established, or a letter on county letterhead and signed by the county board chair stating the current salary of the sheriff.

Beginning July 1, 2022, a PTAX-450-SF must be filed monthly to request the reimbursement to the county of 66 2/3% (.6666) of the salary being paid to the sheriff. This form will be required to be submitted on a monthly basis no later than the 25th of the month.

Any time there is a change in salary or a change in the person holding office, a PTAX-451 along with supporting documentation will be required to be filed to establish the change in personnel and/or salary being paid.

THE STEWART LAW FIRM, P.C.

Richard V. Stewart, Jr.
President & C.E.O.

phone: (217) 670-1355
cell: (217) 299-8116
email: rick@thestewartlawfirm.com

April 25, 2022

(via email only – jim@ilsheriff.org)

James Kaitschuk, Executive Director
Illinois Sheriff's Association
401 East Washington Street
Suite 1000
Springfield, IL 62701

Re: Section 3-6007.5 of the Counties Code

Jim:

Public Act 102-0699 amends the Counties Code by adding Section 3-6007.5. Section 3-6007.5 states:

- (a) As used in this Section, "salary" is exclusive of any other compensation or benefits.
- (b) The salary of the sheriff elected or appointed after the effective date of this amendatory act of the 102nd General Assembly in a non-home rule county shall not be less than 80% of the salary set for the State's Attorney under Section 4-2001 for the county in which the sheriff is elected or appointed.
- (c) The State shall furnish 66 2/3% of the total annual salary to be paid to a sheriff. Said amounts furnished by the State shall be payable monthly by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General Revenue Fund to the county in which the sheriff is elected or appointed. The county shall furnish 33 1/3% of the total annual salary. (Emphasis added.)

55 ILCS 5/3-6007.5.¹

¹ HB4700 was signed by Governor J. B. Pritzker on April 19, 2022. However, the addition of 55 ILCS 5/3-6007.5 does not become effective until July 1, 2022.

Changes in Salary

A. Sheriffs

Article VII, Section 9(b) of the Constitution of the State of Illinois states:

(b) An *increase or decrease* in the salary of an *elected* officer of any unit of local government shall not take effect during the term for which that officer is *elected* (emphasis added).

Ill. Const. 1970, Art. VII, § 9(b). Sheriffs are Officers of Local Government. *See*, Ill. Const. 1970, Art. VII, § 4(c). Therefore, an *elected* Sheriff cannot have their salary increased or decreased during their term of office. *See, Illinois County Treasurers' Association v. Hamer*, 2014 IL App (4th) 130286 ¶ 28.² As such, the raise cannot be applied to Sheriff Chaplin but instead to the winner of the election for Sheriff.

B. State's Attorneys

While Article VII, Section 9(b) prohibits the increase or decrease of an elected Sheriff's term, the same prohibition does not exist for the State's Attorney. *See, Ingemunson v. Hedges*, 133 Ill.2d 364 (1990). The Illinois Supreme Court held that State's Attorneys are members of the judicial branch. Article VI, Section 19 of the Constitution of the State of Illinois states:

A State's Attorney shall be elected in each county in 1972 and every fourth year thereafter for a four year term. One State's Attorney may be elected to serve two or more counties if the governing boards of such counties so provide and a majority of the electors of each county voting on the issue approve. A person shall not be eligible for the office of State's Attorney unless he is a United States citizen and a licensed attorney-at-law of this State. *His salary shall be provided by law* (emphasis added).

Ill. Const. 1970, Art. VII, § 9(b). The *Ingemunson* court found that:

the drafters of our constitution, by placing the office of State's Attorney in the judicial article, and specifying that “[a] State's Attorney[s] * * * salary shall be provided by law,” could not have intended that State's Attorneys be subject to the executive article's salary-raise prohibition.

² Sheriffs are in the same position as treasurers so the analysis in *Treasurers' v. Hamer* applies. The Court did not address the difference between an “elected” and “appointed” treasurer. The Court just said treasurer.

Ingemunson, 133 Ill. 2d at 367. While this case dealt with an increase in pay, the same rationale would apply to a decrease in pay but only if a mechanism for a decrease in pay were provided in a statute.³

Section 4-2001 of the Counties Code sets the salaries of State’s Attorneys, except the Cook County State’s Attorney, based in population. The original salary matrix was set as follows:

Table 1 – Initial Breakdown of State’s Attorneys’ Base Salaries

Section	Population	12/31/1988	1/1/1989	7/1/1994
4-2001(a)(1)	less than 10,000	\$40,500	\$45,500	\$55,000
4-2001(a)(2)	10,000 through 19,999	\$46,500	\$61,500	\$71,500
4-2001(a)(3)	20,000 through 29,999	\$51,000	\$65,000	\$75,000
4-2001(a)(4)	30,000 or more	\$65,500	\$80,000	\$96,837

However, under Section 4-2001(a)(5), the salary matrix was adjusted as follows:

(5) Effective December 1, 2000, to each state's attorney in counties containing fewer than 30,000 inhabitants, the same salary plus any cost of living adjustments as authorized by the Compensation Review Board to take effect after January 1, 1999, for state's attorneys in counties containing 20,000 or more but fewer than 30,000 inhabitants, or as set by the Compensation Review Board whichever is greater.

55 ILCS 5/4-2001 (West, 2020). Therefore, as of December 1, 2000, the matrix for the determining the wages of State’s Attorneys was set as follows:

Table 2 – Current Breakdown of State’s Attorneys’ Base Salaries

Section	Population	Current Base Salary	Increases?
4-2001(a)(5)	less than 30,000	\$142,068.19	COLA’s authorized by the Compensation Review Board
	30,000 or more	\$183,434.18	
N/A	Cook County	\$212,386.75	?

II. Fixing Compensation of County Elected Officers

Section 2 of the Local Government Officer Compensation Act states, in part, that:

(a) Notwithstanding any other law to the contrary, the compensation of elected officers of school districts and units of local government, including home rule units, which compensation is to be fixed by that school district or unit of

³ Because of Article VII, Section 9 of the Illinois Constitution, a Sheriff’s salary could not be diminished.

local government, shall be fixed at least 180 days before the beginning of the terms of the officers whose compensation is to be fixed.

- (b) In addition to the requirements of subsection (a), the compensation of county elected officers shall be fixed by ordinance or resolution of the county board or the board of county commissioners. In the ordinance or resolution fixing the compensation of county elected officers under subsection (a), the county board shall separately list each stipend an elected officer is expected to receive in addition to the compensation to be paid by the county. The stipends listed shall include, but are not limited to, stipends expected to be received under:

* * *

Section 4-6003 of the Counties Code.⁴ (Emphasis added).

50 ILCS 145/2 (West 2020).

A. Timing and Manner

Under Section 2(a), the salary of a sheriff must be set no less than one hundred eighty (180) days prior to the election. *See*, 50 ILCS 145/2(a). Therefore, salary must be set by Saturday, June 4, 2022.

Pursuant to Section 2(b), the County Board must fix the salary by ordinance or resolution. Therefore, combined together, the County Board must set the salary of the Sheriff by passing an ordinance or resolution (in an open meeting and with proper notice), prior to Saturday, June 4, 2022.

In the resolution the County must also include reference to the Sheriff's annual six thousand five-hundred-dollar (\$6,500.00) stipend contained in Section 4-6003(d) of the Counties Code. *See*, 55 ILCS 5/4-6003 (West 2020).

While the stipend must be included in the ordinance, the receipt of the stipend does not count as part of the eighty percent (80.00%) nor may it be subtracted from the eighty percent (80.00%). Both Sections 3-6007.5(a)⁵ and 4-6003(e)⁶ of the Counties Code make that clear.

⁴ Section 4-6003 of the Counties Code contains the \$6,500 Sheriff's Stipend.

⁵ "As used in [55 ILCS 5/3-6007.5], 'salary' is exclusive of any other compensation or benefits."

⁶ "No county board may reduce or otherwise impair the compensation payable from county funds to a sheriff if the reduction or impairment is the result of the sheriff receiving an award or stipend payable from State funds."

B. Eighty Percent 80%

Because the Sheriff's Salary has to be set by June 4, 2022, the amount has to be no less than eighty percent (80%) of the State's Attorney's salary as of June 4, 2022. However, the cost-of-living increases the State's Attorneys will receive between, can be added to the Sheriff's salary throughout the December 1, 2022 to November 30, 2026 term.

1. Increases in Salary between December 1, 2022 and November 30, 2026.

While Article VII, Section 9 of the Constitution of the State of Illinois states that an increase or decrease in the salary of an elected Sheriff cannot "take effect during the term", it does not say that increases in salary cannot be determined prior to the beginning of the term. Ill. Const. 1970, Art. VII, § 9(b).

According to Section 4-2001 of the Counties Code, a state's attorney's salary includes "cost of living adjustments as authorized by the Compensation Review Board (emphasis added)." 55 ILCS 5/4-2001(a)(5). The cost-of-living adjustments are part of the State's Attorney's salary and the eighty percent (80.00%) would be calculated off of increased salary to conform to Section 3-6007.5 of the Counties Code.

2. Legality

The cost-of-living adjustments can be fixed to the salary of the Sheriff prior to the Sheriff taking office. This interpretation is consistent with Section 2 of the Local Government Officer Compensation Act. Section 2 states that the salary "shall be fixed" at least one hundred eighty (180) dates prior to the start of the term. So long as the cost-of-living adjustments are referenced—which can be done by referencing Section 4-2001 of the Counties Code—in the ordinance/resolution, they are legal.

According to the Illinois Attorney General:

the salary of an elected officer of a unit of local government need not be fixed at a flat annual rate for the entire term; the salary may be established on a graduated basis prior to the beginning of the term for which that officer is elected.

Ill. Atty. Gen. Op. S-777, p. 9 (June 18, 1974). The attorney General opined that:

It would follow that the spirit and purpose of the constitutional prohibition would not be violated by an act establishing a fixed scale of pay to be determined during the term of office.

re: ISA – Public Act 102-699
April 25, 2022
Page 6 of 6

Id at p. 5. A refence to the terms of Section 4-2001 of the Counties Code would not violate the Illinois Constitution.

III. Conclusion

As counties are required to pass ordinances to set the sheriff salary by June 4, 2022, I have attached a template for an ordinance/resolution.

Very truly yours,

THE STEWART LAW FIRM, P.C.

A handwritten signature in black ink, appearing to read "RVSJ", with a horizontal line extending from the end of the signature.

Richard V. Stewart, Jr.

THE STEWART LAW FIRM, P.C.

Richard V. Stewart, Jr.
President & C.E.O.

phone: (217) 670-1355
cell: (217) 299-8116
email: rick@thestewartlawfirm.com

April 25, 2022

(via email only – jim@ilsheriff.org)

James Kaitschuk, Executive Director
Illinois Sheriff's Association
401 East Washington Street
Suite 1000
Springfield, IL 62701

Re: *Section 3-6007.5 of the Counties Code*

Jim:

Public Act 102-0699 amends the Counties Code by adding Section 3-6007.5. Section 3-6007.5 states:

- (a) As used in this Section, “salary” is *exclusive* of any other compensation or benefits.
- (b) The salary of the sheriff *elected or appointed* after the effective date of this amendatory act of the 102nd General Assembly in a non-home rule county *shall not be less than 80% of the salary set for the State's Attorney* under Section 4-2001 for the county in which the sheriff is elected or appointed.
- (c) The State *shall furnish 66 2/3% of the total annual salary* to be paid to a sheriff. Said amounts furnished by the State shall be payable monthly by the Department of Revenue out of the Personal Property Tax Replacement Fund or the General Revenue Fund to the county in which the sheriff is elected or appointed. The county shall furnish 33 1/3% of the total annual salary. (Emphasis added.)

55 ILCS 5/3-6007.5.¹

¹ HB4700 was signed by Governor J. B. Pritzker on April 19, 2022. However, the addition of 55 ILCS 5/3-6007.5 does not become effective until July 1, 2022.

• **Changes in Salary**

A. Sheriffs

Article VII, Section 9(b) of the Constitution of the State of Illinois states:

(b) An *increase or decrease* in the salary of an *elected* officer of any unit of local government shall not take effect during the term for which that officer is *elected* (emphasis added).

Ill. Const. 1970, Art. VII, § 9(b). Sheriffs are Officers of Local Government. *See*, Ill. Const. 1970, Art. VII, § 4(c). Therefore, an *elected* Sheriff cannot have their salary increased or decreased during their term of office. *See, Illinois County Treasurers' Association v. Hamer*, 2014 IL App (4th) 130286 ¶ 28.² As such, the raise cannot be applied to Sheriff Chaplin but instead to the winner of the election for Sheriff.

B. State's Attorneys

While Article VII, Section 9(b) prohibits the increase or decrease of an elected Sheriff's term, the same prohibition does not exist for the State's Attorney. *See, Ingemunson v. Hedges*, 133 Ill.2d 364 (1990). The Illinois Supreme Court held that State's Attorneys are members of the judicial branch. Article VI, Section 19 of the Constitution of the State of Illinois states:

A State's Attorney shall be elected in each county in 1972 and every fourth year thereafter for a four year term. One State's Attorney may be elected to serve two or more counties if the governing boards of such counties so provide and a majority of the electors of each county voting on the issue approve. A person shall not be eligible for the office of State's Attorney unless he is a United States citizen and a licensed attorney-at-law of this State. *His salary shall be provided by law* (emphasis added).

Ill. Const. 1970, Art. VII, § 9(b). The *Ingemunson* court found that:

the drafters of our constitution, by placing the office of State's Attorney in the judicial article, and specifying that “[a] State's Attorney[’s] * * * salary shall be provided by law,” could not have intended that State's Attorneys be subject to the executive article's salary-raise prohibition.

² Sheriffs are in the same position as treasurers so the analysis in *Treasurers' v. Hamer* applies. The Court did not address the difference between an “elected” and “appointed” treasurer. The Court just said treasurer.

Ingemunson, 133 Ill. 2d at 367. While this case dealt with an increase in pay, the same rational would apply to a decrease in pay but only if a mechanism for a decrease in pay were provided in a statute.³

Section 4-2001 of the Counties Code sets the salaries of State’s Attorneys, except the Cook County State’s Attorney, based in population. The original salary matrix was set as follows:

Table 1 – Initial Breakdown of State’s Attorneys’ Base Salaries

Section	Population	12/31/1988	1/1/1989	7/1/1994
4-2001(a)(1)	less than 10,000	\$40,500	\$45,500	\$55,000
4-2001(a)(2)	10,000 through 19,999	\$46,500	\$61,500	\$71,500
4-2001(a)(3)	20,000 through 29,999	\$51,000	\$65,000	\$75,000
4-2001(a)(4)	30,000 or more	\$65,500	\$80,000	\$96,837

However, under Section 4-2001(a)(5), the salary matrix was adjusted as follows:

(5) Effective December 1, 2000, to each state's attorney in counties containing fewer than 30,000 inhabitants, the same salary plus any cost of living adjustments as authorized by the Compensation Review Board to take effect after January 1, 1999, for state's attorneys in counties containing 20,000 or more but fewer than 30,000 inhabitants, or as set by the Compensation Review Board whichever is greater.

55 ILCS 5/4-2001 (West, 2020). Therefore, as of December 1, 2000, the matrix for the determining the wages of State’s Attorneys was set as follows:

Table 2 – Current Breakdown of State’s Attorneys’ Base Salaries

Section	Population	Current Base Salary	Increases?
4-2001(a)(5)	less than 30,000	\$142,068.19	COLA’s authorized by the Compensation Review Board
	30,000 or more	\$183,434.18	
N/A	Cook County	\$212,386.75	?

II. Fixing Compensation of County Elected Officers

Section 2 of the Local Government Officer Compensation Act states, in part, that:

(a) Notwithstanding any other law to the contrary, the compensation of elected officers of school districts and units of local government, including home rule units, which compensation is to be fixed by that school district or unit of

³ Because of Article VII, Section 9 of the Illinois Constitution, a Sheriff’s salary could not be diminished.

local government, shall be fixed at least 180 days before the beginning of the terms of the officers whose compensation is to be fixed.

- (b) In addition to the requirements of subsection (a), the compensation of county elected officers shall be fixed by ordinance or resolution of the county board or the board of county commissioners. In the ordinance or resolution fixing the compensation of county elected officers under subsection (a), the county board shall separately list each stipend an elected officer is expected to receive in addition to the compensation to be paid by the county. The stipends listed shall include, but are not limited to, stipends expected to be received under:

* * *

Section 4-6003 of the Counties Code.⁴ (Emphasis added).

50 ILCS 145/2 (West 2020).

A. Timing and Manner

Under Section 2(a), the salary of a sheriff must be set no less than one hundred eighty (180) days prior to the election. *See*, 50 ILCS 145/2(a). Therefore, salary must be set by Saturday, June 4, 2022.

Pursuant to Section 2(b), the County Board must fix the salary by ordinance or resolution. Therefore, combined together, the County Board must set the salary of the Sheriff by passing an ordinance or resolution (in an open meeting and with proper notice), prior to Saturday, June 4, 2022.

In the resolution the County must also include reference to the Sheriff's annual six thousand five-hundred-dollar (\$6,500.00) stipend contained in Section 4-6003(d) of the Counties Code. *See*, 55 ILCS 5/4-6003 (West 2020).

While the stipend must be included in the ordinance, the receipt of the stipend does not count as part of the eighty percent (80.00%) nor may it be subtracted from the eighty percent (80.00%). Both Sections 3-6007.5(a)⁵ and 4-6003(e)⁶ of the Counties Code make that clear.

⁴ Section 4-6003 of the Counties Code contains the \$6,500 Sheriff's Stipend.

⁵ "As used in [55 ILCS 5/3-6007.5], 'salary' is exclusive of any other compensation or benefits."

⁶ "No county board may reduce or otherwise impair the compensation payable from county funds to a sheriff if the reduction or impairment is the result of the sheriff receiving an award or stipend payable from State funds."

B. Eighty Percent 80%

Because the Sheriff's Salary has to be set by June 4, 2022, the amount has to be no less than eighty percent (80%) of the State's Attorney's salary as of June 4, 2022. However, the cost-of-living increases the State's Attorneys will receive between, can be added to the Sheriff's salary throughout the December 1, 2022 to November 30, 2026 term.

1. Increases in Salary between December 1, 2022 and November 30, 2026.

While Article VII, Section 9 of the Constitution of the State of Illinois states that an increase or decrease in the salary of an elected Sheriff cannot "take effect during the term", it does not say that increases in salary cannot be determined prior to the beginning of the term. Ill. Const. 1970, Art. VII, § 9(b).

According to Section 4-2001 of the Counties Code, a state's attorney's salary includes "cost of living adjustments as authorized by the Compensation Review Board (emphasis added)." 55 ILCS 5/4-2001(a)(5). The cost-of-living adjustments are part of the State's Attorney's salary and the eighty percent (80.00%) would be calculated off of increased salary to conform to Section 3-6007.5 of the Counties Code.

2. Legality

The cost-of-living adjustments can be fixed to the salary of the Sheriff prior to the Sheriff taking office. This interpretation is consistent with Section 2 of the Local Government Officer Compensation Act. Section 2 states that the salary "shall be fixed" at least one hundred eighty (180) dates prior to the start of the term. So long as the cost-of-living adjustments are referenced—which can be done by referencing Section 4-2001 of the Counties Code—in the ordinance/resolution, they are legal.

According to the Illinois Attorney General:

the salary of an elected officer of a unit of local government need not be fixed at a flat annual rate for the entire term; the salary may be established on a graduated basis prior to the beginning of the term for which that officer is elected.

Ill. Atty. Gen. Op. S-777, p. 9 (June 18, 1974). The attorney General opined that:

It would follow that the spirit and purpose of the constitutional prohibition would not be violated by an act establishing a fixed scale of pay to be determined during the term of office.

re: ISA – Public Act 102-699
April 25, 2022
Page 6 of 6

Id at p. 5. A refence to the terms of Section 4-2001 of the Counties Code would not violate the Illinois Constitution.

III. Conclusion

As counties are required to pass ordinances to set the sheriff salary by June 4, 2022, I have attached a template for an ordinance/resolution.

Very truly yours,

THE STEWART LAW FIRM, P.C.

A handwritten signature in black ink, appearing to read "RVSJ", with a horizontal line extending to the right.

Richard V. Stewart, Jr.