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FILE NO. S-567

COUNTIES:

County Board
Salaries of Assistant
States Attorneys

Honorable Henry D. Sintzenich
State's Attorney
McDonough County
Macomb, Illinois 61455

Dear Mr. Sintzenich:

I have your letter wherein you state:

"I hereby request your opinion on the following matter:

Where the County Board has fixed the number of Assistant State's Attorneys and has appropriated under their annual budget an amount of money for the payment of the salary of each of the assistants, is it the County Board or is it the State's Attorney who actually sets the salary within the limits of the appropriation? And secondly, is it the State's Attorney or the County Board that appoints the Assistant State's Attorney and also has the power to terminate employment of an Assistant State's Attorney?"

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Section 2 of "AN ACT fixing and providing for the payment of the salaries of State's attorneys and their assistants, defining their duties, providing for the appointment of assistants, and to provide for the collection and disposition of fees, fines, forfeitures and penalties provided by law to be paid to the state's attorney, and to repeal all Acts in conflict herewith," (Ill. Rev. Stats., 1971, ch. 53, par. 18), [hereinafter referred to as the State's Attorneys Salaries Act], provides as follows:

"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 in quarterly annual installments, on the order of the county board on the treasurer of said county. Such assistant State's Attorneys to be named by the State's Attorney of the county, and when so appointed shall take oath of office in like manner as State's Attorneys, and shall be under the supervision of the State's Attorney."

If the language of a statute is plain and unambiguous, there is no need for construction of the statute. (People ex rel. Nelson v. Olympic Hotel Building Corp., 405 Ill. 440). An

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unambiguous statute must be held to mean what it plainly expresses (Levinson v. Home Bank & Trust Co., 337 Ill. 241) and its plain and obvious meaning may not be enlarged or restricted. People ex rel. Chadwick v. Sergel, 269 Ill. 619.

I am of the opinion that section 2 of the State's Attorneys Salaries Act is unambiguous and must be held to mean what it plainly expresses. Section 2 clearly states that the county board has the power to determine the number of assistant state's attorneys to be employed by the county. Also, the county board has the power to determine the salaries to be paid these assistant state's attorneys.

The state's attorney appoints the assistant state's attorneys. Thus, he possesses the concomitant power to discharge an assistant state's attorney.

In answer to your questions, the county board determines the salaries of the assistant state's attorneys. The state's attorney appoints the assistant state's attorney and has the power to terminate the employment of an assistant state's attorney.

Very truly yours,

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