

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Counties Code is amended by changing  
5 Section 3-9008 as follows:

6 (55 ILCS 5/3-9008) (from Ch. 34, par. 3-9008)

7 Sec. 3-9008. Appointment of attorney to perform duties.

8 (a) (Blank).

9 (a-5) The court on its own motion, or an interested person  
10 in a cause or proceeding, civil or criminal, may file a  
11 petition alleging that the State's Attorney is sick, absent,  
12 or unable to fulfill his or her duties. The court shall  
13 consider the petition, any documents filed in response, and if  
14 necessary, grant a hearing to determine whether the State's  
15 Attorney is sick, absent, or otherwise unable to fulfill his  
16 or her duties. If the court finds that the State's Attorney is  
17 sick, absent, or otherwise unable to fulfill his or her  
18 duties, the court may appoint some competent attorney to  
19 prosecute or defend the cause or proceeding.

20 (a-10) The court on its own motion, or an interested  
21 person in a cause, ~~or~~ proceeding, or other matter arising  
22 under the State's Attorney's duties, civil or criminal, may  
23 file a petition alleging that the State's Attorney has an

1 actual conflict of interest in the cause, ~~or~~ proceeding, or  
2 other matter. The court shall consider the petition, any  
3 documents filed in response, and if necessary, grant a hearing  
4 to determine whether the State's Attorney has an actual  
5 conflict of interest in the cause, ~~or~~ proceeding, or other  
6 matter. If the court finds that the petitioner has proven by  
7 sufficient facts and evidence that the State's Attorney has an  
8 actual conflict of interest in a specific case, the court may  
9 appoint some competent attorney to prosecute or defend the  
10 cause, ~~or~~ proceeding, or other matter.

11 (a-15) Notwithstanding subsections (a-5) and (a-10) of  
12 this Section, the State's Attorney may file a petition to  
13 recuse himself or herself from a cause or proceeding for any  
14 other reason he or she deems appropriate and the court shall  
15 appoint a special prosecutor as provided in this Section.

16 (a-20) Prior to appointing a private attorney under this  
17 Section, the court shall contact public agencies, including,  
18 but not limited to, the Office of Attorney General, Office of  
19 the State's Attorneys Appellate Prosecutor, or local State's  
20 Attorney's Offices throughout the State, to determine a public  
21 prosecutor's availability to serve as a special prosecutor at  
22 no cost to the county and shall appoint a public agency if they  
23 are able and willing to accept the appointment. An attorney so  
24 appointed shall have the same power and authority in relation  
25 to the cause or proceeding as the State's Attorney would have  
26 if present and attending to the cause or proceedings.

1           (b) In case of a vacancy of more than one year occurring in  
2 any county in the office of State's attorney, by death,  
3 resignation or otherwise, and it becomes necessary for the  
4 transaction of the public business, that some competent  
5 attorney act as State's attorney in and for such county during  
6 the period between the time of the occurrence of such vacancy  
7 and the election and qualification of a State's attorney, as  
8 provided by law, the vacancy shall be filled upon the written  
9 request of a majority of the circuit judges of the circuit in  
10 which is located the county where such vacancy exists, by  
11 appointment as provided in The Election Code of some competent  
12 attorney to perform and discharge all the duties of a State's  
13 attorney in the said county, such appointment and all  
14 authority thereunder to cease upon the election and  
15 qualification of a State's attorney, as provided by law. Any  
16 attorney appointed for any reason under this Section shall  
17 possess all the powers and discharge all the duties of a  
18 regularly elected State's attorney under the laws of the State  
19 to the extent necessary to fulfill the purpose of such  
20 appointment, and shall be paid by the county he serves not to  
21 exceed in any one period of 12 months, for the reasonable  
22 amount of time actually expended in carrying out the purpose  
23 of such appointment, the same compensation as provided by law  
24 for the State's attorney of the county, apportioned, in the  
25 case of lesser amounts of compensation, as to the time of  
26 service reasonably and actually expended. The county shall

1 participate in all agreements on the rate of compensation of a  
2 special prosecutor.

3 (c) An order granting authority to a special prosecutor  
4 must be construed strictly and narrowly by the court. The  
5 power and authority of a special prosecutor shall not be  
6 expanded without prior notice to the county. In the case of the  
7 proposed expansion of a special prosecutor's power and  
8 authority, a county may provide the court with information on  
9 the financial impact of an expansion on the county. Prior to  
10 the signing of an order requiring a county to pay for  
11 attorney's fees or litigation expenses, the county shall be  
12 provided with a detailed copy of the invoice describing the  
13 fees, and the invoice shall include all activities performed  
14 in relation to the case and the amount of time spent on each  
15 activity.

16 (Source: P.A. 99-352, eff. 1-1-16.)