

# HB3138



## 96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3138

Introduced 2/24/2009, by Rep. Tom Cross

### SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-9005

from Ch. 34, par. 3-9005

Amends the Counties Code. Makes a technical change in a Section concerning the powers and duties of State's attorneys.

LRB096 05950 RLJ 16031 b

A BILL FOR

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 Section  
5 3-9005 as follows:

6 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)  
7 Sec. 3-9005. Powers and duties of State's attorney.

8 (a) The ~~The~~ duty of each State's attorney shall be:

9 (1) To commence and prosecute all actions, suits,  
10 indictments and prosecutions, civil and criminal, in the  
11 circuit court for his county, in which the people of the  
12 State or county may be concerned.

13 (2) To prosecute all forfeited bonds and  
14 recognizances, and all actions and proceedings for the  
15 recovery of debts, revenues, moneys, fines, penalties and  
16 forfeitures accruing to the State or his county, or to any  
17 school district or road district in his county; also, to  
18 prosecute all suits in his county against railroad or  
19 transportation companies, which may be prosecuted in the  
20 name of the People of the State of Illinois.

21 (3) To commence and prosecute all actions and  
22 proceedings brought by any county officer in his official  
23 capacity.

1           (4) To defend all actions and proceedings brought  
2 against his county, or against any county or State officer,  
3 in his official capacity, within his county.

4           (5) To attend the examination of all persons brought  
5 before any judge on habeas corpus, when the prosecution is  
6 in his county.

7           (6) To attend before judges and prosecute charges of  
8 felony or misdemeanor, for which the offender is required  
9 to be recognized to appear before the circuit court, when  
10 in his power so to do.

11           (7) To give his opinion, without fee or reward, to any  
12 county officer in his county, upon any question or law  
13 relating to any criminal or other matter, in which the  
14 people or the county may be concerned.

15           (8) To assist the attorney general whenever it may be  
16 necessary, and in cases of appeal from his county to the  
17 Supreme Court, to which it is the duty of the attorney  
18 general to attend, he shall furnish the attorney general at  
19 least 10 days before such is due to be filed, a manuscript  
20 of a proposed statement, brief and argument to be printed  
21 and filed on behalf of the people, prepared in accordance  
22 with the rules of the Supreme Court. However, if such  
23 brief, argument or other document is due to be filed by law  
24 or order of court within this 10 day period, then the  
25 State's attorney shall furnish such as soon as may be  
26 reasonable.

1           (9) To pay all moneys received by him in trust, without  
2           delay, to the officer who by law is entitled to the custody  
3           thereof.

4           (10) To notify, by first class mail, complaining  
5           witnesses of the ultimate disposition of the cases arising  
6           from an indictment or an information.

7           (11) To perform such other and further duties as may,  
8           from time to time, be enjoined on him by law.

9           (12) To appear in all proceedings by collectors of  
10          taxes against delinquent taxpayers for judgments to sell  
11          real estate, and see that all the necessary preliminary  
12          steps have been legally taken to make the judgment legal  
13          and binding.

14          (b) The State's Attorney of each county shall have  
15          authority to appoint one or more special investigators to serve  
16          subpoenas, make return of process and conduct investigations  
17          which assist the State's Attorney in the performance of his  
18          duties. A special investigator shall not carry firearms except  
19          with permission of the State's Attorney and only while carrying  
20          appropriate identification indicating his employment and in  
21          the performance of his assigned duties.

22          Subject to the qualifications set forth in this subsection,  
23          special investigators shall be peace officers and shall have  
24          all the powers possessed by investigators under the State's  
25          Attorneys Appellate Prosecutor's Act.

26          No special investigator employed by the State's Attorney

1 shall have peace officer status or exercise police powers  
2 unless he or she successfully completes the basic police  
3 training course mandated and approved by the Illinois Law  
4 Enforcement Training Standards Board or such board waives the  
5 training requirement by reason of the special investigator's  
6 prior law enforcement experience or training or both. Any  
7 State's Attorney appointing a special investigator shall  
8 consult with all affected local police agencies, to the extent  
9 consistent with the public interest, if the special  
10 investigator is assigned to areas within that agency's  
11 jurisdiction.

12 Before a person is appointed as a special investigator, his  
13 fingerprints shall be taken and transmitted to the Department  
14 of State Police. The Department shall examine its records and  
15 submit to the State's Attorney of the county in which the  
16 investigator seeks appointment any conviction information  
17 concerning the person on file with the Department. No person  
18 shall be appointed as a special investigator if he has been  
19 convicted of a felony or other offense involving moral  
20 turpitude. A special investigator shall be paid a salary and be  
21 reimbursed for actual expenses incurred in performing his  
22 assigned duties. The county board shall approve the salary and  
23 actual expenses and appropriate the salary and expenses in the  
24 manner prescribed by law or ordinance.

25 (c) The State's Attorney may request and receive from  
26 employers, labor unions, telephone companies, and utility

1 companies location information concerning putative fathers and  
2 noncustodial parents for the purpose of establishing a child's  
3 paternity or establishing, enforcing, or modifying a child  
4 support obligation. In this subsection, "location information"  
5 means information about (i) the physical whereabouts of a  
6 putative father or noncustodial parent, (ii) the putative  
7 father or noncustodial parent's employer, or (iii) the salary,  
8 wages, and other compensation paid and the health insurance  
9 coverage provided to the putative father or noncustodial parent  
10 by the employer of the putative father or noncustodial parent  
11 or by a labor union of which the putative father or  
12 noncustodial parent is a member.

13 (d) For each State fiscal year, the State's Attorney of  
14 Cook County shall appear before the General Assembly and  
15 request appropriations to be made from the Capital Litigation  
16 Trust Fund to the State Treasurer for the purpose of providing  
17 assistance in the prosecution of capital cases in Cook County  
18 and for the purpose of providing assistance to the State in  
19 post-conviction proceedings in capital cases under Article 122  
20 of the Code of Criminal Procedure of 1963 and in relation to  
21 petitions filed under Section 2-1401 of the Code of Civil  
22 Procedure in relation to capital cases. The State's Attorney  
23 may appear before the General Assembly at other times during  
24 the State's fiscal year to request supplemental appropriations  
25 from the Trust Fund to the State Treasurer.

26 (e) The State's Attorney shall have the authority to enter

1 into a written agreement with the Department of Revenue for  
2 pursuit of civil liability under Section 17-1a of the Criminal  
3 Code of 1961 against persons who have issued to the Department  
4 checks or other orders in violation of the provisions of  
5 paragraph (d) of subsection (B) of Section 17-1 of the Criminal  
6 Code of 1961, with the Department to retain the amount owing  
7 upon the dishonored check or order along with the dishonored  
8 check fee imposed under the Uniform Penalty and Interest Act,  
9 with the balance of damages, fees, and costs collected under  
10 Section 17-1a of the Criminal Code of 1961 to be retained by  
11 the State's Attorney. The agreement shall not affect the  
12 allocation of fines and costs imposed in any criminal  
13 prosecution.

14 (Source: P.A. 92-492, eff. 1-1-02; 93-972, eff. 8-20-04.)