

“Compensation”

Definitions:

The [Illinois Governmental Ethics Act](#) defines "compensation" as: "*Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another.*

The [Illinois Code of Civil Procedure](#) talks about this in [Section 20-101](#) when providing for the recovery of fraudulently obtained public funds: “**Compensation, benefits or remuneration**” **includes** regular compensation, overtime compensation, vacation compensation, deferred compensation, sick pay, disability pay, sick leave, disability leave, medical, dental, optical or other **health benefits**, pension or retirement benefits **or any other** pay, compensation, **benefits**, or any other remuneration.

The Illinois Supreme Court, in [Harlan v Sweet](#), has weighed in on the subject of defining compensation (read [this paper](#)) - "*We also note that the terms "salary" and "compensation" are virtually synonymous (Cummings v. Smith (1937), 368 Ill. 94, 99, 13 N.E.2d 69) and are used interchangeably in these provisions of the constitution.*"

Black's Law Dictionary's definition of "Compensation": "*The word also signifies the remuneration or wages given to an employee or officer. But it is not exactly synonymous with "salary."*"

Black's Law Dictionary's definition of "Remuneration": "*Reward; recompense; salary. Dig. 17, 1, 7. The word "remuneration" means a quid pro quo. If a man gives his services, whatever consideration he gets for giving his services seems 'to me a remuneration for them. Consequently, I think, if a person was in the receipt of a payment, or in the receipt of a percentage, or any kind of payment which would not be an actual money payment, the amount he would receive annually in respect of this would be "remuneration."* 1 Q. B. Div. 003, 664."

1994 Illinois Attorney General Opinion 94-022: "*Health insurance benefits, if any, are a part of the compensation to be so fixed (Ill. Atty Gen. Op. No. 94-022, issued October 25, 1994.)*"

Compensation Setting Ordinances For County Board Members

County Board compensation setting ordinance must be set prior to the reapportionment of the county board (after each 10-year census).

The additional compensation for the chairman of the board shall also be set at this time.

Prior to any later election of county board members, the board may pass a new compensation setting ordinance, increasing or decreasing the compensation, provided it does not take effect during the term of office for those board members not being elected at the next election.

When setting a new compensation ordinance, it supersedes all previous ordinances and all previous compensation granted to county board members.

In the Crawford County example, a Motion was made in 2002 to permit county board members to qualify for county health insurance the same as county employees qualify. It is still unclear how an employee qualifies – is there a minimum number of hours that must be worked?

Then, in 2010, a new compensation ordinance was passed, which eliminated all previous compensations.

Again, in 2021, a new compensation ordinance was passed eliminating all previous compensations.

In our view, the only compensation authorized at this time is the compensation set in the 2010 ordinance, plus any additional compensation voted and approved after 2010. Beginning in the new terms of office after the 2022 election, the only compensation permitted for board members is that compensation spelled out in the 2021 ordinance. It does not matter what, if anything, was passed and approved prior to the 2021 ordinance, if it is not listed in the 2021 ordinance it cannot be given to county board members.

In a nutshell, if the board properly selected their method of compensation, and if health insurance was placed in the [most recent] ordinance/resolution setting their compensation, then a board member may receive health insurance in accordance with their employee policy on health insurance (since they are considered employees for this purpose).

On another note: It has come to my attention the compensation setting ordinance says “per diem” payments for meetings – which means a board member can only receive payment for one meeting “per day” – even if they attended more than one meeting per day.

Statutes Concerning Compensation Setting Ordinance and Insurance:

Before delving into the health insurance of county board members, one should also find out whether or not the member “participating” in the county insurance is doing so on a pre-tax basis, as it may have income tax consequences for him.

"*Employer-sponsored*" health insurance can be considered "pre-tax" - meaning not taxable as income. The KEY and operative words here are "employer sponsored" - and in order to be employer sponsored, the employee's participation must be authorized by the employer to be legally eligible to participate in the insurance program.

Local Government Officer Compensation Act:

Sec. 2. Time and manner of fixing compensation.

(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 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 3-40 of the Property Tax Code.

Section 4-20 of the Property Tax Code.

Section 3-10007 of the Counties Code.

Section 4-2001 of the Counties Code.

Section 4-6001 of the Counties Code.

Section 4-6002 of the Counties Code.

Section 4-6003 of the Counties Code.

Section 4-8002 of the Counties Code.

Section 27.3 of the Clerks of Courts Act.

(Source: P.A. 102-48, eff. 7-9-21.)

Counties Code:

Section 4-10001: Members of the board shall receive such compensation as is fixed by the county board in accordance with the method of compensation selected by the county board.

Section 5-1069: *States that a county board "may" provide for insurance, and elected and appointed officers are included in the term "employees" in this section*

Sec. 2-3008. Determination of method of compensation of members of county board. At the time it reapportions its county under this Division, the county board shall determine whether the salary to be paid the members to be elected shall be computed on a per diem basis, on an annual basis or on a combined per diem and annual basis, and shall fix the amount of that salary. If the county board desires before the next reapportionment to change the basis of payment or amount of compensation after fixing those items, it may do so by ordinance or by resolution. Those changes shall not however, take effect during the term for which an incumbent county board member has been elected. In addition, the county board shall determine the amount of any additional compensation for the chairman of the county board. The county board may adjust that additional compensation at any time adjustments in the salary of board members may be made. Those adjustments shall not however, take effect during the term for which the incumbent chairman of the county board has been elected.

(Source: P.A. 86-962.)

County Policy: *Finally, you must look at the County Employee Policy to determine if an elected county officer is eligible for health insurance - provided they included health insurance in the "compensation setting ordinance" set by the county. The same applies to vehicle allowances, cell phone allowances, etc.*