

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 542
90TH GENERAL ASSEMBLY

Reported from the Committee on Local Government and Related Matters, April 17, 2000, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 542 Do Pass.

ANNE C. WALKER, Chief Clerk

2312L.05C

AN ACT

To repeal section 473.743, RSMo 1994, and sections 473.730, 473.739 and 473.767, RSMo Supp. 1999, relating to public administrators, and to enact in lieu thereof six new sections relating to the same subject.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 473.743, RSMo 1994, and sections 473.730, 473.739 and 473.767, RSMo Supp. 1999, are repealed and six new sections enacted in lieu thereof, to be known as sections 473.730, 473.739, 473.742, 473.743, 473.767 and 1, to read as follows:

473.730. 1. Every county in this state, and the city of St. Louis, shall elect a public administrator at the general election in the year 1880, and every four years thereafter, who shall be ex officio public guardian and conservator in and for the public administrator's county. Before entering on the duties of the public administrator's office, the public administrator shall take the oath required by the constitution, and enter into bond to the state of Missouri in a sum not less than ten thousand dollars, with two or more securities, approved by the court and conditioned that the public administrator will faithfully discharge all the duties of the public administrator's office, which bond shall be given and oath of office taken on or before the first day of January following the public administrator's election, and it shall be the duty of the judge of the court to require the public administrator to make a statement annually, under oath, of the amount of property in the public administrator's hands or under the public administrator's control as such administrator, for the purpose of ascertaining the amount of bond necessary to secure such property; and such court may from time to time, as occasion shall require, demand additional security of such administrator, and, in default of giving the same within twenty days after such demand, may remove the administrator and appoint another.

2. The public administrator in all counties, in the performance of the duties required by chapters 473, 474, RSMo, and 475, RSMo, is a public officer. The duties specified by section 475.120, RSMo, are discretionary. The county shall defend and indemnify the public administrator against any alleged breach of duty, provided that any such alleged breach of duty arose out of an act or omission occurring within the scope of duty or employment.

3. After January 1, 2001, all salaried public administrators shall be considered "county

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

officials" for purposes of section 50.333, RSMo, subject to the minimum salary requirements set forth in section 473.742.

473.739. 1. Each public administrator[, except] in counties of the first [class with] **classification without** a charter form of government[,] who does not receive at least twenty-five thousand dollars in fees as otherwise allowed by law shall receive annual compensation of four thousand dollars and each such public administrator who does not receive at least forty-five thousand dollars in fees may request the county salary commission for an increase in annual compensation and the county salary commission may authorize an additional increase in annual compensation not to exceed ten thousand dollars.

2. Two thousand dollars of the compensation authorized in this section shall be payable to the public administrator only if he has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the public administrator's office when approved by a professional association of the county public administrators of Missouri unless exempted from the training by the professional association. The professional association approving the program shall provide a certificate of completion to each public administrator who completes the training program and shall send a list of certified public administrators to the treasurer of each county. Expenses incurred for attending the training session shall be reimbursed to the county public administrator in the same manner as other expenses as may be appropriated for that purpose.

473.742. 1. Each public administrator in counties of the second, third or fourth classification and in the city of St. Louis, shall make a determination within thirty days after taking office whether such public administrator shall elect to receive a salary as defined herein or receive fees as may be allowed by law to executors, administrators and personal representatives. The election by the public administrator shall be made in writing to the county clerk. Should the public administrator elect to receive a salary, the public administrator's office may not then elect to change at any future time to receive fees in lieu of salary.

2. If a public administrator elects to be placed on salary, the salary shall be based upon the average number of open letters in the two years preceding the term when the salary is elected, based upon the following schedule:

(1) Zero to five letters: Salary shall be a minimum of seven thousand five hundred dollars;

(2) Six to fifteen letters: Salary shall be a minimum of fifteen thousand dollars;

(3) Sixteen to twenty-five letters: Salary shall be a minimum of twenty thousand dollars;

(4) Twenty-six to thirty-nine letters: Salary shall be a minimum of twenty-five thousand dollars;

(5) Public administrator's with forty or more letters shall be considered full-time county officials and shall be paid according to the assessed valuation schedule set forth below:

Assessed valuation	Salary
\$ 8,000,000 to 40,999,999	\$29,000
\$ 41,000,000 to 53,999,999	\$30,000
\$ 54,000,000 to 65,999,999	\$32,000
\$ 66,000,000 to 85,999,999	\$34,000
\$ 86,000,000 to 99,999,999	\$36,000
\$ 100,000,000 to 130,999,999	\$38,000

\$ 131,000,000 to 159,999,999	\$40,000
\$ 160,000,000 to 189,999,999	\$41,000
\$ 190,000,000 to 249,999,999	\$41,500
\$ 250,000,000 to 299,999,999	\$43,000
\$ 300,000,000 to 449,999,999	\$45,000
\$ 450,000,000 to 599,999,999	\$47,000
\$ 600,000,000 to 749,999,999	\$49,000
\$ 750,000,000 to 899,999,999	\$51,000
\$ 900,000,000 to 1,049,999,999	\$53,000
\$1,050,000,000 to 1,199,999,999	\$55,000
\$1,200,000,000 to 1,349,999,999	\$57,000
\$1,350,000,000 and over	\$59,000;

(6) The public administrator in the city of St. Louis shall receive a salary not less than sixty-five thousand dollars.

3. The initial compensation of the public administrator who elects to be put on salary shall be determined by the average number of letters for the two years preceding the term when the salary is elected. Salary increases or decreases according to the minimum schedule set forth in subsection 1 of this section shall be adjusted only after the number of open letters places the workload in a different subdivision for two consecutive years. Minimum salary increases or decreases shall only take effect upon a new term of office of the public administrator. The number of letters each year shall be determined in accordance with the reporting requirements set forth in law.

4. All fees collected by a public administrator who elects to be salaried shall be deposited in the county treasury or with the treasurer for the city of St. Louis.

473.743. 1. It shall be the duty of the public administrator to take into his or her charge and custody the estates of all deceased persons, and the person and estates of all minors, and the estates or person and estate of all incapacitated persons in [his] the public administrator's county, in the following cases:

(1) When a stranger dies intestate in the county without relations, or dies leaving a will, and the personal representative named is absent, or fails to qualify;

(2) When persons die intestate without any known heirs;

(3) When persons unknown die or are found dead in the county;

(4) When money, property, papers or other estate are left in a situation exposed to loss or damage, and no other person administers on the same;

(5) When any estate of any person who dies intestate therein, or elsewhere, is left in the county liable to be injured, wasted or lost, when the intestate does not leave a known husband, widow or heirs in this state;

(6) The persons of all minors under the age of fourteen years, whose parents are dead, and who have no legal guardian or conservator;

(7) The estates of all minors whose parents are dead, or, if living, refuse or neglect to qualify as conservator, or, having qualified have been removed, or are, from any cause, incompetent to act as such conservator, and who have no one authorized by law to take care of and manage their estate;

(8) The estates or person and estate of all disabled or incapacitated persons in [his] the public administrator's county who have no legal guardian or conservator, and no one competent to take charge of such estate, or to act as such guardian or conservator, can be found, or is known

to the court having jurisdiction, who will qualify;

(9) Where from any other good cause, the court shall order [him] **the public administrator** to take possession of any estate to prevent its being injured, wasted, purloined or lost.

2. In the event an action is brought against a public administrator pursuant to sections 473.730 to 473.773 and the public administrator prevails in such action, the court may award reasonable attorneys' fees and expenses to the public administrator.

473.767. 1. **In counties operating under fee retention**, the public administrator shall before the first court day after the expiration of one year after [his] **their** successor in office has qualified, file [his] a final settlement as required by section 473.540 for all estates in [his] **their** charge as public administrator in which final settlement can be made. On the first court day after the expiration of one year after the election of a successor to the public administrator, the judge of the probate division, upon [his] **the judge's** own motion, shall order the public administrator to account for and deliver all money, property, or papers belonging to all estates in his **or her** hands in which final settlement cannot be made, to [his] **the** successor in office, or to the heirs of any estate, or to any executor or administrator regularly appointed, and such accounting and delivery shall be accomplished during the sixty days next thereafter.

2. In counties where the public administrator is paid a salary, the public administrator shall deliver property and make necessary filings as required in this section prior to leaving his or her term of office.

[2.] 3. Notwithstanding the provisions of subsection 1 of this section, the former public administrator or [his] **their** legal representative, upon approval and order of the judge of the probate division of the circuit court having jurisdiction over the estates in which the former public administrator has been appointed personal representative, guardian or conservator, shall turn over the administration of the estates to the successor public administrator. A copy of the annual account of each estate in part covering the term of the former public administrator shall be filed with the probate division by the successor public administrator and the successor public administrator shall be charged with the assets and liabilities shown thereby.

Section 1. 1. Any full-time staff of any public administrator's office employed on or after January 1, 2001, who is not an employee of the county for purposes of hiring, retirement, benefits and other laws applicable to county employees shall be deemed an employee after January 1, 2001. Any full-time staff of the office of the public administrator for the city of St. Louis on or after January 1, 2001, shall be considered an employee of the city of St. Louis for purposes of hiring, retirement, benefits and other laws applicable to the city of St. Louis employees.

2. Each public administrator with fifty or more cases may be provided with full-time staff paid for by the county or for St. Louis City, paid for by the city of St. Louis.