

SECOND REGULAR SESSION

SENATE BILL NO. 935

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS GRIESHEIMER, GIBBONS, SHOEMYER, McKENNA AND MAYER.

Read 1st time January 14, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4385S.02I

AN ACT

To repeal sections 57.280 and 488.435, RSMo, and to enact in lieu thereof three new sections relating to deputy sheriffs' salaries.

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

Section A. Sections 57.280 and 488.435, RSMo, are repealed and three
2 new sections enacted in lieu thereof, to be known as sections 57.278, 57.280, and
3 488.435, to read as follows:

57.278. 1. There is hereby created in the state treasury the
2 "Deputy Sheriff Salary Supplementation Fund", which shall consist of
3 money collected from charges for service received by county sheriffs
4 under subsection 4 of section 57.280. The money in the fund shall be
5 used solely to supplement the salaries of county deputy sheriffs. The
6 state treasurer shall be custodian of the fund and shall approve
7 disbursements from the fund in accordance with sections 30.170 and
8 30.180, RSMo. The department of public safety shall designate a
9 statewide association representing the interest of county sheriffs to
10 administer the fund through an independent, bipartisan advisory board
11 of county sheriffs.

12 2. The department shall promulgate rules and regulations
13 regarding the administration of the fund and the designated
14 association shall administer the fund in accordance with such rules and
15 regulations. Any rule or portion of a rule, as that term is defined in
16 section 536.010, RSMo, that is created under the authority delegated in
17 this section shall become effective only if it complies with and is
18 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
19 section 536.028, RSMo. This section and chapter 536, RSMo, are
20 nonseverable and if any of the powers vested with the general assembly

21 pursuant to chapter 536, RSMo, to review, to delay the effective date,
22 or to disapprove and annul a rule are subsequently held
23 unconstitutional, then the grant of rulemaking authority and any rule
24 proposed or adopted after August 28, 2008, shall be invalid and void.

25 3. Notwithstanding the provisions of section 33.080, RSMo, to the
26 contrary, any moneys remaining in the fund at the end of the biennium
27 shall not revert to the credit of the general revenue fund. The state
28 treasurer shall invest moneys in the fund in the same manner as other
29 funds are invested. Any interest and moneys earned on such
30 investments shall be credited to the fund.

31 4. The designated association administering the fund shall
32 provide an annual written report to the department of public safety
33 providing detailed accounting and distribution of the fund.

57.280. 1. Sheriffs shall receive a charge for service of any summons, writ
2 or other order of court, in connection with any civil case, and making on the same
3 either a return indicating service, a non est return or a nulla bona return, the
4 sum of twenty dollars for each item to be served, except that a sheriff shall
5 receive a charge for service of any subpoena, and making a return on the same,
6 the sum of ten dollars; however, no such charge shall be collected in any
7 proceeding when court costs are to be paid by the state, county or municipality.
8 In addition to such charge, the sheriff shall be entitled to receive for each mile
9 actually traveled in serving any summons, writ, subpoena or other order of court,
10 the rate prescribed by the Internal Revenue Service for all allowable expenses for
11 motor vehicle use expressed as an amount per mile, provided that such mileage
12 shall not be charged for more than one subpoena or summons or other writ served
13 in the same cause on the same trip. All of such charges shall be received by the
14 sheriff who is requested to perform the service. Except as otherwise provided by
15 law, all charges made pursuant to this section shall be collected by the court clerk
16 as court costs and are payable prior to the time the service is rendered; provided
17 that if the amount of such charge cannot be readily determined, then the sheriff
18 shall receive a deposit based upon the likely amount of such charge, and the
19 balance of such charge shall be payable immediately upon ascertainment of the
20 proper amount of said charge. A sheriff may refuse to perform any service in any
21 action or proceeding, other than when court costs are waived as provided by law,
22 until the charge provided by this section is paid. Failure to receive the charge
23 shall not affect the validity of the service.

24 2. The sheriff shall receive for receiving and paying moneys on execution
25 or other process, where lands or goods have been levied and advertised and sold,
26 five percent on five hundred dollars and four percent on all sums above five
27 hundred dollars, and half of these sums, when the money is paid to the sheriff
28 without a levy, or where the lands or goods levied on shall not be sold and the
29 money is paid to the sheriff or person entitled thereto, his agent or attorney. The
30 party at whose application any writ, execution, subpoena or other process has
31 issued from the court shall pay the sheriff's costs for the removal, transportation,
32 storage, safekeeping and support of any property to be seized pursuant to legal
33 process before such seizure. The sheriff shall be allowed for each mile, going and
34 returning from the courthouse of the county in which he resides to the place
35 where the court is held, the rate prescribed by the Internal Revenue Service for
36 all allowable expenses for motor vehicle use expressed as an amount per
37 mile. The provisions of this subsection shall not apply to garnishment proceeds.

38 3. The sheriff upon the receipt of the charge herein provided for shall pay
39 into the treasury of the county any and all charges received pursuant to the
40 provisions of this section; however, in any county, any funds, not to exceed fifty
41 thousand dollars in any calendar year, other than as a result of regular budget
42 allocations or land sale proceeds, coming into the possession of the sheriff's office,
43 such as from the sale of recovered evidence, shall be held in a fund established
44 by the county treasurer, which may be expended at the discretion of the sheriff
45 for the furtherance of the sheriff's set duties. Any such funds in excess of fifty
46 thousand dollars, other than regular budget allocations or land sale proceeds,
47 shall be placed to the credit of the general revenue fund of the county. Moneys
48 in the fund shall be used only for the procurement of services and equipment to
49 support the operation of the sheriff's office. Moneys in the fund established
50 pursuant to this subsection shall not lapse to the county general revenue fund at
51 the end of any county budget or fiscal year.

52 **4. Notwithstanding the provisions of subsection 3 of this section**
53 **to the contrary, the sheriff shall receive ten dollars for service of any**
54 **summons, writ, subpoena, or other order of the court included under**
55 **subsection 1 of this section, in addition to the charge for such service**
56 **that each sheriff receives under subsection 1 of this section. The**
57 **sheriff shall receive the additional ten dollars authorized under this**
58 **subsection if service is performed by the sheriff or a private process**
59 **server, except when such service is performed by a person representing**

60 himself or herself in court and charges no fee for service. When the
61 service is performed by a private process server, the circuit clerk shall
62 verify through written documentation presented by the process server
63 that the ten dollar fee was paid to the credit of the sheriff upon the
64 return being filed with the court. If the private process server cannot
65 provide the necessary documentation of payment, the clerk shall notify
66 the sheriff that the fee has not yet been paid for the service
67 performed. The sheriff shall have the authority to contact the process
68 server to require payment of the fee. The money received by the sheriff
69 under this subsection shall be paid into the county treasury and the
70 county treasurer shall make such money payable to the state
71 treasurer. The state treasurer shall deposit such moneys in the deputy
72 sheriff salary supplementation fund created under section 57.278.

488.435. 1. Sheriffs shall receive a charge, as provided in section 57.280,
2 RSMo, for service of any summons, writ or other order of court, in connection with
3 any civil case, and making on the same either a return indicating service, a non
4 est return or a nulla bona return, the sum of twenty dollars for each item to be
5 served, as provided in section 57.280, RSMo, except that a sheriff shall receive a
6 charge for service of any subpoena, and making a return on the same, the sum of
7 ten dollars, as provided in section 57.280, RSMo; however, no such charge shall
8 be collected in any proceeding when court costs are to be paid by the state, county
9 or municipality. In addition to such charge, the sheriff shall be entitled, as
10 provided in section 57.280, RSMo, to receive for each mile actually traveled in
11 serving any summons, writ, subpoena or other order of court, the rate prescribed
12 by the Internal Revenue Service for all allowable expenses for motor vehicle use
13 expressed as an amount per mile, provided that such mileage shall not be charged
14 for more than one subpoena or summons or other writ served in the same cause
15 on the same trip. All of such charges shall be received by the sheriff who is
16 requested to perform the service. Except as otherwise provided by law, all
17 charges made pursuant to section 57.280, RSMo, shall be collected by the court
18 clerk as court costs and are payable prior to the time the service is rendered;
19 provided that if the amount of such charge cannot be readily determined, then the
20 sheriff shall receive a deposit based upon the likely amount of such charge, and
21 the balance of such charge shall be payable immediately upon ascertainment of
22 the proper amount of such charge. A sheriff may refuse to perform any service
23 in any action or proceeding, other than when court costs are waived as provided

24 by law, until the charge provided by this section is paid. Failure to receive the
25 charge shall not affect the validity of the service.

26 2. The sheriff shall, as provided in section 57.280, RSMo, receive for
27 receiving and paying moneys on execution or other process, where lands or goods
28 have been levied and advertised and sold, five percent on five hundred dollars
29 and four percent on all sums above five hundred dollars, and half of these sums,
30 when the money is paid to the sheriff without a levy, or where the lands or goods
31 levied on shall not be sold and the money is paid to the sheriff or person entitled
32 thereto, his or her agent or attorney. The party at whose application any writ,
33 execution, subpoena or other process has issued from the court shall pay the
34 sheriff's costs, as provided in section 57.280, RSMo, for the removal,
35 transportation, storage, safekeeping and support of any property to be seized
36 pursuant to legal process before such seizure. The sheriff shall be allowed for
37 each mile, as provided in section 57.280, RSMo, going and returning from the
38 courthouse of the county in which he or she resides to the place where the court
39 is held, the rate prescribed by the Internal Revenue Service for all allowable
40 expenses for motor vehicle use expressed as an amount per mile. The provisions
41 of this subsection shall not apply to garnishment proceeds.

42 **3. As provided in subsection 4 of section 57.280, RSMo, the sheriff**
43 **shall receive ten dollars for service of any summons, writ, subpoena, or**
44 **other order of the court included under subsection 1 of such section, in**
45 **addition to the charge for such service that each sheriff receives under**
46 **subsection 1 of such section. The sheriff shall receive the additional**
47 **ten dollars authorized under subsection 4 of section 57.280, RSMo, if**
48 **service is performed by the sheriff or a private process server, except**
49 **when such service is performed by a person representing himself or**
50 **herself in court and charges no fee for service. When the service is**
51 **performed by a private process server, the circuit clerk shall verify**
52 **through written documentation presented by the process server that**
53 **the ten dollar fee was paid to the credit of the sheriff upon the return**
54 **being filed with the court. If the private process server cannot provide**
55 **the necessary documentation of payment, the clerk shall notify the**
56 **sheriff that the fee has not yet been paid for the service**
57 **performed. The sheriff shall have the authority to contact the process**
58 **server to require payment of the fee. The money received by the sheriff**
59 **under subsection 4 of section 57.280, RSMo, shall be paid into the**

60 county treasury and the county treasurer shall make such money
61 payable to the state treasurer. The state treasurer shall deposit such
62 moneys in the deputy sheriff salary supplementation fund created
63 under section 57.278, RSMo.

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