

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 672
97TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, March 6, 2014, with recommendation that the Senate Committee Substitute do pass.

5090S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 56.067, 56.265, 56.363, 56.807, and 56.816, RSMo, and to enact in lieu thereof five new sections relating to county prosecutors.

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

Section A. Sections 56.067, 56.265, 56.363, 56.807, and 56.816, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 56.067, 56.265, 56.363, 56.807, and 56.816, to read as follows:

56.067. In counties of the first classification not having a charter form of government[,] and **other** counties **in** which [have passed the proposition authorized by section 56.363] **the prosecuting attorney is a full-time position**, the prosecuting attorney, except in the performance of special prosecutions or otherwise representing the state or its political subdivisions, shall devote full time to his office, and shall not engage in the practice of law.

56.265. 1. The county prosecuting attorney in any county, other than in a chartered county, shall receive an annual salary computed using the following schedule, when applicable. The assessed valuation factor shall be the amount thereof as shown for the year immediately preceding the year for which the computation is done.

(1) For a full-time prosecutor the prosecutor shall receive compensation equal to the compensation of an associate circuit judge;

(2) For a part-time prosecutor:

Assessed Valuation	Amount
\$ 18,000,000 to 40,999,999	\$37,000
41,000,000 to 53,999,999	38,000

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

12	54,000,000 to 65,999,999	39,000
13	66,000,000 to 85,999,999	41,000
14	86,000,000 to 99,999,999	43,000
15	100,000,000 to 130,999,999	45,000
16	131,000,000 to 159,999,999	47,000
17	160,000,000 to 189,999,999	49,000
18	190,000,000 to 249,999,999	51,000
19	250,000,000 to 299,999,999	53,000
20	300,000,000 or more	55,000

21 2. Two thousand dollars of the salary authorized in this section shall be
22 payable to the prosecuting attorney only if the prosecuting attorney has
23 completed at least twenty hours of classroom instruction each calendar year
24 relating to the operations of the prosecuting attorney's office when approved by
25 a professional association of the county prosecuting attorneys of Missouri unless
26 exempted from the training by the professional association. The professional
27 association approving the program shall provide a certificate of completion to
28 each prosecuting attorney who completes the training program and shall send a
29 list of certified prosecuting attorneys to the treasurer of each county. Expenses
30 incurred for attending the training session may be reimbursed to the county
31 prosecuting attorney in the same manner as other expenses as may be
32 appropriated for that purpose.

33 3. As used in this section, the term "prosecuting attorney" includes the
34 circuit attorney of any city not within a county.

35 4. The prosecuting attorney of any county which becomes a county of the
36 first classification during a four-year term of office or a county which passed the
37 proposition authorized by **subsection 1 of** section 56.363 shall not be required
38 to devote full time to such office pursuant to section 56.067 until the beginning
39 of the prosecuting attorney's next term of office or until the proposition otherwise
40 becomes effective.

41 5. The provisions of section 56.066 shall not apply to full-time prosecutors
42 who are compensated pursuant to subdivision (1) of subsection 1 of this section.

56.363. 1. The county commission of any county may on its own motion
2 and shall upon the petition of ten percent of the total number of people who voted
3 in the previous general election in the county submit to the voters at a general
4 or special election the proposition of making the county prosecutor a full-time
5 position. The commission shall cause notice of the election to be published in a

6 newspaper published within the county, or if no newspaper is published within
7 the county, in a newspaper published in an adjoining county, for three weeks
8 consecutively, the last insertion of which shall be at least ten days and not more
9 than thirty days before the day of the election, and by posting printed notices
10 thereof at three of the most public places in each township in the county. The
11 proposition shall be put before the voters substantially in the following form:

12 Shall the office of prosecuting attorney be made a full-time position in
13 County?

14 YES NO

15 If a majority of the voters voting on the proposition vote in favor of making the
16 county prosecutor a full-time position, it shall become effective upon the date that
17 the prosecutor who is elected at the next election subsequent to the passage of
18 such proposal is sworn into office.

19 2. The provisions of subsection 1 of this section notwithstanding, in any
20 county where the proposition of making the county prosecutor a full-time position
21 was submitted to the voters at a general election in 1998 and where a majority
22 of the voters voting on the proposition voted in favor of making the county
23 prosecutor a full-time position, the proposition shall become effective on May 1,
24 1999. Any prosecuting attorney whose position becomes full time on May 1, 1999,
25 under the provisions of this subsection shall have the additional duty of providing
26 not less than three hours of continuing education to peace officers in the county
27 served by the prosecuting attorney in each year of the term beginning January
28 1, 1999.

29 3. In counties that, prior to August 28, 2001, have elected pursuant to this
30 section to make the position of prosecuting attorney a full-time position, the
31 county commission may at any time elect to have that position also qualify for the
32 retirement benefit available for a full-time prosecutor of a county of the first
33 classification. Such election shall be made by a majority vote of the county
34 commission and once made shall be irrevocable, **unless the voters of the**
35 **county elect to change the position of prosecuting attorney back to a**
36 **part-time position pursuant to subsection 4 of this section.** When such
37 an election is made, the results shall be transmitted to the Missouri prosecuting
38 attorneys and circuit attorneys' retirement system fund, and the election shall be
39 effective on the first day of January following such election. Such election shall
40 also obligate the county to pay into the Missouri prosecuting attorneys and circuit
41 attorneys' system retirement fund the same retirement contributions for full-time

42 prosecutors as are paid by counties of the first classification.

43 **4. In any county that has elected to make the county prosecutor**
44 **a full-time position pursuant to this section the county commission may**
45 **on its own motion and shall upon the petition of ten percent of the total**
46 **number of people who voted in the previous general election in the**
47 **county submit to the voters at a general or special election the**
48 **proposition of changing the full-time prosecutor position to a part-time**
49 **position. The commission shall cause notice of the election to be**
50 **published in a newspaper published within the county, or if no**
51 **newspaper is published within the county, in a newspaper published in**
52 **an adjoining county, for three weeks consecutively, the last insertion**
53 **of which shall be at least ten days and not more than thirty days before**
54 **the day of the election, and by posting printed notices thereof at three**
55 **of the most public places in each township in the county. The**
56 **proposition shall be put before the voters substantially in the following**
57 **form:**

58 **Shall the office of prosecuting attorney be made a part-time**
59 **position in County?**

60 **YES** **NO**

61 **If a majority of the voters vote in favor of making the county**
62 **prosecutor a part-time position, it shall become effective upon the date**
63 **that the prosecutor who is elected at the next election subsequent to**
64 **the passage of such proposal is sworn into office.**

65 **5. In any county that has elected to make the full-time position**
66 **of county prosecutor a part-time position pursuant to subsection 4 of**
67 **this section, the county's retirement contribution to the retirement**
68 **system and the retirement benefit earned by the member shall**
69 **prospectively be that of a part-time prosecutor as established in this**
70 **chapter. Any retirement contribution made and retirement benefit**
71 **earned prior to the effective date of the voter approved proposition**
72 **pursuant to subsection 4 of this section shall be maintained by the**
73 **retirement system and used to calculate the retirement benefit for such**
74 **prior full-time position service. Under no circumstances shall a**
75 **member in a part-time prosecutor position earn full-time position**
76 **retirement benefit service accruals for time periods after the effective**
77 **date of the proposition changing the county prosecutor back to a part-**

78 time position.

56.807. 1. Beginning August 28, 1989, and continuing monthly thereafter
2 until August 27, 2003, the funds for prosecuting attorneys and circuit attorneys
3 provided for in subsection 2 of this section shall be paid from county or city funds.

4 2. Beginning August 28, 1989, and continuing monthly thereafter until
5 August 27, 2003, each county treasurer shall pay to the system the following
6 amounts to be drawn from the general revenues of the county:

7 (1) For counties of the third and fourth classification except as provided
8 in subdivision (3) of this subsection, three hundred seventy-five dollars;

9 (2) For counties of the second classification, five hundred forty-one dollars
10 and sixty-seven cents;

11 (3) For counties of the first classification[,] **and, except as otherwise**
12 **provided under section 56.363**, counties which pursuant to section 56.363
13 elect to make the position of prosecuting attorney a full-time position after
14 August 28, 2001, or whose county commission has elected a full-time retirement
15 benefit pursuant to subsection 3 of section 56.363, and the city of St. Louis, one
16 thousand two hundred ninety-one dollars and sixty-seven cents.

17 3. Beginning August 28, 1989, and continuing until August 27, 2003, the
18 county treasurer shall at least monthly transmit the sums specified in subsection
19 2 of this section to the Missouri office of prosecution services for deposit to the
20 credit of the "Missouri Prosecuting Attorneys and Circuit Attorneys' Retirement
21 System Fund", which is hereby created. All moneys held by the state treasurer
22 on behalf of the system shall be paid to the system within ninety days after
23 August 28, 1993. Moneys in the Missouri prosecuting attorneys and circuit
24 attorneys' retirement system fund shall be used only for the purposes provided
25 in sections 56.800 to 56.840 and for no other purpose.

26 4. Beginning August 28, 2003, the funds for prosecuting attorneys and
27 circuit attorneys provided for in this section shall be paid from county or city
28 funds and the surcharge established in this section and collected as provided by
29 this section and sections 488.010 to 488.020.

30 5. Beginning August 28, 2003, each county treasurer shall pay to the
31 system the following amounts to be drawn from the general revenues of the
32 county:

33 (1) For counties of the third and fourth classification except as provided
34 in subdivision (3) of this subsection, one hundred eighty-seven dollars;

35 (2) For counties of the second classification, two hundred seventy-one

36 dollars;

37 (3) For counties of the first classification, counties which pursuant to
38 section 56.363 elect to make the position of prosecuting attorney a full-time
39 position after August 28, 2001, or whose county commission has elected a
40 full-time retirement benefit pursuant to subsection 3 of section 56.363, and the
41 city of St. Louis, six hundred forty-six dollars.

42 6. Beginning August 28, 2003, the county treasurer shall at least monthly
43 transmit the sums specified in subsection 5 of this section to the Missouri office
44 of prosecution services for deposit to the credit of the Missouri prosecuting
45 attorneys and circuit attorneys' retirement system fund. Moneys in the Missouri
46 prosecuting attorneys and circuit attorneys' retirement system fund shall be used
47 only for the purposes provided in sections 56.800 to 56.840, and for no other
48 purpose.

49 7. Beginning August 28, 2003, the following surcharge for prosecuting
50 attorneys and circuit attorneys shall be collected and paid as follows:

51 (1) There shall be assessed and collected a surcharge of four dollars in all
52 criminal cases filed in the courts of this state including violation of any county
53 ordinance or any violation of criminal or traffic laws of this state, including
54 infractions, but no such surcharge shall be assessed when the costs are waived
55 or are to be paid by the state, county, or municipality or when a criminal
56 proceeding or the defendant has been dismissed by the court or against any
57 person who has pled guilty and paid their fine pursuant to subsection 4 of section
58 476.385. For purposes of this section, the term "county ordinance" shall include
59 any ordinance of the city of St. Louis;

60 (2) The clerk responsible for collecting court costs in criminal cases shall
61 collect and disburse such amounts as provided by sections 488.010 to
62 488.026. Such funds shall be payable to the prosecuting attorneys and circuit
63 attorneys' retirement fund. Moneys credited to the prosecuting attorneys and
64 circuit attorneys' retirement fund shall be used only for the purposes provided
65 for in sections 56.800 to 56.840 and for no other purpose.

66 8. The board may accept gifts, donations, grants and bequests from
67 private or public sources to the Missouri prosecuting attorneys and circuit
68 attorneys' retirement system fund.

69 9. No state moneys shall be used to fund section 56.700 and sections
70 56.800 to 56.840 unless provided for by law.

56.816. 1. The normal annuity of a retired member who served as

2 prosecuting attorney of a county of the third or fourth class shall, except as
3 provided in subsection 3 of this section, be equal to:

4 (1) Any member who has served twelve or more years as a prosecuting
5 attorney and who meets the conditions of retirement at or after the member's
6 normal retirement age shall be entitled to a normal annuity in a monthly amount
7 equal to one hundred five dollars multiplied by the number of two-year periods
8 and partial two-year periods served as a prosecuting attorney;

9 (2) Any member who has served twenty or more years as a prosecuting
10 attorney and who meets the conditions of retirement at or after the member's
11 normal retirement age shall be entitled to a normal annuity in a monthly amount
12 equal to one hundred thirty dollars multiplied by the number of two-year periods
13 and partial two-year periods as a prosecuting attorney.

14 2. The normal annuity of a retired member who served as prosecuting
15 attorney of a first or second class county or as circuit attorney of a city not within
16 a county shall be equal to fifty percent of the final average compensation.

17 3. **Except as otherwise provided under section 56.363**, the normal
18 annuity of a retired member who served as a prosecuting attorney of a county
19 which after August 28, 2001, elected to make the position of prosecuting attorney
20 full time pursuant to section 56.363 shall be equal to fifty percent of the final
21 average compensation.

22 4. The actuarial present value of a retired member's benefits shall be
23 placed in a reserve account designated as a "Retired Lives Reserve". The value
24 of the retired lives reserve shall be increased by the actuarial present value of
25 retiring members' benefits, and by the interest earning of the total fund on a pro
26 rata basis and it shall be decreased by payments to retired members and their
27 survivors. Each year the actuary shall compare the actuarial present value of
28 retired members' benefits with the retired lives reserve. If the value of the
29 retired lives reserve plus one year's interest at the assumed rate of interest
30 exceeds the actuarial present value of retired lives, then distribution of this
31 excess may be made equally to all retired members, or their eligible
32 survivors. The distribution may be in a single sum or in monthly payments at
33 the discretion of the board on the advice of the actuary.

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