

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 819

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CASKEY.

Read 1st time January 22, 1998, and 1,000 copies ordered printed.

Read 2nd time January 29, 1998, and referred to the Committee on Civil and Criminal Jurisprudence.

Reported from the Committee March 2, 1998, with recommendation that the bill do pass and be placed on the Consent Calendar.

Taken up March 23, 1998. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

S3310.01P

AN ACT

To repeal section 56.067, RSMo 1994, and sections 50.333, 56.066 and 56.265, RSMo Supp. 1997, relating to county prosecuting attorneys, and to enact in lieu thereof four new sections relating to the same subject, with an effective date.

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

Section A. Section 56.067, RSMo 1994, and sections 50.333, 56.066 and 56.265, RSMo Supp. 1997, are repealed and four new sections enacted in lieu thereof, to be known as sections 50.333, 56.066, 56.067 and 56.265, to read as follows:

50.333. 1. There shall be a salary commission in every nonchartered county.

2. The clerk of the circuit court of the judicial circuit in which such county is located shall set a date, time and place for the salary commission meeting and serve as temporary chairman of the salary commission until the members of the commission elect a chairman from their number. Upon written request of a majority of the salary commission members the clerk of the circuit court shall forthwith set the earliest date possible for a meeting of the salary commission. The circuit clerk shall give notice of the time and place of any meeting of the salary

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

commission. Such notice shall be published in a newspaper of general circulation in such county at least five days prior to such meeting. Such notice shall contain a general description of the business to be discussed at such meeting.

3. The members of the salary commission shall be:

- (1) The recorder of deeds if the recorder's office is separate from that of the circuit clerk;
- (2) The county clerk;
- (3) The prosecuting attorney;
- (4) The sheriff;
- (5) The county commissioners;
- (6) The collector or treasurer ex officio collector;
- (7) The treasurer or treasurer ex officio collector;
- (8) The assessor;
- (9) The auditor;
- (10) The public administrator; and

(11) The coroner. Members of the salary commission shall receive no additional compensation for their services as members of the salary commission. A majority of members shall constitute a quorum.

4. Notwithstanding the provisions of sections 610.021 and 610.022, RSMo, all meetings of a county salary commission shall be open meetings and all votes taken at such meetings shall be open records. Any vote taken at any meeting of the salary commission shall be taken by recorded yeas and nays.

5. In every county, the salary commission shall meet at least once before November thirtieth of each odd-numbered year. The salary commission may meet as many times as it deems necessary and may meet after November thirtieth and prior to December fifteenth of any odd-numbered year if the commission has met at least once prior to November thirtieth of that year. At any meeting of the salary commission, the members shall elect a chairman from their number. The county clerk shall present a report on the financial condition of the county to the commission once the chairman is elected, and shall keep the minutes of the meeting.

6. For purposes of this section, the 1988 base compensation is the compensation paid on September 1, 1987, plus the same percentage increase paid or allowed, whichever is greater, to the presiding commissioner or the sheriff, whichever is greater, of that county for the year beginning January 1, 1988. Such increase shall be expressed as a percentage of the difference between the maximum allowable compensation and the compensation paid on September 1, 1987. At its meeting in 1987 and at any meeting held in 1988, the salary commission shall determine the compensation to be paid to every county officer holding office on January 1, 1988. The salary commission shall establish the compensation for each office at an amount not greater than that set by law as the maximum compensation. If the salary commission votes to increase

compensation, but not to pay the maximum amount authorized by law for any officer or office, then the increase in compensation shall be the same percentage increase for all officers and offices and shall be expressed as a percentage of the difference between the maximum allowable compensation and the compensation being received at the time of the vote. If two-thirds of the members of the salary commission vote to decrease the compensation being received at the time of the vote below that compensation, all officers shall receive the same percentage decrease. The commission may vote not to increase or decrease the compensation and that compensation shall continue to be the salary of such offices and officers during the subsequent term of office.

7. For the year 1989 and every second year thereafter, the salary commission shall meet in every county as many times as it deems necessary on or prior to November thirtieth of any such year for the purpose of determining the amount of compensation to be paid to county officials. For each year in which the commission meets, the members shall elect a chairman from their number. The county clerk shall present a report on the financial condition of the county to the commission once the chairman is elected, and shall keep minutes of the meeting. The salary commission shall then consider the compensation to be paid for the next term of office for each county officer to be elected at their next general election. If the commission votes not to increase or decrease the compensation, the salary being paid during the term in which the vote was taken shall continue as the salary of such offices and officers during the subsequent term of office. If the salary commission votes to increase the compensation, all officers or offices whose compensation is being considered by the commission at that time, shall receive the same percentage of the maximum allowable compensation. However, for any county in which all offices' and **[officer's] officers'** salaries have been set at one hundred percent of the maximum allowable compensation, the commission may vote to increase the compensation of **[county officers or] all offices except that of full-time prosecuting attorneys** at that or any subsequent meeting of the salary commission without regard to any law or maximum limitation established by law. Such increase shall be expressed as a percentage of the compensation being paid during the term of office when the vote is taken, and each officer or office whose compensation is being established by the salary commission at that time shall receive the same percentage increase over the compensation being paid for that office during the term when the vote is taken. This increase shall be in addition to any increase mandated by an official's salary schedule because of changes in assessed valuation during the current term. If the salary commission votes to decrease the compensation, a vote of two-thirds or more of all the members of the salary commission shall be required before the salary or other compensation of any county office shall be decreased below the compensation being paid for the particular office on the date the salary commission votes, and all officers and offices shall receive the same percentage decrease.

8. The salary commission shall issue, not later than December fifteenth of any year in which it meets, a report of compensation to be paid to each officer and the compensation so set

shall be paid beginning with the start of the subsequent term of office of each officer. The report of compensation shall be certified to the clerk of the county commission for the county and shall be in substantially the following form:

The salary commission for County hereby certifies that it has met pursuant to law to establish compensation for county officers to be paid to such officers during the next term of office for the officers affected. The salary commission reports that there shall be (no increase in compensation) (an increase of percent) (a decrease of percent) (county officer's salaries set at percent of the maximum allowable compensation). Salaries shall be adjusted each year on the official's year of incumbency for any change in the last completed assessment that would affect the maximum allowable compensation for that office.

9. For the meeting in 1989 and every meeting thereafter, in the event a salary commission in any county fails, neglects or refuses to meet as provided in this section, or in the event a majority of the salary commission is unable to reach an agreement and so reports or fails to certify a salary report to the clerk of the county commission by December fifteenth of any year in which a report is required to be certified by this section, then the compensation being paid to each affected office or officer on such date shall continue to be the compensation paid to the affected office or officer during the succeeding term of office.

10. Other provisions of law notwithstanding, in every instance where an officer or employee of any county is paid a mileage allowance or reimbursement, the county commission shall allow or reimburse such officers or employees out of the county treasury at the highest rate paid to any county officer for each mile actually and necessarily traveled in the performance of their official duties. The county commission of any county may elect to pay a mileage allowance for any county commissioner for travel going to and returning from the place of holding commission meetings and for all other necessary travel on official county business in the personal motor vehicle of the commissioner presenting the claim. The governing body of any county of the first classification not having a charter form of government may provide by order for the payment of mileage expenses of elected and appointed county officials by payment of a certain amount monthly which would reflect the average monthly mileage expenses of such officer based on the amount allowed pursuant to state law for the payment of mileage for state employees. Any order entered for such purpose shall not be construed as salary, wages or other compensation for services rendered.

11. The term "maximum allowable compensation" as used in this section means the highest compensation which may be paid to the specified officer or office in the particular county based on the salary schedule established by law for the specified officer or office. If the salary commission at its meeting in 1987 voted for one hundred percent of the maximum allowable compensation and does not change such vote at its meeting held within thirty days after May 13, 1988, as provided in subsection 6 of this section, the one hundred percent shall be calculated on

the basis of the total allowable compensation permitted after May 13, 1988.

12. At the salary commission meeting which establishes the percentage rate to be applied to county officers during the next term of office, the salary commission may authorize the further adjustment of such officers' compensation as a cost-of-living component and effective January first of each year, the compensation for county officers may be adjusted by the county commission, and if the adjustment of compensation is authorized, the percentage increase shall be the same for all county officers, not to exceed the percentage increase given to the other county employees. The compensation for all county officers may be set as a group, although the change in compensation will not become effective until the next term of office for each officer.

13. At the salary commission meeting in 1997 which establishes the salaries for those officers to be elected at the general election in 1998, the salary commission of each noncharter county may provide salary increases for associate county commissioners elected in 1996. This one-time increase is necessitated by the change from two- to four-year terms for associate commissioners pursuant to house bill 256, passed by the first regular session of the eighty-eighth general assembly in 1995.

56.066. 1. Notwithstanding the provisions of section 56.360, the prosecuting attorney of every first class county, except those in which the circuit court sits in more than one city and which were counties of the second class on January 1, 1988, and of counties of the second class having a population of more than one hundred thousand inhabitants, and of counties of the second class having a population of more than thirty thousand containing a part of a city having a population of more than four hundred thousand, and of counties of the second class having a population of more than eighty thousand at the 1970 decennial census, but less than ninety thousand, shall devote his full time to his office, and, except for the performance of official duties, shall not engage in the practice of law.

2. In any county which contains facilities which are operated by the department of corrections with a total average yearly inmate population in excess of seven hundred and fifty persons but less than one thousand five hundred persons, the prosecuting attorney shall receive ten thousand dollars per annum in addition to all other compensation provided by law. In any county which contains facilities which are operated by the department of corrections with a total average yearly inmate population in excess of one thousand five hundred persons but less than three thousand persons, the prosecuting attorney shall receive twelve thousand five hundred dollars per annum in addition to all other compensation provided by law. In any county which contains facilities which are operated by the department of corrections with a total average yearly inmate population in excess of three thousand persons but less than four thousand persons, the prosecuting attorney shall receive fifteen thousand dollars per annum in addition to all other compensation provided by law. In any county which contains facilities which are operated by the department of corrections with a total average inmate population in excess of four thousand

persons, the prosecuting attorney shall receive twenty thousand dollars per annum in addition to all other compensation provided by law. The compensation provided in connection with the average inmate population shall not be considered for purposes of determining any increase in compensation from January 1, 1988. **The amounts provided in this subsection shall be included in the computation of the maximum allowable compensation as that term is used in section 50.033, RSMo.**

3. In counties of the second class contiguous to the Mississippi River with a population in excess of fifty-five thousand but less than seventy thousand according to the 1980 decennial census, and of counties of the second class contiguous to the Missouri River and contiguous to a charter first class county with a population in excess of nine hundred thousand according to the 1980 decennial census, the prosecutor shall receive, in addition to all other amounts provided by law, additional compensation in the amount of seven thousand dollars per year.

56.067. In counties of the first class not having a charter form of government, the prosecuting attorney shall devote full time to his office, and, except in the performance of his official duties **or special prosecutions**, shall not engage in the practice of law.

56.265. 1. The county prosecuting attorney in any county, other than in a chartered county [of the first classification], shall receive an annual salary computed [as set forth in] **using** the following schedule, when applicable. The [population factor shall be as disclosed in the last preceding federal decennial census and the] assessed valuation factor shall be the amount thereof as shown for the year [next] **immediately** preceding the **year for which the computation is done**. [The provisions of this section shall not permit or require a reduction in the amount of compensation received by any person holding the office of prosecuting attorney on January 1, 1988.]

(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 [in a second classification county]:

Assessed Valuation	Amount
\$131,000,000 to 189,999,999	\$46,400
190,000,000 to 249,999,999	48,000
250,000,000 to 299,999,999	49,600
300,000,000 to 399,999,999	51,200
400,000,000 to 499,999,999	52,800
500,000,000 or more	54,400

(3) In counties of the second classification which contain facilities which are operated by the department of corrections with a total average yearly inmate population in excess of two thousand persons, the prosecuting attorney shall receive thirteen thousand dollars per annum in

addition to all other compensation provided by law; however, the total annual compensation of such prosecuting attorney holding office on January 1, 1988, shall not be increased by more than nine thousand dollars above the compensation which the prosecuting attorney is receiving on January 1, 1988, during the term of office the prosecuting attorney is serving at that time. The provisions of this subdivision shall expire on December 31, 1998.

(4) For a part-time prosecutor in a county of the third or fourth classification]:

Assessed Valuation	Amount
\$ 18,000,000 to 40,999,999	\$37,000
41,000,000 to 53,999,999	38,000
54,000,000 to 65,999,999	39,000
66,000,000 to 85,999,999	41,000
86,000,000 to 99,999,999	43,000
100,000,000 to 130,999,999	45,000
131,000,000 to 159,999,999	47,000
160,000,000 to 189,999,999	49,000
190,000,000 to 249,999,999	51,000
250,000,000 to 299,999,999	53,000
300,000,000 or more	55,000

2. Two thousand dollars of the salary authorized in this section shall be payable to the prosecuting attorney only if the prosecuting attorney has completed at least twenty hours of classroom instruction each calendar year relating to the operations of the prosecuting attorney's office when approved by a professional association of the county prosecuting attorneys 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 prosecuting attorney who completes the training program and shall send a list of certified prosecuting attorneys to the treasurer of each county. Expenses incurred for attending the training session may be reimbursed to the county prosecuting attorney in the same manner as other expenses as may be appropriated for that purpose.

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

4. In a county of the first classification, which was a county of the second classification on January 1, 1988, and in which the circuit court sits in two different cities, the prosecuting attorney shall be part time and the compensation shall be five percent less than the formula provided for prosecuting attorney compensation in subdivision (1) of subsection 1 of this section.

5. The provisions of section 56.067, to the contrary notwithstanding, the prosecuting attorney of any county [of the second classification] which becomes a county of the first classification after December 31, 1996, shall not be required to devote full time until the expiration

of the prosecuting attorney's current term of office.

6. The provisions of [subdivision (3) of subsection 1 of this section and the provisions of] subsections 2 and 3 of section 56.066 shall not apply to full-time prosecutors who are compensated pursuant to subdivision (1) of subsection 1 of this section.

Section B. The repeal and reenactment of this act shall become effective December 31, 1998.

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Unofficial

Bill

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