

FIRST REGULAR SESSION

HOUSE BILL NO. 1114

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VAN SCHOIACK.

2385H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 56.066, 56.151, 56.200, 56.230, 56.240, 56.245, 56.363, 56.807, and 56.809, RSMo, and section 56.067 as enacted by senate bill no. 672, ninety-seventh general assembly, second regular session, and section 56.265 as enacted by senate bill no. 672, ninety-seventh general assembly, second regular session, and to enact in lieu thereof ten new sections relating to prosecuting attorneys, with a delayed effective date for a certain section.

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

Section A. Sections 56.066, 56.151, 56.200, 56.230, 56.240, 56.245, 56.363, 56.807, 2 and 56.809, RSMo, and section 56.067 as enacted by senate bill no. 672, ninety-seventh 3 general assembly, second regular session, and section 56.265 as enacted by senate bill no. 4 672, ninety-seventh general assembly, second regular session, are repealed and ten new 5 sections enacted in lieu thereof, to be known as sections 56.005, 56.066, 56.151, 56.200, 6 56.230, 56.240, 56.245, 56.363, 56.802, and 56.807, to read as follows:

56.005. Beginning January 1, 2024, prosecutors governed under this chapter 2 shall be considered state employees and entitled to coverage under the state employee 3 health plan under chapter 103, members of the retirement plan for state employees 4 under chapter 104 and section 56.802, and entitled to all other benefits available to and 5 subject to all other laws governing state employees. The provisions of this section shall 6 not apply to circuit attorneys under sections 56.380 to 56.600.

56.066. 1. In any county which contains facilities which are operated by the 2 department of corrections with a total average yearly inmate population in excess of seven 3 hundred and fifty persons but less than one thousand five hundred persons, the prosecuting

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

4 attorney shall receive ten thousand dollars per annum in addition to all other compensation
5 provided by law. In any county which contains facilities which are operated by the
6 department of corrections with a total average yearly inmate population in excess of one
7 thousand five hundred persons but less than three thousand persons, the prosecuting attorney
8 shall receive twelve thousand five hundred dollars per annum in addition to all other
9 compensation provided by law. In any county which contains facilities which are operated by
10 the department of corrections with a total average yearly inmate population in excess of three
11 thousand persons but less than four thousand persons, the prosecuting attorney shall receive
12 fifteen thousand dollars per annum in addition to all other compensation provided by law. In
13 any county which contains facilities which are operated by the department of corrections with
14 a total average inmate population in excess of four thousand persons, the prosecuting attorney
15 shall receive twenty thousand dollars per annum in addition to all other compensation
16 provided by law. The compensation provided in connection with the average inmate
17 population shall not be considered for purposes of determining any increase in compensation
18 from January 1, 1988. The amounts provided in this subsection shall be included in the
19 computation of the maximum allowable compensation [~~as that term is used in section~~
20 ~~50.333~~].

21 2. Notwithstanding the provisions of section 56.360, the prosecuting attorney of any
22 county of the fourth classification, with a population of at least forty-eight thousand and not
23 more than sixty thousand inhabitants, two correctional facilities and a state mental health
24 center, shall devote full time to the prosecutor's office, and, except for the performance of
25 official duties, shall not engage in the practice of law.

56.151. 1. The prosecuting attorney of all counties of the first class not having a
2 charter form of government may appoint such assistant prosecuting attorneys, and may
3 employ such investigators and stenographic and clerical help as he deems necessary for the
4 proper discharge of the duties of his office, and may set their compensation within the limits
5 of the allocations made for that purpose [~~by the county commission~~]. The compensation for
6 the assistant prosecuting attorneys, investigators, and stenographic and clerical help shall be
7 paid in equal installments out of the [~~county~~] state treasury in the same manner as other
8 [~~county~~] state employees are paid.

9 2. The assistant prosecuting attorneys shall be subject to the same fines and penalties
10 for neglect of duty or misdemeanor in office as the prosecuting attorney.

11 3. All assistant prosecuting attorneys, investigators, and stenographic and clerical
12 help shall hold office at the pleasure of the prosecuting attorney.

56.200. The prosecuting attorney, in counties of the second class, shall be entitled to:

2 (1) Not more than four assistants when the assessed valuation of the county is less
3 than two hundred fifty million dollars;

4 (2) Not more than eight assistants when the assessed valuation of the county is two
5 hundred fifty million dollars or more. The assistants shall be appointed by the prosecuting
6 attorney. They shall possess the same qualifications and be subject to the same fines and
7 penalties for neglect of duty or misdemeanor in office as the prosecuting attorney. They shall
8 be paid a salary in an amount as shall be fixed by the prosecuting attorney ~~and approved by~~
9 ~~the commissioners of the county commission~~. The appointment, approval, and agreement as
10 to the salary of each assistant shall be in writing, and filed by the prosecuting attorney with
11 the county commission.

56.230. The prosecuting attorney, in counties of the second class, may employ such
2 stenographic and clerical help ~~[, with the approval of the county commission,]~~ as may be
3 necessary to the efficient operation of his office. The salary of any stenographer or clerk, so
4 employed, shall be fixed by the prosecuting attorney ~~[, with the approval of the county~~
5 ~~commission]~~.

56.240. The prosecuting attorney in counties of the third class may appoint assistant
2 prosecuting attorneys who shall be licensed attorneys in the state of Missouri and be subject
3 to all the liabilities and penalties for failure or neglect to discharge the duty to which
4 prosecuting attorneys are liable. The appointment of an assistant prosecuting attorney shall
5 be made in writing and filed by the prosecuting attorney, and such assistant prosecuting
6 attorney shall take and subscribe to the oath or affirmation of office required of prosecuting
7 attorneys, which appointment and oath or affirmation of office shall be filed in the office of
8 the clerk of the circuit court of the county. An assistant prosecuting attorney shall discharge
9 the duties of the prosecuting attorney when the prosecuting attorney is sick or absent from the
10 county, or when the prosecuting attorney is engaged in the discharge of the duties of his office
11 so that he cannot attend. In counties of the third class an assistant prosecuting attorney shall
12 assist the prosecuting attorney in any case when requested to do so by the prosecuting
13 attorney, but the former shall be disqualified from defending in any criminal case. ~~[The~~
14 ~~compensation of an assistant prosecuting attorney in third class counties may be paid out of~~
15 ~~the county treasury an annual salary in an amount approved by the county commission.]~~

56.245. The prosecuting attorney in counties of the third and fourth class may employ
2 such stenographic and clerical help as may be necessary for the efficient operation of his
3 office. The salary of any stenographer or clerk so employed shall be fixed by the prosecuting
4 attorney ~~[with the approval of the county commission to be paid by the county]~~.

56.363. 1. The county commission of any county may on its own motion and shall
2 upon the petition of ten percent of the total number of people who voted in the previous
3 general election in the county submit to the voters at a general or special election the
4 proposition of making the county prosecutor a full-time position. The commission shall cause
5 notice of the election to be published in a newspaper published within the county, or if no

4 **used solely for the purposes described in sections 56.800 to 56.840. Individuals**
5 **employed under the provisions of this chapter before January 1, 2024, shall continue to**
6 **contribute to the retirement fund and receive benefits from the retirement fund**
7 **according to the provisions of sections 56.800 to 56.840. Individuals employed under**
8 **this chapter on or after January 1, 2024, shall participate in the Missouri state**
9 **employees retirement system under chapter 104. The provisions of this section shall not**
10 **apply to sections 56.380 to 56.800.**

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

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

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

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

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

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

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

28 5. (1) Beginning August 28, 2003, each county treasurer shall pay to the system the
29 following amounts to be drawn from the general revenues of the county:

30 (a) For counties of the third and fourth classification except as provided in paragraph
31 (c) of this subdivision, one hundred eighty-seven dollars;

32 (b) For counties of the second classification, two hundred seventy-one dollars;

33 (c) For counties of the first classification, counties which pursuant to section 56.363
34 elect to make the position of prosecuting attorney a full-time position after August 28, 2001,
35 or whose county commission has elected a full-time retirement benefit pursuant to subsection
36 3 of section 56.363, and the City of St. Louis, six hundred forty-six dollars.

37 (2) Beginning August 28, 2015, the county contribution set forth in paragraphs (a) to
38 (c) of subdivision (1) of this subsection shall be adjusted in accordance with the following
39 schedule based upon the prosecuting attorneys and circuit attorneys' retirement system's
40 annual actuarial valuation report. If the system's funding ratio is:

41 (a) One hundred twenty percent or more, no monthly sum shall be transmitted;

42 (b) More than one hundred ten percent but less than one hundred twenty percent, the
43 monthly sum transmitted shall be reduced fifty percent;

44 (c) At least ninety percent and up to and including one hundred ten percent, the
45 monthly sum transmitted shall remain the same;

46 (d) At least eighty percent and less than ninety percent, the monthly sum transmitted
47 shall be increased fifty percent; and

48 (e) Less than eighty percent, the monthly sum transmitted shall be increased one
49 hundred percent.

50 6. Beginning August 28, 2003, the county treasurer shall at least monthly transmit the
51 sums specified in subsection 5 of this section to the Missouri office of prosecution services
52 for deposit to the credit of the Missouri prosecuting attorneys and circuit attorneys' retirement
53 system fund. Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement
54 system fund shall be used only for the purposes provided in sections 56.800 to 56.840, and for
55 no other purpose.

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

58 (1) There shall be assessed and collected a surcharge of four dollars in all criminal
59 cases filed in the courts of this state including violation of any county ordinance, any
60 violation of criminal or traffic laws of this state, including infractions, and against any person
61 who has pled guilty for any violation and paid a fine through a fine collection center, but no
62 such surcharge shall be assessed when the costs are waived or are to be paid by the state,
63 county, or municipality or when a criminal proceeding or the defendant has been dismissed by
64 the court. For purposes of this section, the term "county ordinance" shall include any
65 ordinance of the City of St. Louis;

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

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

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

75 10. Beginning January 1, 2019, all members, who upon vesting and retiring are
76 eligible to receive a normal annuity equal to fifty percent of the final average compensation,
77 shall, as a condition of participation, contribute two percent of their gross salary to the fund.
78 Beginning on January 1, 2020, each such member shall contribute four percent of the
79 member's gross salary to the fund. Each county treasurer shall deduct the appropriate amount
80 from the gross salary of the prosecuting attorney or circuit attorney and, at least monthly, shall
81 transmit the sum to the prosecuting attorney and circuit attorney retirement system for deposit
82 in the prosecuting attorneys and circuit attorneys' retirement fund.

83 **11. Beginning January 1, 2024, the prosecuting attorneys and circuit attorneys**
84 **retirement fund shall become part of the Missouri state employees retirement fund as**
85 **described in section 56.802.**

86 ~~[11.]~~ 12. Upon separation from the system, a nonvested member shall receive a lump
87 sum payment equal to the total contribution of the member without interest or other increases
88 in value.

89 ~~[12.]~~ 13. Upon retirement and in the sole discretion of the board on the advice of the
90 actuary, a member shall receive a lump sum payment equal to the total contribution of the
91 member without interest or other increases in value, but such lump sum shall not exceed
92 twenty-five percent of the final average compensation of the member. This amount shall be
93 in addition to any retirement benefits to which the member is entitled.

94 ~~[13.]~~ 14. Upon the death of a nonvested member or the death of a vested member
95 prior to retirement, the lump sum payment in subsection 11 or 12 of this section shall be made
96 to the designated beneficiary of the member or, if no beneficiary has been designated, to the
97 member's estate.

2 ~~[56.067. In counties of the first classification not having a charter form~~
3 ~~of government and other counties in which the prosecuting attorney is a full-~~
4 ~~time position, the prosecuting attorney, except in the performance of special~~
5 ~~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
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. The prosecuting attorney of any county which becomes a county of the first classification during a four year term of office or a county which passed the proposition authorized by subsection 1 of section 56.363 shall not be required to devote full time to such office pursuant to section 56.067 until the beginning of the prosecuting attorney's next term of office or until the proposition otherwise becomes effective.~~

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

2 ~~[56.809. 1. The general administration and the responsibility for the~~
3 ~~proper operation of the fund are vested in a board of trustees of five persons.~~
4 ~~Trustees shall be elected by a secret ballot vote of the prosecuting attorneys~~
5 ~~and circuit attorneys of this state. Trustees shall be chosen for terms of four~~
6 ~~years from the first day of January next following their election except that the~~
7 ~~members of the first board shall be appointed by the governor by and with the~~
8 ~~consent of the senate after notification in writing, respectively, by the~~
9 ~~prosecuting attorneys and circuit attorneys of eighty percent of the counties in~~
10 ~~the state, including a city not within a county, that the prosecuting attorney or~~
11 ~~circuit attorney has elected to come under the provisions of sections 56.800 to~~
12 ~~56.840. It shall be the responsibility of the initial board to establish procedures~~
13 ~~for the conduct of future elections of trustees and such procedures shall be~~
14 ~~approved by a majority vote by secret ballot of the prosecuting attorneys and~~
15 ~~circuit attorneys in this state. The board shall have all powers and duties that~~
16 ~~are necessary and proper to enable it, its officers, employees and agents to~~
17 ~~fully and effectively carry out all the purposes of sections 56.800 to 56.840.~~

18 ~~2. The board of trustees shall elect one of their number as chairman~~
19 ~~and one of their number as vice chairman and may employ an administrator~~
20 ~~who shall serve as executive secretary to the board. The Missouri office of~~
21 ~~prosecution services, sections 56.750 to 56.775, may, in the discretion of the~~
22 ~~board of trustees, act as administrative employees to carry out all of the~~
23 ~~purposes of sections 56.800 to 56.840. In addition, the board of trustees may~~
24 ~~appoint such other employees as may be required. The board shall hold~~
25 ~~regular meetings at least once each quarter. Other meetings may be called as~~
26 ~~necessary by the chairman or by any three members of the board. Notice of~~
27 ~~such meetings shall be given in accordance with chapter 610.~~

28 ~~3. The board of trustees shall appoint an actuary or firm of actuaries as~~
29 ~~technical advisor to the board of trustees.~~

30 ~~4. The board of trustees shall retain investment advisors to be~~
31 ~~investment advisors to the board.~~

32 ~~5. The board of trustees may retain legal counsel to advise the board~~
33 ~~and represent the system in legal proceedings.~~

34 ~~6. The board shall arrange for annual audits of the records and~~
35 ~~accounts of the system by a certified public accountant or by a firm of certified~~
36 ~~public accountants.~~

37 ~~7. The board of trustees shall serve without compensation for their~~
38 ~~services as such; except that each trustee shall be paid from the system's funds~~
39 ~~for any necessary expenses incurred in the performance of duties authorized by~~
40 ~~the board.~~

41 ~~8. The board of trustees shall be authorized to appropriate funds from~~
42 ~~the system for administrative costs in the operation of the system.~~

43 ~~9. The board of trustees shall, from time to time, after receiving the~~
44 ~~advice of its actuary, adopt such mortality and other tables of experience, and a~~
45 ~~rate or rates of regular interest, as shall be necessary for the actuarial~~
46 ~~requirements of the system, and shall require its executive secretary to keep in~~
~~convenient form such data as shall be necessary for actuarial investigations of~~

47 the experience of the system, and such data as shall be necessary for the annual
48 actuarial valuations of the system.

49 10. The board of trustees shall, after reasonable notice to all interested
50 parties, hear and decide questions arising from the administration of sections
51 56.800 to 56.840; except that within thirty days after a decision or order, any
52 member, retirant, beneficiary or political subdivision adversely affected by that
53 determination or order may make an appeal under the provisions of chapter
54 536.

55 11. The board of trustees shall arrange for adequate surety bonds
56 covering the executive secretary and any other custodian of funds or
57 investments of the board. When approved by the board, such bonds shall
58 be deposited in the office of the Missouri secretary of state.

59 12. Subject to the limitations of sections 56.800 to 56.840, the board of
60 trustees shall formulate and adopt rules and regulations for the government of
61 its own proceedings and for the administration of the retirement system.

62 13. The board of trustees shall be the trustees of the funds of the
63 system. Subject to the provisions of any applicable federal or state laws, the
64 board of trustees shall have full power to invest and reinvest the moneys of the
65 system, and to hold, purchase, sell, assign, transfer or dispose of any of the
66 securities and investments in which such moneys shall have been invested, as
67 well as the proceeds of such investments and such moneys.

68 14. Notwithstanding any other provision of the law to the contrary, the
69 board of trustees may delegate to its duly appointed investment advisors
70 authority to act in place of the board of trustees in the investment and
71 reinvestment of all or part of the moneys of the system, and may also delegate
72 to such advisors the authority to act in place of the board of trustees in the
73 holding, purchasing, selling, assigning, transferring or disposing of any or all
74 of the securities and investments in which such moneys shall have been
75 invested, as well as the proceeds of such investments and such moneys. Such
76 investment counselor shall be registered as an investment advisor with the
77 United States Securities and Exchange Commission. In exercising or
78 delegating its investment powers and authority, members of the board of
79 trustees shall exercise ordinary business care and prudence under the facts and
80 circumstances prevailing at the time of the action or decision. In so doing, the
81 board of trustees shall consider the long term and short term needs of the
82 system in carrying out its purposes, the system's present and anticipated
83 financial requirements, the expected total return on the system's investment,
84 the general economic conditions, income, growth, long term net appreciation,
85 and probable safety of funds. No member of the board of trustees shall be
86 liable for any action taken or omitted with respect to the exercise of or
87 delegation of these powers and authority if such member shall have discharged
88 the duties of his or her position in good faith and with that degree of diligence,
89 care and skill which prudent men and women would ordinarily exercise under
90 similar circumstances in a like position.

91 15. The board shall keep a record of its proceedings which shall be
92 open to public inspection. It shall annually prepare a report showing the
93 financial condition of the system. The report shall contain, but not be limited
94 to, an auditor's opinion, financial statements prepared in accordance with

95 ~~generally accepted accounting principles, an actuary's certification along with~~
96 ~~actuarial assumptions and financial solvency tests.]~~

Section B. The repeal of section 56.809 of this act shall become effective on January
2 1, 2024.

✓