

SECOND REGULAR SESSION

HOUSE BILL NO. 2433

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MCGAUGH.

6199H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 1.020, 56.010, 56.060, 56.066, 56.067, 56.265, 56.363, 56.640, 56.700, 56.805, 56.807, 56.816, 70.010, 70.050, 70.060, 70.070, and 70.090, RSMo, and to enact in lieu thereof nineteen new sections relating to prosecuting attorneys, with a penalty provision.

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

Section A. Sections 1.020, 56.010, 56.060, 56.066, 56.067, 56.265, 56.363, 56.640, 56.700, 56.805, 56.807, 56.816, 70.010, 70.050, 70.060, 70.070, and 70.090, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 1.020, 56.010, 56.015, 56.017, 56.060, 56.066, 56.067, 56.265, 56.363, 56.640, 56.700, 56.805, 56.807, 56.816, 70.010, 70.050, 70.060, 70.070, and 70.090, to read as follows:

1.020. As used in the statutory laws of this state, unless otherwise specially provided or unless plainly repugnant to the intent of the legislature or to the context thereof:

(1) "Certified mail" or "certified mail with return receipt requested", includes certified mail carried by the United States Postal Service, or any parcel or letter carried by an overnight, express, or ground delivery service that allows a sender or recipient to electronically track its location and provides record of the signature of the recipient;

(2) ["County or circuit attorney" means prosecuting attorney] **"County attorney", "circuit attorney", "prosecuting attorney", or any derivation thereof, when used in the context of the functions, duties, powers, and responsibilities of the office, means an elected official of a county or designated jurisdiction with the responsibility for prosecuting violations of state law;**

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.

12 (3) "Executor" includes administrator where the subject matter applies to an
13 administrator;

14 (4) "General election" means the election required to be held on the Tuesday succeeding
15 the first Monday of November, biennially;

16 (5) "Guardian", if used in a section in a context relating to property rights or obligations,
17 means conservator of the estate as defined in chapter 475. "Guardianship", if used in a section
18 in a context relating to rights and obligations other than property rights or obligations, means
19 guardian of the person as defined in chapter 475;

20 (6) "Handicap" means a mental or physical impairment that substantially limits one or
21 more major life activities, whether the impairment is congenital or acquired by accident, injury,
22 or disease, and where the impairment is verified by medical findings;

23 (7) "Heretofore" means any time previous to the day when the statute containing it takes
24 effect; and "hereafter" means the time after the statute containing it takes effect;

25 (8) "In vacation" includes any adjournment of court for more than one day whenever any
26 act is authorized to be done by or any power given to a court, or judge thereof in vacation, or
27 whenever any act is authorized to be done by or any power given to a clerk of any court in
28 vacation;

29 (9) "Incompetent", if used in a section in a context relating to actual occupational ability
30 without reference to a court adjudication of incompetency, means the actual ability of a person
31 to perform in that occupation. "Incompetent", if used in a section in a context relating to the
32 property rights and obligations of a person, means a disabled person as defined in chapter 475.
33 "Incompetent", if used in a section in a context relating to the rights and obligations of a person
34 other than property rights and obligations, means an incapacitated person as defined in chapter
35 475;

36 (10) "Justice of the county court" means commissioner of the county commission;

37 (11) "Month" and "year". "Month" means a calendar month, and "year" means a
38 calendar year unless otherwise expressed, and is equivalent to the words year of our Lord;

39 (12) The word "person" may extend and be applied to bodies politic and corporate, and
40 to partnerships and other unincorporated associations;

41 (13) "Personal property" includes money, goods, chattels, things in action and evidences
42 of debt;

43 (14) "Place of residence" means the place where the family of any person permanently
44 resides in this state, and the place where any person having no family generally lodges;

45 (15) "Preceding" and "following", when used by way of reference to any section of the
46 statutes, mean the section next preceding or next following that in which the reference is made,
47 unless some other section is expressly designated in the reference;

48 (16) "Property" includes real and personal property;

49 (17) "Real property" or "premises" or "real estate" or "lands" is coextensive with lands,
50 tenements and hereditaments;

51 (18) "State", when applied to any of the United States, includes the District of Columbia
52 and the territories, and the words "United States" includes such district and territories;

53 (19) "Under legal disability" includes persons within the age of minority or of unsound
54 mind or imprisoned;

55 (20) "Ward", if used in a section in a context relating to the property rights and
56 obligations of a person, means a protectee as defined in chapter 475. "Ward", if used in a section
57 in a context relating to the rights and obligations of a person other than property rights and
58 obligations, means a ward as defined in chapter 475;

59 (21) "Will" includes the words testament and codicil;

60 (22) "Written" and "in writing" and "writing word for word" includes printing,
61 lithographing, or other mode of representing words and letters, but in all cases where the
62 signature of any person is required, the proper handwriting of the person, or his mark, is
63 intended.

56.010. **1. Except as otherwise provided under subsection 2 of this section**, at the
2 general election [to be held in this state in the year A.D. 1982] **in 2018**, and every four years
3 thereafter, there shall be elected in each county [of this state] , **or beginning in 2022 and every**
4 **four years thereafter there shall be elected in each multicounty jurisdiction established**
5 **under section 56.015**, a prosecuting attorney, who shall be a person learned in the law, duly
6 licensed to practice as an attorney at law in this state, and enrolled as such, at least twenty-one
7 years of age, and who has been a bona fide resident of the [county] **jurisdiction** in which he **or**
8 **she** seeks election for twelve months next preceding the date of the general election at which he
9 **or she** is a candidate for such office and shall hold his **or her** office for four years, and until his
10 **or her** successor is elected, commissioned and qualified.

11 **2. The prosecuting attorney for each county with a charter form of government**
12 **shall be elected at the general election provided for in the county's charter.**

56.015. Beginning with the prosecuting attorney elected at the 2022 general election,
2 **two or more contiguous counties within a single judicial circuit may act cooperatively in**
3 **the common employment of a prosecuting attorney in the manner provided under sections**
4 **70.010 to 70.090.**

56.017. 1. Each prosecuting attorney who serves multiple counties under section
2 **56.015 shall have all the powers and duties provided to prosecuting attorneys in counties**
3 **of the first classification and, if any of the counties are a county of the second, third, or**

4 **fourth classification, the prosecuting attorney shall also perform the duties required of**
5 **prosecuting attorneys in such counties under sections 56.291, 56.293, 56.300, and 56.305.**

6 **2. The prosecuting attorney shall be responsible for the budgets and staff of the**
7 **offices within each county employing the prosecuting attorney. He or she may appoint**
8 **such assistant prosecuting attorneys and employ such investigators and stenographic and**
9 **clerical help as the prosecuting attorney deems necessary for the proper discharge of the**
10 **duties of the prosecuting attorney's office, and may set their compensation within the limits**
11 **of the allocations made for that purpose by joint agreement of the governing bodies of the**
12 **employing counties. The compensation for the assistant prosecuting attorneys,**
13 **investigators, and stenographic and clerical help shall be paid in equal installments out of**
14 **the respective county treasuries in the same manner as other county employees are paid.**

15 **3. The assistant prosecuting attorneys shall be subject to the same fines and**
16 **penalties for neglect of duty or misdemeanor in office as the prosecuting attorney.**

17 **4. All assistant prosecuting attorneys, investigators, and stenographic and clerical**
18 **help shall hold office at the pleasure of the prosecuting attorney.**

56.060. 1. **In each county the prosecuting attorney serves, he or she** shall commence
2 and prosecute all civil and criminal actions [in the prosecuting attorney's county] in which the
3 county or state is concerned, defend all suits against the state or county, and prosecute forfeited
4 recognizances and actions for the recovery of debts, fines, penalties and forfeitures accruing to
5 the state or county. In all cases, civil and criminal, in which changes of venue are granted, the
6 prosecuting attorney shall follow and prosecute or defend, as the case may be, all the causes, for
7 which, in addition to the fees now allowed by law, the prosecuting attorney shall receive his or
8 her actual expenses. If any misdemeanor case is taken to the court of appeals by appeal the
9 prosecuting attorney shall represent the state in the case in the court and make out and cause to
10 be printed, at the expense of the county, all necessary abstracts of record and briefs, and if
11 necessary appear in the court in person, or shall employ some attorney at the prosecuting
12 attorney's own expense to represent the state in the court, and for his or her services he or she
13 shall receive the compensation that is proper, not to exceed twenty-five dollars for each case, and
14 necessary traveling expenses, to be audited and paid as other claims are audited and paid by the
15 county commission of the county.

16 **2. Notwithstanding the provisions of subsection 1 of this section, in any county for which**
17 **a county counselor is appointed, the prosecuting attorney shall only perform those duties**
18 **prescribed by subsection 1 of this section which are not performed by the county counselor under**
19 **the provisions of law relating to the office of county counselor.**

20 **3. In each county the prosecuting attorney serves, he or she may perform the**
21 **following duties in addition to all other duties imposed by law:**

22 **(1) Represent state agencies in the collection of debt within the jurisdiction, except**
23 **as otherwise provided by law or for the collection of debt owed for services rendered by**
24 **the state public defender system unless such collection is pursuant to a mutual agreement**
25 **or memorandum of understanding between the public defender system and the prosecuting**
26 **attorney; and**

27 **(2) Provide not less than six hours of continuing education to peace officers in the**
28 **jurisdiction in each year of his or her term of office.**

29 **4. In the absence of an agreement otherwise, the prosecuting attorney shall retain**
30 **twenty percent of all debt collected on behalf of state agencies under subsection 3 of this**
31 **section as a collection fee:**

32 **(1) One-half of the fee collected shall be payable to the state of Missouri and**
33 **remitted to the director of revenue who shall deposit the amount collected under this**
34 **section to the credit of the Missouri office of prosecution services fund; and**

35 **(2) One-half of the fee collected shall be payable to the county treasurer of each**
36 **county employing the prosecuting attorney on a pro rata basis, in accordance with the**
37 **agreement entered into by the counties under section 70.060, if applicable, and deposited**
38 **into the county treasury to be used solely for the office of the prosecuting attorney.**

56.066. 1. In **any jurisdiction including** any county which contains facilities which are
2 operated by the department of corrections with:

3 **(1) A total average yearly inmate population in excess of seven hundred and fifty persons**
4 **but less than one thousand five hundred persons, the prosecuting attorney shall receive ten**
5 **thousand dollars per annum in addition to all other compensation provided by law[. In any**
6 **county which contains facilities which are operated by the department of corrections with] ;**

7 **(2) A total average yearly inmate population in excess of one thousand five hundred**
8 **persons but less than three thousand persons, the prosecuting attorney shall receive twelve**
9 **thousand five hundred dollars per annum in addition to all other compensation provided by law[.**
10 **In any county which contains facilities which are operated by the department of corrections with]**
11 **;**

12 **(3) A total average yearly inmate population in excess of three thousand persons but less**
13 **than four thousand persons, the prosecuting attorney shall receive fifteen thousand dollars per**
14 **annum in addition to all other compensation provided by law[. In any county which contains**
15 **facilities which are operated by the department of corrections with] ;**

16 **(4) A total average inmate population in excess of four thousand persons, the prosecuting**
17 **attorney shall receive twenty thousand dollars per annum in addition to all other compensation**
18 **provided by law.**

19 **2.** The compensation provided in connection with the average inmate population shall
 20 not be considered for purposes of determining any increase in compensation from January 1,
 21 1988. The amounts provided in this subsection shall be included in the computation of the
 22 maximum allowable compensation as that term is used in section 50.333.

23 [2.] **3.** Notwithstanding the provisions of section 56.360, the prosecuting attorney of a
 24 **jurisdiction including** any county of the fourth classification, with a population of at least
 25 forty-eight thousand and not more than sixty thousand inhabitants, two correctional facilities and
 26 a state mental health center, shall devote full time to the prosecutor's office, and, except for the
 27 performance of official duties, shall not engage in the practice of law.

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

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

5 (1) [For] A full-time [prosecutor the prosecutor] **prosecuting attorney** shall receive
 6 compensation equal to the compensation of an associate circuit judge;

7 (2) [For] A part-time [prosecutor] **prosecuting attorney may receive a maximum**
 8 **compensation equal to seventy-five percent of the compensation of an associate circuit**
 9 **judge, and at a minimum, shall receive compensation equal to:**

10 [Assessed Valuation	Amount
11 \$ 18,000,000 to 40,999,999	\$37,000
12 41,000,000 to 53,999,999	38,000
13 54,000,000 to 65,999,999	39,000
14 66,000,000 to 85,999,999	41,000
15 86,000,000 to 99,999,999	43,000
16 100,000,000 to 130,999,999	45,000
17 131,000,000 to 159,999,999	47,000
18 160,000,000 to 189,999,999	49,000
19 190,000,000 to 249,999,999	51,000
20 250,000,000 to 299,999,999	53,000
21 300,000,000 or more	55,000]

22 **(a) For the term beginning January 1, 2019, forty percent of the compensation of**
 23 **an associate circuit judge;**

24 **(b) For the term beginning January 1, 2023, forty-five percent of the compensation**
 25 **of an associate circuit judge; and**

26 **(c) For the term beginning January 1, 2027 and each term thereafter, fifty percent**
 27 **of the compensation of an associate circuit judge.**

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

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

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

45 5. The provisions of section 56.066 shall not apply to full-time prosecutors who are
 46 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 and shall upon
 2 the petition of ten percent of the total number of people who voted in the previous general
 3 election in the county submit to the voters at a general or special election the proposition of
 4 making the [county prosecutor] **office of prosecuting attorney** a full-time position. The
 5 commission shall cause notice of the election to be published in a newspaper published within
 6 the county, or if no newspaper is published within the county, in a newspaper published in an
 7 adjoining county, for three weeks consecutively, the last insertion of which shall be at least ten
 8 days and not more than thirty days before the day of the election, and by posting printed notices
 9 thereof at three of the most public places in each township in the county. The proposition shall
 10 be put before the voters substantially in the following form:

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

12 YES NO

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

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

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

38 4. In any county of the third classification without a township form of government and
39 with more than twelve thousand but fewer than fourteen thousand inhabitants and with a city of
40 the fourth classification with more than one thousand seven hundred but fewer than one thousand
41 nine hundred inhabitants as the county seat that has elected to make the [county prosecutor]
42 **office of prosecuting attorney** a full-time position under this section after August 28, 2014, the
43 county commission may on its own motion and shall upon the petition of ten percent of the total
44 number of people who voted in the previous general election in the county submit to the voters
45 at a general or special election the proposition of changing the full-time prosecutor position to
46 a part-time position. The commission shall cause notice of the election to be published in a
47 newspaper published within the county, or if no newspaper is published within the county, in a

48 newspaper published in an adjoining county, for three weeks consecutively, the last insertion of
 49 which shall be at least ten days and not more than thirty days before the day of the election, and
 50 by posting printed notices thereof at three of the most public places in each township in the
 51 county. The proposition shall be put before the voters substantially in the following form:

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

53 YES NO

54 If a majority of the voters vote in favor of making the [county prosecutor] **office of prosecuting**
 55 **attorney** a part-time position, it shall become effective upon the date that the [prosecutor]
 56 **prosecuting attorney** who is elected at the next election subsequent to the passage of such
 57 proposal is sworn into office.

58 5. In any county that has elected to make the full-time position of [county prosecutor]
 59 **prosecuting attorney** a part-time position under subsection 4 of this section, the county's
 60 retirement contribution to the retirement system and the retirement benefit earned by the member
 61 shall prospectively be that of a part-time [prosecutor] **prosecuting attorney** as established in this
 62 chapter. Any retirement contribution made and retirement benefit earned prior to the effective
 63 date of the voter-approved proposition under subsection 4 of this section shall be maintained by
 64 the retirement system and used to calculate the retirement benefit for such prior full-time position
 65 service. Under no circumstances shall a member in a part-time [prosecutor] **prosecuting**
 66 **attorney** position earn full-time position retirement benefit service accruals for time periods after
 67 the effective date of the proposition changing the [county prosecutor] **office of prosecuting**
 68 **attorney** back to a part-time position.

56.640. 1. If a county counselor is appointed, the county counselor and the county
 2 counselor's assistants under the county counselor's direction shall represent the county and all
 3 departments, officers, institutions and agencies thereof, except as otherwise provided by law and
 4 shall upon request of any county department, officer, institution or agency for which legal
 5 counsel is otherwise provided by law, and upon the approval of the county commission or
 6 governing body, represent such department, officer, institution or agency. The county counselor
 7 shall commence, prosecute or defend, as the case may require, and exercise exclusive authority
 8 in all civil suits or actions in which the county or any county officer, commission, governing
 9 body, or agency is a party, in the county counselor's or its official capacity, the county counselor
 10 shall draw all contracts relating to the business of the county, the county counselor shall
 11 represent the county generally in all matters of civil law, and the county counselor shall upon
 12 request furnish written opinions to any county officer or department.

13 2. In all cases in which a civil fine may be imposed pursuant to section 49.272, it shall
 14 be the duty of the county counselor, rather than the [county] prosecuting attorney, to prosecute

15 such violations in the associate division of the circuit court in the county where the violation
16 occurred.

17 3. Notwithstanding any law to the contrary, the county counselor in any county of the
18 first classification and the prosecuting attorney of such county may by mutual cooperation
19 agreement prosecute or defend any civil action which the prosecuting attorney or county
20 counselor of the county is authorized or required by law to prosecute or defend.

56.700. 1. The prosecuting attorney [in each] **of each jurisdiction including a** county
2 of the second, third or fourth class which contains a mental health facility able to serve at least
3 eighty persons on an overnight, inpatient basis at any one time, and which is operated by the state
4 department of mental health, division of psychiatric services, may employ an assistant
5 prosecuting attorney to assist in carrying out the duties of the office of prosecuting attorney
6 relating to mental health and mental health facilities. The assistant prosecuting attorney
7 authorized by this subsection shall be in addition to any other assistant prosecuting attorney
8 authorized by law. The assistant prosecuting attorney employed under this subsection shall
9 receive an annual compensation of fifteen thousand dollars payable out of the state treasury from
10 funds appropriated for that purpose.

11 2. The county counselor or circuit attorney in each county of the first class with a charter
12 form of government containing part of a city with a population of over four hundred fifty
13 thousand and in each city not within a county may employ an assistant county counselor or
14 circuit attorney to assist in carrying out the duties of the office of the county counselor or circuit
15 attorney relating to mental health and mental health facilities. The assistant authorized by this
16 subsection shall be in addition to any other assistants authorized by law. The assistant county
17 counselor or circuit attorney employed under this subsection shall receive an annual
18 compensation of fifteen thousand dollars payable out of the state treasury from funds
19 appropriated for that purpose.

20 3. The prosecuting attorney [in each] **of each jurisdiction including a** county of the
21 second, third or fourth class which contains a mental health facility able to serve at least eighty
22 persons on an overnight, inpatient basis at any one time, and which is operated by the state
23 department of mental health, division of psychiatric services, may employ additional
24 investigative and clerical personnel to assist in carrying out the duties of the office of prosecuting
25 attorney relating to mental health and mental health facilities. The investigative and clerical
26 personnel authorized by this subsection shall be in addition to any other personnel authorized by
27 law. The compensation for such additional investigative and clerical personnel, not to exceed
28 a total of fifteen thousand dollars annually for each eligible county, shall be paid out of the state
29 treasury from funds appropriated for that purpose.

30 4. The county counselor or circuit attorney in each county of the first class with a charter
31 form of government containing part of a city with a population of over four hundred fifty
32 thousand and in each city not within a county may employ additional investigative and clerical
33 personnel to assist in carrying out the duties of the office of the county counselor or circuit
34 attorney relating to mental health and mental health facilities. The investigative and clerical
35 personnel authorized by this subsection shall be in addition to any other personnel authorized by
36 law. The compensation for such additional investigative and clerical personnel, not to exceed
37 a total of fifteen thousand dollars annually for each eligible county or city not within a county,
38 shall be paid out of the state treasury from funds appropriated for that purpose.

56.805. As used in sections 56.800 to 56.840, the following words and terms mean:

- 2 (1) "Annuity", annual payments, made in equal monthly installments, to a retired
3 member from funds provided for, in, or authorized by, the provisions of sections 56.800 to
4 56.840;
- 5 (2) "Average final compensation", the average compensation of an employee for the two
6 consecutive years prior to retirement when the employee's compensation was greatest;
- 7 (3) "Board of trustees" or "board", the board of trustees established by the provisions of
8 sections 56.800 to 56.840;
- 9 (4) "Compensation", all salary and other compensation payable by a county to an
10 employee for personal services rendered as an employee, but not including travel and mileage
11 reimbursement;
- 12 (5) "County", the city of St. Louis and each county in the state;
- 13 (6) "Creditable service", the sum of both membership service and creditable prior
14 service;
- 15 (7) "Effective date of the establishment of the system", August 28, 1989;
- 16 (8) "Employee", an elected or appointed prosecuting attorney or circuit attorney who is
17 employed by a county or a city not within a county;
- 18 (9) "Membership service", service as a prosecuting attorney or circuit attorney after
19 becoming a member that is creditable in determining the amount of the member's benefits under
20 this system;
- 21 (10) "Prior service", service of a member rendered prior to the effective date of the
22 establishment of the system which is creditable under section 56.823;
- 23 (11) **"Prosecuting attorney", shall include any elected or appointed prosecuting
24 attorney employed by a county or counties, or circuit attorney employed by a city not
25 within a county;**
- 26 (12) "Retirement system" or "system", the prosecuting attorneys and circuit attorneys'
27 retirement system authorized by the provisions of sections 56.800 to 56.840.

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

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

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

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

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

(4) For counties that are engaged in the common employment of a prosecuting attorney as provided in section 56.015, one thousand two hundred ninety-one dollars and sixty-seven cents, which shall be prorated among the counties in accordance with the joint agreement the counties entered into under section 70.060.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

68 (2) The clerk responsible for collecting court costs in criminal cases shall collect and
69 disburse such amounts as provided by sections 488.010 to 488.026. Such funds shall be payable
70 to the prosecuting attorneys and circuit attorneys' retirement fund. Moneys credited to the

71 prosecuting attorneys and circuit attorneys' retirement fund shall be used only for the purposes
72 provided for in sections 56.800 to 56.840 and for no other purpose.

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

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

56.816. 1. The normal annuity of a retired member who served as prosecuting attorney
2 of a county of the third or fourth class shall, except as provided in subsection 3 of this section,
3 be equal to:

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

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

12 2. The normal annuity of a retired member who served as prosecuting attorney of a first
13 or second class county [or] , as circuit attorney of a city not within a county, **or as prosecuting**
14 **attorney of a multicounty jurisdiction** shall be equal to fifty percent of the final average
15 compensation.

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

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

70.010. 1. Two or more, not exceeding ten, contiguous counties may join in performing any common function or service, including the purchase, construction and maintenance of hospitals, almshouses, road machinery and any other county property and may join in the common employment of any county officer or employee common to each of the counties. The county commissions shall administer the delegated powers and allocate the costs among the counties.

2. County coroners of any number of contiguous counties may establish a cooperative district and appoint a district coroner and deputy district coroner for such district. District coroners and deputy district coroners shall be county coroners selected by a majority vote of coroners of counties within the district and certified as master death investigators by a professional association of the county coroners of Missouri. The district and deputy district coroners shall receive remuneration only for necessary expenses incurred for providing assistance in the investigation of a death at the request of a county coroner which shall be paid in the manner provided under the provisions of section 58.570.

3. Beginning with the prosecuting attorney elected at the 2022 general election, two or more contiguous counties within a single judicial circuit may act cooperatively in the common employment of a prosecuting attorney.

70.050. 1. Within ten days after such election, the county clerk of each of such counties shall send a correct and duly certified abstract of the votes polled at such election to the secretary of state. **Except as otherwise provided under subsection 2 of this section**, if a majority of the voters voting on the question vote for the question in each of the counties taken separately it shall be deemed to have been adopted, but if it shall fail to receive a majority in any one or more of the counties, it shall be deemed to have failed. The secretary of state shall canvass the certified abstracts and notify the presiding commissioner of each of the county commissions of the results.

2. A proposition for the common employment of a prosecuting attorney shall be deemed to have been adopted if four-sevenths of the voters voting on the proposition vote in favor thereof in each of the counties taken separately; except that the proposition shall be deemed to have been adopted if a majority of the voters voting thereon vote in favor in each of the counties taken separately if:

(1) No one has filed for the office of prosecuting attorney during the preceding eight years in at least one of the counties in the circuit; or

(2) None of the residents qualify for the office of prosecuting attorney in at least one of the counties in the circuit.

3. If a proposition for the common employment of a prosecuting attorney fails to receive the requisite number of votes to be adopted, the proposition shall not be

19 **resubmitted to the voters in each county in which it was submitted for four years from the**
20 **date of the election.**

70.060. 1. Upon the receipt of a notice that [the] a proposition **for any purpose other**
2 **than the common employment of a prosecuting attorney** has been adopted as provided in
3 section 70.050, the presiding commissioner of the most populous county, as determined by the
4 last federal decennial census, shall call a meeting of the county commissions of all the counties
5 voting on the proposition, at such place and time as he **or she** may designate. Unless otherwise
6 provided by law, the respective county commissions sitting as a body, with each county
7 commissioner having one vote, shall proceed to administer the function, service or common
8 employment of the county officer or employee and allocate the costs among the counties. Any
9 county that has voted to participate in a joint undertaking as provided in sections 70.010 to
10 70.090 is hereby authorized to issue bonds, as provided by law for the issuance of county bonds,
11 for such purposes.

12 **2. Upon the receipt of a notice that a proposition for the common employment of**
13 **a prosecuting attorney has been adopted as provided in section 70.050, the presiding**
14 **commissioner of the most populous county, as determined by the last federal decennial**
15 **census, shall call a meeting of the county commissions of all the counties voting on the**
16 **proposition, at such place and time as he or she may designate. The respective county**
17 **commissions sitting as a body, with each county commissioner having one vote, shall**
18 **proceed to approve a joint agreement which specifies the duties of each county. The**
19 **agreement shall contain the following:**

20 **(1) The names of the counties engaging in the common employment of the**
21 **prosecuting attorney;**

22 **(2) The formula for calculating each county's contribution to the costs of the**
23 **prosecuting attorney's office;**

24 **(3) The formula for calculating each county's portion of the fee collected under**
25 **subsection 3 of section 56.060; and**

26 **(4) The timing and procedures for approval of the annual budget for the**
27 **prosecuting attorney's office by the governing bodies of the employing counties.**

70.070. 1. Whenever eight percent of the voters of any county which shall have voted
2 to participate in a common undertaking as contemplated in sections 70.010 to 70.090 shall sign
3 and file a petition with the county commission of said county requesting the submission of the
4 question of withdrawing from said joint undertaking, it shall be the duty of said county
5 commission to submit the question to the voters of said county at the next municipal election.
6 The total vote for governor at the last general election before the filing of the petition whereat

7 a governor was elected shall be used to determine the number of voters necessary to sign the
8 petition.

9 2. The question shall be submitted in substantially the following form:

10 Shall County withdraw from joint participation with (name of other county or
11 counties participating in common function, service, officer or employee)?

12 3. Within ten days after such election, the county clerk of such county shall send a
13 correct and duly certified abstract of the votes polled at such election to the secretary of state.
14 **Unless the approval of four-sevenths of the voters in each of the counties was required to**
15 **adopt the original proposition to participate in the common undertaking, the proposition**
16 **shall be deemed to have been adopted** if a majority of the voters voting on the proposition vote
17 for [the proposition, it shall be deemed to have been adopted] it. **In counties in which the**
18 **proposition for the common employment of a prosecuting attorney required the approval**
19 **of four-sevenths of the voters, the question of whether to withdraw from the joint**
20 **undertaking shall be deemed to have been adopted if four-sevenths of the voters voting**
21 **thereon vote in favor of the proposition.** The secretary of state shall notify the presiding
22 commissioner of each of the counties participating in the joint undertaking of the results.

23 4. Upon the receipt of the notice that such a question to withdraw from joint participation
24 in the undertaking has been adopted in any one or more of the participating counties, the
25 presiding commissioner of the most populous county in the group still participating, as
26 determined by the last federal decennial census, shall proceed as in the case of the formation of
27 a new group of counties as directed in section 70.060.

70.090. When two or more counties may have joined together for the purposes of
2 sections 70.010 to 70.090, additional counties, until the total shall have reached [ten] **the limits**
3 **specified in section 70.010**, may be admitted to participation by all such counties, including
4 those already participating and those desiring to participate, proceeding as is provided for in
5 sections 70.010 to 70.090 for the formation of a new agreement. If the proposition to admit
6 additional counties shall fail to receive a majority vote of those voting thereon in any one of such
7 counties, including those already participating and those desiring to participate, the proposition
8 shall be deemed to have failed and the counties already participating before such proposition was
9 submitted shall carry on in the same manner as before.

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