

SECOND REGULAR SESSION

SENATE BILL NO. 797

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Read 1st time January 19, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

3195S.03I

AN ACT

To repeal sections 56.805 and 56.814, RSMo, and to enact in lieu thereof eight new sections relating to district attorneys.

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

Section A. Sections 56.805 and 56.814, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 56.805, 56.814, 56.900, 56.905, 56.910, 56.915, 56.920, and 56.925, to read as follows:

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

(1) "Annuity", annual payments, made in equal monthly installments, to a retired member from funds provided for, in, or authorized by, the provisions of sections 56.800 to 56.840;

(2) "Average final compensation", the average compensation of an employee for the two consecutive years prior to retirement when the employee's compensation was greatest;

(3) "Board of trustees" or "board", the board of trustees established by the provisions of sections 56.800 to 56.840;

(4) "Compensation", all salary and other compensation payable by a county to an employee for personal services rendered as an employee, but not including travel and mileage reimbursement;

(5) "County", the city of St. Louis and each county in the state;

(6) "Creditable service", the sum of both membership service and creditable prior service;

(7) "Effective date of the establishment of the system", August 28, 1989;

(8) "Employee", an elected or appointed prosecuting attorney or circuit attorney who is employed by a county or a city not within a county **or an elected**

20 **or appointed district attorney employed by a judicial circuit;**

21 (9) "Membership service", service as a prosecuting attorney or circuit
22 attorney after becoming a member that is creditable in determining the amount
23 of the member's benefits under this system;

24 (10) "Prior service", service of a member rendered prior to the effective
25 date of the establishment of the system which is creditable under section 56.823;

26 (11) **"Prosecuting attorney", shall include any elected or**
27 **appointed prosecuting attorney or district attorney;**

28 (12) "Retirement system" or "system", the prosecuting attorneys and
29 circuit attorneys' retirement system authorized by the provisions of sections
30 56.800 to 56.840.

56.814. 1. Any member who has attained the age of sixty-two years and
2 who has twelve years or more of creditable service as prosecuting attorney or
3 circuit attorney may retire with a normal annuity.

4 2. Any person who is a member of the retirement system on
5 December 31, 2014, and who has served more than four years as a
6 prosecuting attorney or circuit attorney in a county which elects to
7 become part of the district attorney system and does not become a
8 district attorney on January 1, 2015, may elect to receive a reduced
9 retirement benefit at age sixty-two in a sum equal to the proportion of
10 the retirement benefit provided in section 56.816 that the person's
11 period of service bears to twelve years.

56.900. 1. At the general election to be held in this state in the
2 year 2014, and every four years thereafter, there shall be elected in
3 each judicial circuit of this state a district attorney for those counties
4 in the circuit that elect to become part of the district attorney
5 system. The district attorney shall be duly licensed to practice as an
6 attorney at law in this state and shall have been a bonafide resident of
7 the judicial circuit in which such person seeks election for twelve
8 months next preceding the date of the general election at which such
9 person is a candidate for such office.

10 2. The geographical boundaries of the judicial circuits shall
11 correspond to those described in section 478.073.

12 3. District attorneys elected under the provisions of this section
13 shall enter upon the discharge of their duties on the first day of
14 January following their election, commission, and qualification.

15 4. The district attorney of each judicial circuit shall receive the
16 same annual salary as that of a circuit judge, which shall be paid by the
17 state out of the state treasury. A district attorney in a judicial circuit
18 consisting of a single county with a charter form of government may
19 receive additional compensation set by the governing body of the
20 county in its sole discretion and paid out of the county treasury,
21 chargeable to the county general revenue fund.

 56.905. 1. Each district attorney shall commence and prosecute
2 all criminal and ancillary actions in which the county or state is
3 concerned in those counties that have elected to become part of the
4 district attorney system. In cases in which changes of venue are
5 granted, the district attorney shall follow and continue prosecution of
6 the case. If any misdemeanor case is appealed to the court of appeals,
7 the district attorney shall represent the state in the case in the court.

 2. Notwithstanding any provision of law to the contrary, if a
9 district attorney is unable to commence or prosecute a criminal case
10 due to conflict of interest on the part of the district attorney, the
11 presiding judge shall appoint the district attorney from any adjoining
12 circuit as special district attorney for that particular matter.

 56.910. 1. The district attorney may appoint such full-time and
2 part-time assistant district attorneys, and may employ such
3 investigators and stenographic and clerical help as the district attorney
4 deems necessary for the proper discharge of the duties of the district
5 attorney's office, and may set their compensation within the limits of
6 the allocations made for that purpose by the county commissions. The
7 compensation for the assistant district attorneys, investigators, and
8 stenographic and clerical help shall be paid in equal installments out
9 of the county treasury in the same manner as the compensation for
10 other county employees.

 2. All assistant district attorneys, investigators, and stenographic
12 and clerical help shall hold office at the pleasure of the district
13 attorney.

 56.915. 1. Salaries except the salary of the district attorney as
2 provided under subsection 4 of section 56.900, expenses, and overhead
3 costs of all district attorney offices shall be funded by the respective
4 counties which such offices serve subject to reimbursement by the state
5 of Missouri as described in this section.

6 **2. For the district attorney offices existing in judicial circuits**
7 **consisting of one county where such county has elected to participate**
8 **in the district attorney system, the state shall reimburse the percentage**
9 **of the office budget as follows:**

10 **(1) Five percent beginning January 1, 2015, until December 31,**
11 **2015;**

12 **(2) Ten percent beginning January 1, 2016, until December 31,**
13 **2016;**

14 **(3) Fifteen percent beginning January 1, 2017, until December 31,**
15 **2017;**

16 **(4) Twenty percent beginning January 1, 2018, until December**
17 **31, 2018;**

18 **(5) Twenty-five percent beginning January 1, 2019, until**
19 **December 31, 2019;**

20 **(6) Thirty percent beginning January 1, 2020, until December 31,**
21 **2020;**

22 **(7) Thirty-five percent beginning January 1, 2021, until**
23 **December 31, 2021;**

24 **(8) Forty percent beginning January 1, 2022, until December 31,**
25 **2022;**

26 **(9) Forty-five percent beginning January 1, 2023, until December**
27 **31, 2023;**

28 **(10) Fifty percent beginning January 1, 2024, and all subsequent**
29 **years.**

30 **3. For district attorney offices existing in judicial circuits**
31 **consisting of two or more participating counties, the state shall**
32 **reimburse the percentage of the office budget as follows:**

33 **(1) Ten percent beginning January 1, 2015, until December 31,**
34 **2015;**

35 **(2) Twenty percent beginning January 1, 2016, until December**
36 **31, 2016;**

37 **(3) Thirty percent beginning January 1, 2017, until December 31,**
38 **2017;**

39 **(4) Forty percent beginning January 1, 2018, until December 31,**
40 **2018;**

41 **(5) Fifty percent beginning January 1, 2019, and all subsequent**
42 **years.**

43 4. The office of administration shall make payment for the
 44 reimbursement from appropriations made for that purpose on or before
 45 July fifteenth of each year following the calendar year in which such
 46 expenses by the counties were paid. In circuits where more than one
 47 county contributed to payment of the expenses of the district attorney's
 48 office, each of the counties shall be reimbursed in the same proportion
 49 as its contribution.

 56.920. The district attorney, except in the performance of
 2 special prosecutions or otherwise representing the state or its political
 3 subdivisions, shall devote full time to the office, and shall not engage
 4 in the practice of law.

 56.925. 1. For counties not having a charter form of government
 2 to join the district attorney system, the county commission must adopt
 3 by majority vote a resolution to join the district attorney system and
 4 such resolution shall be in substantially the following form:

5 "The county commission for County
 6 hereby certifies that it has met and voted to join the state district
 7 attorney system and thereby eliminate the office of prosecuting
 8 attorney.".

9 2. The resolution provided for in subsection 1 of this section
 10 must be transmitted to the secretary of state at least twelve months in
 11 advance of the next general election at which district attorneys shall
 12 be elected and such election shall be irrevocable once such resolution
 13 is transmitted.

14 3. For counties with a charter form of government to join the
 15 district attorney system, the governing body must adopt by charter
 16 amendment a provision to join the district attorney system and
 17 eliminate the office of prosecuting attorney.

18 4. Except as otherwise provided, no office of county prosecuting
 19 attorney shall cease to exist except upon the election and qualification
 20 of a district attorney for that county and judicial circuit.

