

SECOND REGULAR SESSION

# SENATE BILL NO. 1077

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR PARSON.

Read 1st time February 22, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6587S.011

## AN ACT

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

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

Section A. Sections 56.067, 56.265, 56.363, 56.807, and 56.816, RSMo, are  
2 repealed and five new sections enacted in lieu thereof, to be known as sections  
3 56.067, 56.265, 56.363, 56.807, and 56.816, to read as follows:

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

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

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

8 (2) For a part-time prosecutor:

	Assessed Valuation	Amount
10	\$ 18,000,000 to 40,999,999	\$ 37,000
11	41,000,000 to 53,999,999	38,000
12	54,000,000 to 65,999,999	39,000

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

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

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

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

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

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

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

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

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

14                            YES                            NO

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

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

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

43           4. In any county of the third classification without a township form of  
 44 government and with more than twelve thousand but fewer than fourteen  
 45 thousand inhabitants and with a city of the fourth classification with more than  
 46 one thousand seven hundred but fewer than one thousand nine hundred  
 47 inhabitants as the county seat that has elected to make the county prosecutor a  
 48 full-time position under this section after August 28, 2014, the county commission  
 49 may on its own motion and shall upon the petition of ten percent of the total  
 50 number of people who voted in the previous general election in the county submit  
 51 to the voters at a general or special election the proposition of changing the  
 52 full-time prosecutor position to a part-time position. The commission shall cause  
 53 notice of the election to be published in a newspaper published within the county,  
 54 or if no newspaper is published within the county, in a newspaper published in  
 55 an adjoining county, for three weeks consecutively, the last insertion of which  
 56 shall be at least ten days and not more than thirty days before the day of the  
 57 election, and by posting printed notices thereof at three of the most public places  
 58 in each township in the county. The proposition shall be put before the voters  
 59 substantially in the following form:

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

62                                    YES                                    NO

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

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

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

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

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

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

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

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

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

30 5. (1) Beginning August 28, 2003, each county treasurer shall pay to the  
31 system the following amounts to be drawn from the general revenues of the  
32 county:

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

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

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

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

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

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

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

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

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

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

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

66 (1) There shall be assessed and collected a surcharge of four dollars in all  
67 criminal cases filed in the courts of this state including violation of any county  
68 ordinance, any violation of criminal or traffic laws of this state, including  
69 infractions, and against any person who has pled guilty for any violation and paid  
70 a fine through a fine collection center, but no such surcharge shall be assessed  
71 when the costs are waived or are to be paid by the state, county, or municipality  
72 or when a criminal proceeding or the defendant has been dismissed by the

73 court. For purposes of this section, the term "county ordinance" shall include any  
74 ordinance of the City of St. Louis;

75 (2) The clerk responsible for collecting court costs in criminal cases shall  
76 collect and disburse such amounts as provided by sections 488.010 to  
77 488.026. Such funds shall be payable to the prosecuting attorneys and circuit  
78 attorneys' retirement fund. Moneys credited to the prosecuting attorneys and  
79 circuit attorneys' retirement fund shall be used only for the purposes provided for  
80 in sections 56.800 to 56.840 and for no other purpose.

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

84 9. No state moneys shall be used to fund section 56.700 and sections  
85 56.800 to 56.840 unless provided for by law.

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

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

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

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

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

22 4. The actuarial present value of a retired member's benefits shall be  
23 placed in a reserve account designated as a "Retired Lives Reserve". The value

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

Section B. Because of the need to ensure that a county may timely place  
2 a question before the voters on changing from a full-time to a part-time  
3 prosecutor, section A of this act is deemed necessary for the immediate  
4 preservation of the public health, welfare, peace and safety, and is hereby  
5 declared to be an emergency act within the meaning of the constitution, and  
6 section A of this act shall be in full force and effect upon its passage and  
7 approval.

Bill ✓

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