

FIRST REGULAR SESSION

HOUSE BILL NO. 734

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GOODMAN AND STEVENSON (Co-sponsors).

Read 1st time April 8, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1605L.021

AN ACT

To repeal sections 59.042, 59.043, 483.010, 483.015, 483.020, 483.065, 483.075, 483.080, 483.082, and 483.083, RSMo, and to enact in lieu thereof nine new sections relating to the appointment of circuit clerks.

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

Section A. Sections 59.042, 59.043, 483.010, 483.015, 483.020, 483.065, 483.075, 483.080, 483.082, and 483.083, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 59.042, 483.010, 483.015, 483.020, 483.065, 483.075, 483.080, 483.082, and 483.083, to read as follows:

59.042. **1.** In any county where the offices of clerk of the circuit court and the recorder of deeds are combined, the governing body of said county, by public vote, may authorize the separation of the two offices. Thereafter, the recorder of deeds shall be elected pursuant to section 59.020.

2. The clerk of the circuit court in office at the time the separation is authorized by public vote shall remain in office for the remainder of his or her elected term, but thereafter the clerk of the circuit court in any such county shall be appointed pursuant to chapter 483, RSMo, even if the circuit clerk in office at the time of separation completes his or her elected term on or before January 1, 2007.

3. In any county wherein the office of circuit clerk and recorder of deeds are not separated pursuant to this chapter on or before January 1, 2007, such office shall remain an elective office until such time as the county separates the offices of clerk and recorder of deeds pursuant to this section.

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.

483.010. 1. No person shall be appointed or elected **circuit clerk or court administrator, however denominated**, of any court, unless he [be] **or she is** a citizen of the United States[,] **and is** above the age of twenty-one years, and shall have resided within the state one whole year, and within the geographical area over which the court has jurisdiction [or] **and**, in the case of **elected** circuit clerks, **in those counties where the office of circuit clerk and recorder of deeds are combined**, within the county from which elected, three months before the [appointment or] election; and every clerk shall, after his **or her** appointment or election, reside in the geographical area over which the court he **or she** serves has jurisdiction or, in the case of circuit clerks, in the county for which he **or she** is clerk.

2. **The circuit clerk shall be an officer and employee of the judicial department of state government, and shall serve subject to the direction and authority of the circuit court served by the circuit clerk.**

3. **Any reference in law to "circuit clerk" shall apply to any person exercising the authority provided by this chapter, however denominated.**

483.015. 1. [At the general election in the year 1982, and every four years thereafter,] Except as [herein] provided [and except as otherwise provided by law] **in subsections 2 and 3 of this section**, circuit clerks shall be [elected by the qualified voters of] **appointed by a majority of the circuit judges and associate circuit judges, en banc, for** each county [and of the city of St. Louis, who shall be commissioned by the governor], and shall enter upon the discharge of their duties on the first day in January [next ensuing their election, and shall hold their offices for the term of four years] **2007**, and **shall hold office** until their successors shall be duly [elected] **appointed** and qualified, unless sooner removed from office. **In the general election of 2006, no general election shall be held for the office of circuit clerk in any county wherein such office shall become an appointed office on January 1, 2007, pursuant to this subsection.**

2. [The court administrator for Jackson County provided by the charter of Jackson County shall be selected as provided in the county charter and shall exercise all of the powers and duties of the circuit clerk of Jackson County. The director of judicial administration and the circuit clerk of St. Louis County shall be selected as provided in the charter of St. Louis County.

3.] When provision is made in a county charter **or constitution** for the appointment of a court administrator **or another similarly titled person** to perform the duties of a circuit clerk or for the [appointment] **selection** of a circuit clerk, such provisions shall prevail over the provisions of this chapter providing for a circuit clerk to be [elected] **appointed**. The persons [appointed] **selected** to fill any such [appointive] positions shall be paid by the counties as provided by the county charter, **constitution** or ordinance; provided, however, that [if provision is now or hereafter made by law for the salaries of circuit clerks to be paid by the state,] the state

23 shall pay over to the county a sum which is equivalent to the salary that would be payable by law
24 by the state to [an elected] a circuit clerk in such county if such [charter provision was not in
25 effect] **person had been appointed by the circuit court en banc as provided by this chapter.**
26 The sum shall be paid in [semimonthly or monthly] **such periodic** installments[,] as **are**
27 designated by the commissioner of administration.

28 **3. At the general election in the year 2006 and every four years thereafter, circuit**
29 **clerks in any county where the offices of circuit clerk and recorder of deeds are combined**
30 **shall be elected by the qualified voters of each such county. Such clerks shall be**
31 **commissioned by the governor, and shall enter upon the discharge of their duties on the**
32 **first day in January next ensuing their election, and shall hold their offices for the term of**
33 **four years, and until their successors shall be duly elected and qualified, unless sooner**
34 **removed from office.**

35 **4. Each appointed circuit clerk shall hold and exercise the duties of such office**
36 **under the direction of the judges of the circuit en banc, subject to the administrative rules**
37 **of the supreme court relating to the circuit court personnel system.**

38 **5. The circuit clerk shall deliver up all records, books, papers, writings, computer**
39 **and electronic records and equipment, seals, furniture and apparatus belonging to the**
40 **office, complete, secure and undefaced, to such circuit clerk's successor.**

483.020. When any vacancy shall occur in the office of any circuit clerk [so elected,] by
2 death, resignation, removal, refusal to act or otherwise, [it shall be the duty of the governor in
3 the case of an elected clerk to] **the circuit court en banc shall** fill such vacancy by appointing
4 some eligible person to said office, who shall discharge the duties thereof **under the supervision**
5 **of the circuit court en banc, subject to the administrative rules of the supreme court**
6 **relating to the circuit court personnel system. If the vacancy occurs in a county in which**
7 **the circuit clerk is elected, the appointed clerk shall hold office** until the next general
8 election, at which time a clerk shall be [chosen] **elected** for the remainder of the term, who shall
9 hold his office until his successor is duly elected and qualified, unless sooner removed.

483.065. Each clerk shall keep his office at such places as the court shall direct, and shall
2 there keep the records, papers, seal and property belonging to his office and transact his official
3 business; except that, each clerk may store closed court files and the records and papers pertinent
4 thereto at any secure place [within the county wherein] **with the approval of** the court [is held],
5 if adequate provisions are made for the examination and use of same.

483.075. 1. Every clerk shall record the judgments, rules, orders and other proceedings
2 of the court; issue and attest all process when required by law and affix the seal of his office
3 thereto, or if none be provided, then his private seal; keep a perfect account of all moneys coming
4 into his hands on account of costs or otherwise, and punctually pay over the same.

5 2. [Provided, that where] **If** the clerk of the circuit court is a party, plaintiff or defendant,
6 whether singly or jointly with others, to a suit or action, the writ of summons and all other
7 process shall be issued by [the] **a deputy circuit clerk** [of the county commission] **designated**
8 **by the circuit court to act as circuit clerk with respect to that particular case**, the reason
9 therefor being noted [on said process] **in the order designating the deputy circuit clerk**, and
10 [said latter named] **the designated deputy circuit clerk** shall, on the trial of said cause, act as
11 temporary clerk of the circuit court and otherwise perform in said cause all the duties of the
12 circuit court clerk, **all under the supervision of the circuit court en banc of the judicial**
13 **circuit.**

 483.080. Every clerk may appoint such number of deputies or assistants as may be
2 authorized to be appointed [under procedures provided by law] **pursuant to appropriations**
3 **authorized for such purpose and administrative rules of the supreme court**, who shall be
4 at least seventeen years of age and have all other qualifications [of their principals] **as provided**
5 **by administrative rules of the supreme court** and take the like oath, and may in the name of
6 their principals perform the duties of clerk **under the supervision of the appointing clerk**; but
7 all clerks and their sureties shall be responsible for the conduct of their deputies or assistants.

 483.082. 1. [Notwithstanding the provision of any other statute to the contrary,] **Subject**
2 **only to the provisions of section 483.240**, it shall be the duty of the clerks of all courts to keep
3 such records of the courts and in such a manner as may be directed by rule of the supreme court
4 so that they shall accurately record all essential matters relating to the causes and matters within
5 the jurisdiction of the court which are and have been pending before the court, including
6 pleadings, motions and related documents, transactions, orders and judgments or decrees related
7 thereto showing the course and disposition of causes and matters, the taxing and collection of
8 court costs, and the setting of trial calendars or dockets of pending cases.

 2. Recognizing that improved methods and systems of keeping records and data have
10 been and will continue to be developed from time to time and that all court clerks should be
11 empowered to utilize improved methods, systems and techniques of keeping records of essential
12 matters, and notwithstanding the provisions of any other statute to the contrary, the methods,
13 form and systems of keeping all [such] **court** files and records shall be as directed and approved
14 by rule of the supreme court.

 483.083. 1. Each circuit clerk shall annually receive as compensation the following
2 amounts as base salary:

3 (1) In counties of the first classification, thirty-six thousand one hundred forty-five
4 dollars; except those counties where court is held in two cities, in which instance an additional
5 four thousand dollars shall be added to the base salary;

6 (2) In all counties of the second or fourth classification, thirty-one thousand nine hundred

7 seventy-eight dollars; except those counties where court is held in two cities, thirty-five thousand
8 five hundred forty-nine dollars;

9 (3) In the counties of the third classification, twenty-seven thousand two hundred
10 eighteen dollars except those counties where court is held in two cities; thirty thousand three
11 hundred eight dollars; except Marion County circuit clerks, district one and district two in
12 Hannibal, thirty-one thousand three hundred eighty-three dollars;

13 (4) In the city of St. Louis, sixty-seven thousand three hundred sixty dollars;

14 (5) **In addition to any compensation increases due and payable to circuit clerks**
15 **pursuant to section 476.405, RSMo, prior to August 28, 2003,** the compensation of circuit
16 clerks provided by this subsection shall annually be increased by an amount equivalent to the
17 annual salary adjustment approved pursuant to section 476.405, RSMo, for employees of the
18 judicial department.

19 2. Such circuit clerks shall receive in addition to any salary provided by this section any
20 salary adjustment provided pursuant to section 476.405, RSMo.

21 3. In the event the judge orders child support payments in Marion County to be made
22 through the clerk, the clerk shall annually, on or before February first of each year, charge ten
23 dollars per year to each such person so obligated to make child support payments, which fee shall
24 be paid to the state.

25 4. Payment of the compensation provided in this section shall be payable in [equal
26 monthly] installments, except that [the salary of the circuit clerk of the city of St. Louis shall be
27 paid in semimonthly installments and except that] all such compensation paid by the state shall
28 be paid in installments as provided in section 33.100, RSMo. The compensation of all circuit
29 clerks shall be paid by the state and they shall be considered state employees [for all purposes
30 except the manner of their selection, appointment or removal from office]; except that, the circuit
31 clerk **or similar official or person fulfilling the duties of circuit clerk, by whatever title,** of
32 the city of St. Louis[, the circuit clerk of St. Louis County and the court administrator of Jackson
33 County] **and any county that has adopted or does adopt a charter or constitution pursuant**
34 **to article VI, sections 18(a) to 18(r) of the state constitution** shall continue to be paid by the
35 city and those counties [and shall not become state employees], but the city of St. Louis[, St.
36 Louis County and Jackson County] **and any such charter or constitution county providing**
37 **for appointment of its circuit clerk or like office** shall each be paid an amount which is
38 equivalent to a circuit clerk's salary as provided in subsection [3] 2 of section 483.015.

39 5. The compensation provided in this section shall be in lieu of all fees, and all fees
40 collected shall be paid over to the state or to the counties and the city of St. Louis as otherwise
41 provided by law.

[59.043. In all counties where the recorder of deeds and the clerk of the

2 circuit court are separated after December 31, 2003, in the next November general
3 election, and every four years thereafter, the qualified voters of such county shall
4 elect some suitable person as circuit court clerk who shall hold office for four years
5 until a successor is elected, commissioned and qualified. Such person shall enter
6 upon the duties of office on the first day of January next following the election.]