

SECOND REGULAR SESSION

HOUSE BILL NO. 1821

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE DIEHL

5847H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 105.684, and 488.026, RSMo, and to enact in lieu thereof twelve new sections relating to circuit and prosecuting attorneys and county counselors, with a penalty provision.

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

Section A. Sections 56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 105.684, and 488.026, RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known as sections 56.363, 56.800, 56.805, 56.807, 56.811, 56.827, 56.833, 56.840, 56.850, 56.860, 105.684, and 488.026, to read as follows:

56.363. 1. The county commission of any county may on its own motion and shall upon the petition of ten percent of the total number of people who voted in the previous general election in the county submit to the voters at a general or special election the proposition of making the county prosecutor a full-time position. The commission shall cause notice of the election to be published in a newspaper published within the county, or if no newspaper is published within the county, in a newspaper published in an adjoining county, for three weeks consecutively, the last insertion of which shall be at least ten days and not more than thirty days before the day of the election, and by posting printed notices thereof at three of the most public places in each township in the county. The proposition shall be put before the voters substantially in the following form:

11

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

13

14 ☐ YES ☐ NO

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.

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

18 **2. Upon passage of the proposition under subsection 1 of this section, the position**
19 **shall qualify for the retirement benefit available for a full-time prosecutor of a county of**
20 **the first classification. Regardless of the county classification, any county which has**
21 **elected at any time to make the position of prosecuting attorney a full-time position shall**
22 **pay the same contribution amount that is paid by counties of the first classification into the**
23 **Missouri prosecuting attorneys and circuit attorneys' retirement fund established under**
24 **section 56.800.**

25 **3.** The provisions of subsection 1 of this section notwithstanding, in any county where
26 the proposition of making the county prosecutor a full-time position was submitted to the voters
27 at a general election in 1998 and where a majority of the voters voting on the proposition voted
28 in favor of making the county prosecutor a full-time position, the proposition shall become
29 effective on May 1, 1999. Any prosecuting attorney whose position becomes full time on May
30 1, 1999, under the provisions of this subsection shall have the additional duty of providing not
31 less than three hours of continuing education to peace officers in the county served by the
32 prosecuting attorney in each year of the term beginning January 1, 1999.

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

 56.800. There is hereby authorized a "Prosecuting Attorneys and Circuit Attorneys'
2 Retirement Fund" which shall be under the management of a board of trustees described in
3 section 56.809. The board of trustees shall be responsible for the administration of such
4 prosecuting attorneys and circuit attorneys' retirement fund. If insufficient funds are generated
5 to provide the benefits payable pursuant to the provisions of sections 56.800 to [56.840] **56.860**,
6 the board shall proportion the benefits according to the funds available. The prosecuting
7 attorneys and circuit attorneys' retirement fund shall be a body corporate and may sue and be
8 sued, transact business, invest funds, and hold cash, securities, and other property.

56.805. As used in sections 56.800 to [56.840] **56.860**, 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] **56.860**;
- (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] **56.860**;
- (4) "Compensation", all salary and other compensation payable by a county to an employee, **including any salary reduction amounts authorized under a cafeteria plan satisfying 26 U.S.C. 125 or eligible deferred compensation plan satisfying 26 U.S.C. 457** for personal services rendered as an employee, but not including travel [and] , mileage, reimbursement **for any expenses, and consideration for agreeing to terminate employment or other nonrecurring or unusual payment that is not part of regular remuneration**;
- (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;
- (9) "Membership service", service as a prosecuting attorney or circuit attorney after becoming a member that is creditable in determining the amount of the member's benefits under this system;
- (10) "Prior service", service of a member rendered prior to the effective date of the establishment of the system which is creditable under [section] **sections 56.823 and 56.850**;
- (11) "Retirement system" or "system", the prosecuting attorneys and circuit attorneys' retirement system authorized by the provisions of sections 56.800 to [56.840] **56.860**.

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;

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

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

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

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

27 5. (1) Beginning August 28, 2003, each county treasurer shall pay to the system the
28 following amounts to be drawn from the general revenues of the county:

29 [(1)] (a) For counties of the third and fourth classification except as provided in
30 [subdivision (3)] **subparagraph (c)** of this [subsection] **subdivision**, one hundred eighty-seven
31 dollars;

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

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

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

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

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

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

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

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

50 6. Beginning August 28, 2003, the county treasurer shall at least monthly transmit the
51 sums specified in subsection 5 of this section to the Missouri office of prosecution services for
52 deposit to the credit of the Missouri prosecuting attorneys and circuit attorneys' retirement system
53 fund. Moneys in the Missouri prosecuting attorneys and circuit attorneys' retirement system fund
54 shall be used only for the purposes provided in sections 56.800 to [56.840] **56.860**, and for no
55 other purpose.

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

58 (1) There shall be assessed and collected a surcharge of four dollars **against any person**
59 **who has pled guilty for any violation and paid a fine through a fine collection center, and**
60 in all criminal cases filed in the courts of this state including violation of any county ordinance
61 [or] , any violation of criminal or traffic laws of this state, including infractions, but no such
62 surcharge shall be assessed when the costs are waived or are to be paid by the state, county, or
63 municipality or when a criminal proceeding or the defendant has been dismissed by the court [or
64 against any person who has pled guilty and paid their fine pursuant to subsection 4 of section
65 476.385]. For purposes of this section, the term "county ordinance" shall include any ordinance
66 of the city of St. Louis;

67 (2) The clerk responsible for collecting court costs in criminal cases shall collect and
68 disburse such amounts as provided by sections 488.010 to 488.026. Such funds shall be payable
69 to the prosecuting attorneys and circuit attorneys' retirement fund. Moneys credited to the
70 prosecuting attorneys and circuit attorneys' retirement fund shall be used only for the purposes
71 provided for in sections 56.800 to [56.840] **56.860** and for no other purpose.

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

74 9. No state moneys shall be used to fund section 56.700 and sections 56.800 to [56.840]
75 **56.860** unless provided for by law.

56.811. On and after the effective date of the establishment of the system, as an incident
2 to his employment or continued employment, each person employed as an elected or appointed
3 prosecuting attorney or circuit attorney shall become a member of the system. Such membership

4 shall continue as long as the person continues to be an employee, or receives or is eligible to
5 receive benefits under the provisions of sections 56.800 to [56.840] **56.860**.

56.827. 1. The normal annuity of a member shall be paid to a member during his
2 lifetime. Upon his death no further payments shall be made.

3 2. In lieu of the normal annuity otherwise payable to a member, the member may elect
4 in the member's application for retirement to receive his choice of the following options:

5 Option 1. The actuarial equivalent of the member's normal annuity in reduced monthly
6 payments for life during retirement with the provision that upon the member's death, fifty percent
7 of the reduced normal annuity shall be continued throughout the life of and paid to the member's
8 spouse; or

9 Option 2. Some other option approved by the board which shall be the actuarial
10 equivalent of the annuity to which the member is entitled under this system.

11 3. The election may be made only in the application for retirement and such application
12 shall be filed prior to the date on which the retirement of the member is to be effective unless
13 otherwise provided. If, after the reduced normal annuity begins under option 1, the spouse
14 predeceases the retired member, the reduced normal annuity continues to the retired member
15 during the member's lifetime; but, when a member dies any time after August 28, 1989, who is
16 eligible for retirement prior to retiring and receiving retirement benefits, the surviving spouse
17 of such member of the retirement system coming under the provisions of sections 56.800 to
18 [56.840] **56.860** shall, upon application, be appointed and employed as a special consultant by
19 the retirement system for the remainder of the spouse's life, and upon request shall give oral or
20 written opinions on the benefits of the retirement system, and shall be entitled to receive benefits
21 under option 1, and shall be eligible for all other benefits that other spouses are entitled to
22 receive.

56.833. 1. Upon termination of employment, any member with twelve or more years of
2 creditable service shall be entitled to a deferred normal annuity, payable at age fifty-five with
3 twelve or more years of creditable service. Any member with less than twelve years of creditable
4 service shall forfeit all rights in the fund, including the member's accrued creditable service as
5 of the date of the member's termination of employment.

6 2. A former member who has forfeited creditable service may have the creditable service
7 restored by again becoming an employee and completing four years of continuous membership
8 service.

9 3. Absences for sickness or injury of less than twelve months shall be counted as
10 membership service.

11 **4. Notwithstanding the provisions of section 104.800 to the contrary, no former or**
12 **current member shall be entitled to transfer creditable service into the retirement system**
13 **unless the member previously vested in the system.**

 56.840. Annuity payments to retired employees under the provisions of sections 56.800
2 to [56.840] **56.860** shall be available beginning January first next succeeding the expiration of
3 two calendar years from the effective date of the establishment of the system to eligible retired
4 employees, and employees with at least twelve years of creditable service shall have vested rights
5 and upon reaching the required age shall be entitled to retirement benefits.

56.850. All non-vested members of the retirement system serving as prosecuting
2 **attorney or circuit attorney in counties of the first classification or any city not within a**
3 **county shall receive one year of creditable service for each year served. Non-vested**
4 **members serving as prosecuting attorney in counties that have elected to make the position**
5 **of prosecuting attorney a full-time position shall receive one year of creditable service for**
6 **each year served as a full-time prosecuting attorney and sixty percent creditable service**
7 **for each year served as a part-time prosecuting attorney. Unless otherwise permitted by**
8 **law, credit shall not be earned by any member for employment of only a portion of a year.**

56.860. Notwithstanding any provision of law to the contrary, any part-time vested
2 **member of the retirement system who ceased being a member for more than six months**
3 **before returning as a full-time member shall be entitled to retirement benefits for**
4 **creditable service as calculated on the date the member was terminated. Any creditable**
5 **service earned by such a member after rejoining the plan begins a new vesting period. No**
6 **member shall receive any retirement benefits while employed as a prosecuting attorney or**
7 **circuit attorney.**

 105.684. 1. Notwithstanding any law to the contrary, no plan shall adopt or implement
2 any additional benefit increase, supplement, enhancement, lump sum benefit payments to
3 participants, or cost-of-living adjustment beyond current plan provisions in effect prior to August
4 28, 2007, unless the plan's actuary determines that the funded ratio of the most recent periodic
5 actuarial valuation and prior to such adoption or implementation is at least eighty percent and
6 will not be less than seventy-five percent after such adoption or implementation.

7 2. The unfunded actuarial accrued liabilities associated with benefit changes described
8 in this section shall be amortized over a period not to exceed twenty years for purposes of
9 determining the contributions associated with the adoption or implementation of any such benefit
10 increase, supplement, or enhancement.

11 3. Any plan with a funded ratio below sixty percent shall have the actuary prepare an
12 accelerated contribution schedule based on a descending amortization period for inclusion in the
13 actuarial valuation.

14 4. Nothing in this section shall apply to any plan established under [chapter] **chapters**
15 **56, 70, or [chapter] 476.**

16 5. Nothing in this section shall prevent a plan from adopting and implementing any
17 provision necessary to maintain a plan's status as a qualified trust pursuant to 26 U.S.C. 401(a).

 488.026. As provided by section 56.807, there shall be assessed and collected a
2 surcharge of four dollars **against any person who has pled guilty of a violation and paid a**
3 **fine through a fine collection center and** in all criminal cases filed in the courts of this state,
4 including violations of any county ordinance or any violation of criminal or traffic laws of this
5 state, including infractions, but no such surcharge shall be assessed when the costs are waived
6 or are to be paid by the state, county, or municipality or when a criminal proceeding or the
7 defendant has been dismissed by the court [or against any person who has pled guilty and paid
8 their fine pursuant to subsection 4 of section 476.385]. For purposes of this section, the term
9 "county ordinance" shall include any ordinance of the city of St. Louis. The clerk responsible
10 for collecting court costs in criminal cases shall collect and disburse such amounts as provided
11 by sections 488.010 to 488.020. Such funds shall be payable to the prosecuting attorneys and
12 circuit attorneys' retirement fund.

✓