

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**

A Bill

HOUSE BILL 1802

4 **By: Representatives Flanagin and Shaver**

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For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE § 16-21-115 TO PROVIDE THE
9 CITY ATTORNEYS WITH AUTHORITY TO PROSECUTE THE APPEALS OF
10 MISDEMEANOR CASES IN CIRCUIT COURTS; TO AMEND ARKANSAS
11 CODE § 14-42-112 TO PRESCRIBE THE POWERS OF CITY ATTORNEYS
12 IN CITIES OF THE SECOND CLASS AND INCORPORATED TOWNS TO
13 PROSECUTE VIOLATIONS OF CITY ORDINANCES IN MUNICIPAL
14 COURTS AND CIRCUIT COURTS; TO AMEND ARKANSAS CODE § 14-43-
15 314 AND § 14-43-315 TO PRESCRIBE THE DUTIES OF CITY
16 ATTORNEYS IN CITIES OF THE FIRST CLASS; AND FOR OTHER
17 PURPOSES."

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Subtitle

20 "AN ACT TO PROVIDE THE CITY ATTORNEYS WITH AUTHORITY TO
21 PROSECUTE THE APPEALS OF MISDEMEANORS IN CIRCUIT COURTS
22 AND PRESCRIBE THE POWERS OF CITY ATTORNEYS."

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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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26 SECTION 1. Arkansas Code § 16-21-115 is hereby amended to read as
27 follows:

28 "16-21-115. City attorneys. A prosecuting attorney may designate the
29 duly elected or appointed city attorney of any municipality within the
30 prosecutor's district to prosecute in the name of the state in municipal or
31 other corporation courts violations of state misdemeanor laws or appeals of
32 these violations to circuit *and appellate courts*, which violations occurred
33 within the limits of the municipality, if the city attorney agrees to the
34 appointment."

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1 SECTION 2. Arkansas Code § 14-42-112 is hereby amended to read as
2 follows:

3 "14-42-112. Municipal attorneys for second-class cities or towns.

4 (a) (1) (A) All cities of the second class and incorporated towns within
5 the State of Arkansas are empowered to elect a municipal attorney at the time
6 of the election of other officers of these cities of the second class and
7 incorporated towns.

8 (2) (B) All municipal attorneys elected under the provisions of
9 this section shall be regularly licensed attorneys of this state. When no
10 attorney resides within the limits of the city or town or when no resident
11 attorney has been elected as municipal attorney, the mayor and city or town
12 council may appoint any regularly licensed attorney of this state to serve as
13 the municipal attorney.

14 (b) Any municipal attorney elected or appointed under the provisions of
15 this section shall subscribe to the oath of office as all other officers of
16 these cities or towns.

17 (c) All municipal attorneys are authorized to file information for the
18 arrest of any person for the violation of any ordinance of the city or town or
19 of the laws of this state which are violated within the limits of the city or
20 town.

21 (d) (1) The duties of the municipal attorney shall be to represent the
22 city or town in all actions, both civil and criminal and to prosecute the
23 violations of city or town ordinances in municipal or city court and to handle
24 any appeal of these violations in state courts, if necessary.

25 (2) (A) It shall be the duty of the municipal attorney to:

26 (i) Advise with all city or town officials at any
27 time needed;

28 (ii) Prepare all legal papers, blank forms, etc.;

29 (iii) File a complete report of his work with the
30 city or town council at the end of each year; and

31 (iv) If requested to do so, furnish all information
32 in his possession to the state courts for the prosecution of cases in the
33 state courts.

34 (B) Nothing in this section shall prohibit the city or town
35 council from prescribing other duties, and they are authorized to prescribe

1 such other duties as they desire which shall be done by proper ordinance by
2 the council.

3 (e) The municipal attorney shall receive as part of his compensation
4 the same fees as are allowed prosecuting attorneys in this state in all
5 criminal cases. However, the city or town, by resolution or ordinance, may
6 specify a certain salary or salary and fees as the city or town council may
7 desire. In the event the municipal attorney is paid a salary only, the city or
8 town is authorized to collect the fees referred to in this subsection and
9 apply them as the council may direct."

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11 SECTION 3. Arkansas Code § 14-43-314 is hereby amended to read as
12 follows:

13 "14-43-314. City attorney in mayor-council cities of 50,000 or more.

14 (a) (1) The city attorney in any city of this state having a mayor-
15 council form of government and having a population of fifty thousand (50,000)
16 or more inhabitants shall be elected by the qualified electors of the city in
17 the same manner as other municipal officials are elected.

18 (2) At the November 1978 general election and each four (4) years
19 thereafter, the qualified electors of each city under this section shall elect
20 a city attorney to take office on the next following January 1, to serve for a
21 term of four (4) years.

22 (b) (1) Any person elected as city attorney under the provisions of this
23 section shall possess such qualifications, employ such staff, and be paid such
24 salary and expenses as may be established, by ordinance, by the city council
25 of the city.

26 (2) The annual salary of any city attorney of a city having a
27 population of fifty thousand (50,000) or more and located in a county having a
28 population of at least eighty-five thousand (85,000), but not more than
29 eighty-five thousand five hundred (85,500), who is prohibited by municipal
30 ordinance from engaging in the private practice of law shall be no less than
31 twenty-five thousand dollars (\$25,000) and no more than thirty thousand
32 dollars (\$30,000).

33 (c) (1) The duties of the city attorney under the provisions of this
34 section shall be to represent the city in all actions, both civil and criminal
35 and to prosecute the violations of city ordinances in municipal or city court

1 and to handle any appeal of these violations in state courts, if necessary.

2 (2) It shall be the duty of the municipal attorney to advise with
3 all city officials at any time needed, prepare all legal papers, blank forms,
4 etc., and file a complete report of his work with the city council at the end
5 of each year.

6 (3) The city council of the city shall prescribe, by ordinance,
7 these duties and any other duties as they desire which shall be done by proper
8 ordinance by the council.

9 (4) If requested to do so, the city attorney shall furnish all
10 information in his possession to the state courts for the prosecution of cases
11 in the state courts."

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13 SECTION 4. Arkansas Code § 14-43-315 is hereby amended to read as
14 follows:

15 "14-43-315. City attorney in mayor-council cities of less than 50,000.

16 (a) The qualified voters of cities of the first class having a
17 population of less than fifty thousand (50,000) and having the mayor-council
18 form of government shall, on the Tuesday following the first Monday in
19 November, 1970, and every four (4) years thereafter, elect a city attorney for
20 four (4) years.

21 (b) Incumbent city attorneys shall continue in office until their
22 successors are elected and qualified.

23 (c)(1) The duties of the city attorney under the provisions of this
24 section shall be to represent the city in all actions, both civil and criminal
25 and to prosecute the violations of city ordinances in municipal or city court
26 and to handle any appeal of these violations in state courts, if necessary.

27 (2) It shall be the duty of the municipal attorney to advise with
28 all city officials at any time needed, prepare all legal papers, blank forms,
29 etc., and file a complete report of his work with the city council at the end
30 of each year.

31 (3) The city council of the city shall prescribe, by ordinance,
32 these duties and any other duties as they desire which shall be done by proper
33 ordinance by the council.

34 (4) If requested to do so, the city attorney shall furnish all
35 information in his possession to the state courts for the prosecution of cases

1 in the state courts."

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3 SECTION 5. All provisions of this act of general and permanent nature
4 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
5 Revision Commission shall incorporate the same in the Code.

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7 SECTION 6. If any provisions of this act or the application thereof to
8 any person or circumstance is held invalid, the invalidity shall not affect
9 other provisions or applications of the act which can be given effect without
10 the invalid provisions or application, and to this end the provisions of this
11 act are declared to be severable.

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13 SECTION 7. All laws and parts of laws in conflict with this act are
14 hereby repealed.

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/s/Rep. Flanagan, et al

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