

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

State of Arkansas

As Engrossed: S3/10/99 S3/23/99 S3/26/99

82nd General Assembly

A Bill

Regular Session, 1999

SENATE BILL 623

By: Senators Kennedy, Webb, *Dowd*

By: Representatives Vess, Bookout, Ferrell, Hathorn, Luker, P. Malone, Napper, Parks, Rodgers, T. Thomas, *Hale, Lancaster*

For An Act To Be Entitled

"AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES OF DEPUTY PROSECUTING ATTORNEYS AND TO PROVIDE FOR THE TRANSFER OF A PORTION OF THE FUNDING RESPONSIBILITY FOR DEPUTY PROSECUTORS FROM THE COUNTIES TO THE STATE OF ARKANSAS FOR THE BIENNIAL PERIOD ENDING JUNE 30, 2001; AND FOR OTHER PURPOSES. "

Subtitle

"AN ACT FOR THE AUDITOR OF STATE - DEPUTY PROSECUTING ATTORNEYS APPROPRIATION FOR THE 1999-2001 BIENNIUM. "

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

SECTION 1. REGULAR SALARIES - DEPUTY PROSECUTING ATTORNEYS. There is hereby established for the Deputy Prosecuting Attorneys for the 1999-2001 biennium, the following maximum number of regular employees whose salaries shall be governed by the provisions of the Uniform Classification and Compensation Act (Arkansas Code §§21-5-201 et seq.), or its successor, and all laws amendatory thereto. Provided, however, that any position to which a specific maximum annual salary is set out herein in dollars, shall be exempt from the provisions of said Uniform Classification and Compensation Act. All persons occupying positions authorized herein are hereby governed by the provisions of the Regular Salaries Procedures and Restrictions Act (Arkansas

LEB068

0224990150. LEB068

Code §21-5-101), or its successor.

| Item | Class | Maximum No. of Employees | Maximum Annual Salary Rate Fiscal Years | |
|-----------------------|--|--------------------------------|---|-----------|
| | | | 1999-2000 | 2000-2001 |
| No. | Code Title | | | |
| (1) | DEPUTY PROSECUTING ATTORNEY | 3 | \$78,374 | \$80,568 |
| (2) | DEPUTY PROSECUTING ATTORNEY | 6 | \$69,222 | \$71,160 |
| (3) | DEP. PROS. ATTY-ATTY SPEC PART-TIME I | 1 | \$57,662 | \$59,277 |
| (4) | DEP. PROS. ATTY-ATTY SPEC PART-TIME II | 4 | \$47,340 | \$48,665 |
| (5) | DEP. PROS. ATTY-ATTORNEY PART-TIME I | 14 | \$56,820 | \$58,411 |
| (6) | DEP. PROS. ATTY-ATTORNEY PART-TIME II | 58 | \$39,431 | \$40,535 |
| (7) | DEP. PROS. ATTY-ATTORNEY SUPERVISOR | 34 | GRADE 26 | |
| (8) | DEP. PROS. ATTY-ATTORNEY SPECIALIST | 16 | GRADE 25 | |
| (9) | DEP. PROS. ATTY-ATTORNEY | 52 | GRADE 24 | |
| MAX. NO. OF EMPLOYEES | | 188 | | |

SECTION 2. APPROPRIATION - DEPUTY PROSECUTING ATTORNEYS. There is hereby appropriated, to the Auditor of State, to be payable from the State Central Services Fund, for personal services of the Deputy Prosecuting Attorneys for the biennial period ending June 30, 2001, the following:

| ITEM NO. | FISCAL YEARS | |
|-----------------------------|---------------------|----------------------|
| | 1999-2000 | 2000-2001 |
| (01) REGULAR SALARIES | \$ 4,258,788 | \$ 8,876,242 |
| (02) PERSONAL SERV MATCHING | 1,065,190 | 2,191,934 |
| TOTAL AMOUNT APPROPRIATED | <u>\$ 5,323,978</u> | <u>\$ 11,068,176</u> |

SECTION 3. SPECIAL LANGUAGE. (a) Each person selected as a deputy prosecuting attorney shall be licensed to practice law in the State of Arkansas.

(b) Deputy prosecuting attorneys shall be appointed by elected prosecuting attorneys without confirmation of any court or tribunal and may be removed at any time by the prosecuting attorney appointing him.

(c) Vacancies in the office of deputy prosecuting attorney shall be filled in the same manner as the initial appointment.

SECTION 4. SPECIAL LANGUAGE. The entry level salaries of deputy prosecuting attorneys shall be consistent with that established by the state pay plan for the appropriate grade of each position.

SECTION 5. SPECIAL LANGUAGE. The deputy prosecuting attorneys shall be subject to the Uniform Attendance and Leave Policy Act as administered by the elected prosecuting attorney by whom they are employed.

SECTION 6. SPECIAL LANGUAGE. Arkansas Code 21-4-203 (1)(C) is hereby amended to read as follows:

"(C) Members of the Supreme Court, circuit and chancery courts and prosecuting attorneys, but not including deputy prosecuting attorneys and the Administrative Office of the Courts;"

SECTION 7. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. SPECIAL RATES OF PAY. Due to the need for competent deputy prosecuting attorneys throughout the state, and the necessity of retaining qualified deputy prosecuting attorneys, the elected prosecuting attorneys, through the Prosecution Coordination Commission, are authorized to request special rates of pay for current and new deputy prosecuting attorneys up to the levels listed below for the following classifications:

| <u>TITLE</u> | <u>GRADE</u> | <u>LEVEL</u> |
|--|--------------|--------------|
| <u>Dep. Pros. Atty-Attorney</u> | <u>24</u> | <u>IV</u> |
| <u>Dep. Pros. Atty-Attorney Specialist</u> | <u>25</u> | <u>IV</u> |
| <u>Dep. Pros. Atty-Attorney Supervisor</u> | <u>26</u> | <u>IV</u> |

This provision shall be in full force and effect beginning July 1, 1999.

SECTION 8. SPECIAL LANGUAGE. LEAVE BENEFITS. Deputy prosecuting attorneys who convert from county or grant funded employment to state employment and are employed prior to the effective date of this legislation shall have their length of service with the county recognized for purposes of accrual rates for sick leave and annual leave.

1
2 SECTION 9. SPECIAL LANGUAGE. RESPONSIBILITY FOR FUNDING. Beginning on
3 January 1, 2000, each county of the State shall be responsible for a portion
4 of the cost of regular salaries and personal services matching for deputy
5 prosecuting attorneys who are to become state employees as of January 1, 2000.
6 During the monthly distribution of general revenues to the counties, the
7 Treasurer of State shall retain from each county, one-twelfth (1/12th) of 80%
8 of the amount appropriated by each of the counties for salaries and associated
9 fringe benefit costs as of January 1, 1999. The amount retained by the
10 Treasurer of State shall be credited to the State Central Services Fund for
11 the partial support of the regular salaries and personal services matching
12 costs for deputy prosecuting attorneys. The amount which each county
13 appropriated for salaries and associated fringe benefit costs as of January 1,
14 1999, shall be determined by the Division of Legislative Audit of the
15 Legislative Joint Auditing Committee and shall be certified to the Treasurer
16 of State on or before December 1, 1999.

17
18 SECTION 10. SPECIAL LANGUAGE. FUNDING OF EXPENSES AND ADDITIONAL
19 EMPLOYEES OF THE PROSECUTING ATTORNEYS OFFICES. Each county or counties
20 within a judicial district shall continue to bear the responsibility and
21 expense of providing, at the county's expense through an annual appropriation,
22 the following, at sufficient levels for operation, but not less than the
23 amounts appropriated by ordinance in effect January 1, 1999:

24
25 (1) The cost of facilities, equipment, supplies, salaries and benefits of
26 existing support staff, and other office expenses for elected prosecuting
27 attorneys and deputy prosecuting attorneys, and any and all other line item
28 appropriations as approved in the 1999 county budget except for deputy
29 prosecuting attorneys' salary and benefits.

30 (2) The county shall provide compensation of additional personnel and
31 expenses within the office of prosecuting attorney and deputy prosecuting
32 attorney, when approved by the quorum court.

33
34 SECTION 11. SPECIAL LANGUAGE. STATE EMPLOYMENT/ASSIGNMENT OF POSITIONS.
35 On January 1, 2000, all deputy prosecuting attorneys shall become state
36 employees. The number of positions authorized by this act equal the total

1 number of county and grant funded deputy prosecuting attorney positions in
2 place as of January 1, 1999 less one position. The initial allocation of the
3 state funded deputy prosecuting attorney positions for the 1999-2001 biennium
4 shall be determined by the Prosecution Coordination Commission and shall be
5 consistent with the number of county and grant funded positions in place for
6 each judicial district as of January 1, 1999 less one position. The final
7 allocations shall be reported to the Legislative Council for its review prior
8 to July 1, 1999.

9
10 SECTION 12. SPECIAL LANGUAGE. HOOR LIMITATIONS - PART-TIME DEPUTY
11 PROSECUTING ATTORNEYS. There are no upper limit restrictions on the number of
12 hours which a part-time deputy prosecuting attorney may work.

13
14 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
15 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. POOL
16 POSITIONS. In the event that unforeseen conditions arise that necessitate the
17 hiring of additional deputy prosecuting attorneys in addition to those
18 authorized in Section 1 of this act, and either a portion of the \$2,500,000 in
19 general revenue originally allocated for FY1999-2000 and the \$5,000,000 in
20 general revenue originally allocated for FY2000-2001 is unallocated, or
21 additional funding above the original allocations becomes available, the
22 Prosecution Coordination Commission may with approval from the Chief Fiscal
23 Officer of the State, and prior review by the Legislative Council or Joint
24 Budget Committee employ up to a maximum of five (5) part-time and five (5)
25 full-time pool positions.

26
27 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS
28 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. FUNDING
29 PROVISION. In the event sufficient general revenue funding is not available
30 for the implementation of this act, the positions enumerated in Section 1 of
31 this act shall not become employees of the State of Arkansas and shall
32 continue to be employed and compensated in the same manner as they were
33 employed and compensated as of January 1, 1999.

34
35 SECTION 15. SPECIAL LANGUAGE. REPEAL OF CONFLICTING LAWS. All portions
36 of laws pertaining to compensation of deputy prosecuting attorneys, with the

1 exception of those laws pertaining to the Eleventh Judicial District Special
2 Deputy Prosecuting Attorney, are hereby superseded by this law if sufficient
3 funding becomes available to convert deputy prosecuting attorneys from county
4 or grant funded positions to state funded positions.

5
6 SECTION 16. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized
7 by this act shall be limited to the appropriation for such agency and funds
8 made available by law for the support of such appropriations; and the
9 restrictions of the State Purchasing Law, the General Accounting and Budgetary
10 Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures
11 and Restrictions Act, or their successors, and other fiscal control laws of
12 this State, where applicable, and regulations promulgated by the Department of
13 Finance and Administration, as authorized by law, shall be strictly complied
14 with in disbursement of said funds.

15
16 SECTION 17. SPECIAL LANGUAGE. LEGISLATIVE INTENT. It is the intent of
17 the General Assembly, in the transition to a state-funded deputy prosecuting
18 attorney system, to provide an appropriate and adequate level of legal
19 representation through deputy prosecuting attorneys in all areas of the state.
20 It is recognized by the General Assembly that in many areas of the state,
21 resources have not been available to support deputy prosecuting attorney
22 salaries at the necessary level. With the transition of local funding of
23 deputy prosecuting attorney salaries to state funding, it is not the intent of
24 the General Assembly to adversely affect those districts whose system has been
25 working well or to implement a system which is too inflexible to respond to
26 the needs of each judicial district. Therefore, the Prosecution Coordination
27 Commission is charged with the responsibility of assisting in the maintenance
28 of a system which equitably serves all areas of the state by providing quality
29 deputy prosecuting attorneys.

30
31 SECTION 18. CODE. All provisions of this Act of a general and permanent
32 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
33 Code Revision Commission shall incorporate the same in the Code.

34
35 SECTION 19. SEVERABILITY. If any provision of this act or the application
36 thereof to any person or circumstance is held invalid, such invalidity shall

1 not affect other provisions or applications of the act which can be given
2 effect without the invalid provision or application, and to this end the
3 provisions of this act are declared to be severable.

4
5 SECTION 20. GENERAL REPEALER. All laws and parts of laws in conflict with
6 this act are hereby repealed.

7
8 SECTION 21. EMERGENCY CLAUSE. It is hereby found and determined by the
9 Eighty-second General Assembly, that the Constitution of the State of Arkansas
10 prohibits the appropriation of funds for more than a two (2) year period; that
11 the effectiveness of this Act on July 1, 1999 is essential to the operation of
12 the agency for which the appropriations in this Act are provided, and that in
13 the event of an extension of the Regular Session, the delay in the effective
14 date of this Act beyond July 1, 1999 could work irreparable harm upon the
15 proper administration and provision of essential governmental programs.
16 Therefore, an emergency is hereby declared to exist and this Act being
17 necessary for the immediate preservation of the public peace, health and
18 safety shall be in full force and effect from and after July 1, 1999.

19 /s/ Kennedy
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36