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HOUSE BILL NO. 428

Offered January 14, 2000

A BILL to amend and reenact §§ 15.2-1628, 15.2-1630, 15.2-1632, 15.2-1633 and 15.2-1636.8 of the Code of Virginia, relating to attorneys for the Commonwealth.

Patrons—McDonnell, Drake, Purkey, Suit, Tata, Wagner and Wardrup

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1628, 15.2-1630, 15.2-1632, 15.2-1633 and 15.2-1636.8 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1628. Attorneys for the Commonwealth and assistants in certain counties to devote full time to duties; no additional compensation for substituting for or assisting any other attorney for the Commonwealth or assistant.

A. In counties having a population of more than 35,000, attorneys for the Commonwealth and all assistant attorneys for the Commonwealth, *except volunteer assistant attorneys for the Commonwealth appointed by the attorney for the Commonwealth*, shall devote full time to their duties, and shall not engage in the private practice of law.

Any attorney for the Commonwealth or assistant attorney for the Commonwealth shall, however, have a reasonable time, not to exceed thirty days, after assuming such office to provide for his disassociation from the private practice of law, if such attorney for the Commonwealth or assistant attorney for the Commonwealth was previously engaged in the private practice of law.

B. The provisions of this section *requiring all compensated attorneys for the Commonwealth to devote full time to their duties* shall not apply in counties reaching a population of more than 35,000, which had a population of 35,000 or less immediately prior to the commencement of the term for which the attorney for the Commonwealth sought office.

C. Notwithstanding any other provisions of law, no attorney for the Commonwealth or assistant required to devote full time to his duties shall receive any additional compensation from the Commonwealth or any county or city for substituting for or assisting any other attorney for the Commonwealth or his assistant in any criminal prosecution or investigation.

D. In any county where, on January 1, 1993, attorneys for the Commonwealth were required to devote full time to their duties in accordance with subsection A of this section, they and all assistant attorneys for the Commonwealth and their successors shall continue to devote full time to their duties and shall not engage in the private practice of law.

§ 15.2-1630. Attorneys for the Commonwealth for cities; no additional compensation for substituting for or assisting any other attorney for the Commonwealth or assistant.

The voters in every city shall elect, for a term of four years, an attorney for the Commonwealth. Any city not required to have or to elect such officer prior to July 1, 1971, shall not be so required by this section. Assistant attorneys for the Commonwealth for cities may be appointed by the attorney for the Commonwealth for such city. Such assistants shall receive such compensation as shall be fixed in the manner provided by law. *However, volunteer assistant attorneys for the Commonwealth serving without compensation may be appointed by the attorney for the Commonwealth without approval of the governing body or the Compensation Board.* All assistant attorneys for the Commonwealth shall perform such duties as are prescribed by their respective attorney for the Commonwealth. In cities having a population of more than 35,000, attorneys for the Commonwealth and all assistant attorneys for the Commonwealth, *except volunteer assistants serving without compensation*, shall devote full time to their duties, and shall not engage in the private practice of law; however, this provision shall not apply in cities reaching a population of more than 35,000, which had a population of 35,000 or less immediately prior to the commencement of the term for which the attorney for the Commonwealth sought office. In cities having a population of more than 17,000 and less than 35,000, attorneys for the Commonwealth and all assistant attorneys for the Commonwealth, *except volunteer assistants serving without compensation*, shall devote full time to their duties, and shall not engage in the private practice of law, if the council of the city and the Compensation Board all concur that he shall so serve. The office of assistant attorney for the Commonwealth heretofore created and provided for in the charters of such cities is hereby abolished.

Notwithstanding any other provisions of law, no attorney for the Commonwealth or assistant required to devote full time to his duties shall receive any additional compensation from the Commonwealth or any city or county for substituting for or assisting any other attorney for the Commonwealth or his

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60 assistant in any criminal prosecution or investigation.

61 Any attorney for the Commonwealth who is serving full time when the population for his city
62 declines to 35,000 or less, according to a new United States census, may elect to continue serving on a
63 full-time basis for the remainder of his current term and any subsequent successive terms. So long as he
64 continues to serve on a full-time basis, he shall be compensated for full-time service on the same basis
65 as an attorney for the Commonwealth in a city having a population of 35,001.

66 Any city served by a full-time attorney for the Commonwealth on January 1, 1993, under the
67 provisions hereof shall continue to be served by a full-time attorney for the Commonwealth in the event
68 the population of such city shall have fallen below the 17,000 population threshold in the most recent
69 U.S. census and shall be administered in the same manner as cities with populations in excess of 17,000
70 but of 35,000 or less. In such jurisdictions, the attorney for the Commonwealth and his assistant
71 attorneys and their successors in office shall be subject to the requirements regarding full-time service
72 and part-time private practice as in effect for such positions on January 1, 1993. No further action by
73 the council of the city or the Compensation Board shall be necessary.

74 § 15.2-1632. Employment of assistants to attorneys for the Commonwealth, subject to approval of
75 Compensation Board.

76 Every county and city may, with the approval of the Compensation Board, provide for employing
77 such additional *compensated* assistant or assistants to the attorney for the Commonwealth as in the
78 opinion of the governing body may be required. Such assistant or assistants shall be appointed by the
79 attorney for the Commonwealth. The compensation for such assistants to the attorneys for the
80 Commonwealth shall be as provided for assistants to attorneys for the Commonwealth under
81 § 15.2-1627.1.

82 § 15.2-1633. Part-time compensated assistants to attorneys for the Commonwealth.

83 Notwithstanding any contrary provisions of §§ 15.2-1627.1, 15.2-1628 and 15.2-1630, the
84 Compensation Board at the request of the attorney for the Commonwealth may provide for one
85 *compensated* part-time assistant to a full-time attorney for the Commonwealth.

86 § 15.2-1636.8. Duties of Board in fixing salaries, expenses, etc.

87 All salaries of such officers shall be as hereinafter provided. The expenses and other allowances of
88 all such officers shall be fixed and determined on or before May 1 of each year. The Board shall, no
89 later than the fifteenth day following final adjournment of the General Assembly of Virginia in each
90 session, provide to such officers and the local governing body of each city and county he represents, an
91 estimate of expenses and other allowances to be fixed by the Board for the next fiscal year. The Board
92 shall, at meetings duly called by the chairman, carefully consider the questionnaires and written requests
93 filed as required by § 15.2-1636.7 and consider the work involved in the discharge of the duties of the
94 respective officers, the extent to which such duties are imposed by actions of the local governing body,
95 the amount expended or proposed to be expended by each for clerks, deputies and other assistants, the
96 efficiency with which the affairs of each such office are conducted, and such other matters as the Board
97 may deem pertinent and material, including the number of local governments served if more than one,
98 including the pay and compensation plan of each political subdivision, if it has one, and the locality's
99 plans for adjustments of salaries and expenses for the ensuing fiscal year, as well as the plan of the
100 Commonwealth for adjustment of state salaries and expenses for such year. The Board shall fix and
101 determine what constitutes a fair and reasonable budget for the participation of the Commonwealth
102 toward the total cost of the office. *In its deliberations with respect to any office of an attorney for the*
103 *Commonwealth, the Board shall not consider whether volunteer assistants are being used in that office.*
104 Such budgets, in the aggregate, shall not contemplate state expenditures in excess of the appropriation
105 available to the Board. Prior to holding any such meeting for the fixing of salaries and expenses as
106 provided in this article, ten days' written notice of the time, place and purpose of such meeting shall be
107 given every officer affected and to the mayor or city manager of the city or to the chairman of the
108 governing body and administrator, executive or manager of the county affected.

109 When the salaries, expenses and other allowances for the several counties and cities have been
110 tentatively fixed by the Board they shall notify the governing body of each city and county of the
111 amounts so fixed. Within thirty days thereafter, but not later, the governing body may file with the
112 Compensation Board any objection it may have to such allowances so fixed. When such objection is
113 filed the Board shall fix a time for a hearing on such objection, of which time the governing body as
114 well as the officer affected shall have at least fifteen days' notice. For the purpose of determining the
115 merits of such protest the governing body may designate two members of such body to serve as
116 additional members of the Compensation Board and such additional members shall each have one vote
117 on the Board.

118 The chairman of the Board shall record the salary of each such officer, his clerks, assistants and
119 deputies, and the allowances made for other items, and shall promptly notify each such officer of the
120 same with respect to his office.

121 In fixing, determining and recording the salaries of the full-time deputy sheriffs mentioned in

122 § 15.2-1609.2, the Board shall act solely with reference to establishing an aggregate allowance for
123 personal services to the respective sheriffs for such deputy sheriffs. The annual salary of each such
124 full-time deputy sheriff shall be fixed and determined as provided by § 15.2-1609.2.

125 ~~This section shall be effective on July 1, 1999.~~

126 **2. That the provisions of this act shall apply to any city with a population over 350,000 and any**
127 **city contiguous thereto.**

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