

A BILL

FOR AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY ATTORNEYS, DEFINE THEIR DUTIES, AND FIX THEIR SALARIES, AND REPEAL CHAPTER 8, TITLE 3, OF CODE OF 1873.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That at the general election in 1886, and every two years thereafter, a county attorney shall be elected in each county for judicial purposes, who shall hold his office for the term of two years, and until his successor is elected and qualified, who shall, before he enters upon the duties of his office, execute a bond to the State of Iowa in a sum of not less than two thousand dollars, to be fixed by the board of supervisors, with two or more sureties to be approved by said board, which bond shall be conditional for the faithful performance of his duties as such officer, and that he will pay over to the county treasurer, all moneys which shall come into his hands by virtue of his office. Such bond is to be filed in the office of county auditor, and the same shall be recorded as other official bonds.

SEC. 2. It shall be the duty of the county attorney, to appear before the several courts of their respective counties, and prosecute and defend, on behalf of the State and county, all suits, applications or motions, civil or criminal arising under the laws of the State, in which the State or county is a party, or interested, and also to collect and pay over to the treasurer, all fines assessed against criminals, so far as he is able to collect the same.

SEC. 3. The county attorney shall appear on behalf of the State, before any magistrate, and prosecute all claims made in behalf of the State, of which any magistrate shall have jurisdiction, and he shall appear before any magistrate, and conduct any criminal examination, which may be had before such magistrate, and shall also prosecute all civil suits before such magistrate, in which the State or county is a party or interested.

SEC. 4. The county attorney shall, without fee or reward, give opinions and advice to the board of supervisors, and other civil officers, of their respective counties, when requested so to do by such board or officers, upon all matters in which the State or county is interested, or relating to the duty of the board, or officers, in which the State or county may have an interest, but they are prohibited from appearing before the board of supervisors in the trial of any cause, in which the State or county is not interested, or in applications to establish or discontinue highways.

SEC. 5. The county attorney may appoint one or more deputies, who shall act without any compensation from the county, to assist him in the discharge of his duties. *Provided,*

3 that the county attorney of any county may, under the direction of the district court, pro-
4 cure such assistance in the trial of any person charged with the crime of felony, as he may
5 deem necessary for the trial thereof and such assistant, upon presenting to the board of
6 supervisors, the certificate of the district judge before whom said cause was tried, certifying
7 to the service rendered by such assistant, shall be allowed such reasonable compensation as
8 the board of supervisors shall determine, to be paid by order on the county treasurer.

SEC. 6. In the absence, sickness or disability of the county attorney, and his deputies, the
2 court before whom it is his duty to appear and in which there may be business for him to
3 attend, may appoint an attorney to act as county attorney, by order to be entered upon the
4 minutes of the court, and he shall receive, out of the compensation allowed to the county
5 attorney, when such appearance is before a magistrate, such sum as the board of supervisors
6 shall determine shall be reasonable for the services rendered, and when it is before the
7 court, such sum as the district judge, shall determine would be a reasonable compensation.

SEC. 7. No county attorney shall receive any fee or reward, from or on behalf of any
2 prosecutor, or other individual, for services in any prosecution or business, to which it shall
3 be his official duty to attend; nor be concerned as an attorney or counsel for a party other
4 than for the State or county, in any civil or criminal action, pending upon the same state of
5 facts, upon which any civil or criminal prosecution commenced, or prosecuted shall depend.

SEC. 8. It shall be the duty of the county attorney, when ever he shall receive any money
2 in his official capacity, to give to the person paying the same a duplicate receipt, one of which
3 shall be filed by such person with the clerk of the district court.

SEC. 9. Whenever the county attorney is required by the grand jury, it shall be his duty
2 to attend them, for the purpose of examining witnesses in their presence, or of giving them
3 advice in any legal matter, and to issue subpoenas, or other writs of process, to bring wit-
4 nesses, and draw up bills of indictment, but he shall not be present with the grand jury,
5 when an indictment is considered and found by said grand jury.

SEC. 10. In case of vacancy in the office of county attorney, by death, resignation or oth-
2 erwise, the board of supervisors, shall appoint a county attorney, who shall give bond, and
3 take the same oath and perform the same duties, as the regular county attorney, and shall
4 hold said office until his successor shall be elected and qualified.

SEC. 11. Whenever the term, district attorney, appears in the laws of Iowa, it shall here-
2 after mean county attorney, and all laws now in force, regulating the duties of district at-
3 torneys, in criminal matters and proceedings, shall apply to county attorneys.

SEC. 12. The county attorneys of the several counties in this State, shall be allowed by
2 the board of supervisors for their services, a salary per year as follows: In counties of not
3 more than 5,000 inhabitants, a salary of \$500; in counties having over 5,000 and under 10,000,
4 a salary of \$800; in counties of from 10,000 to 20,000, \$1,000; from 20,000 to 30,000, \$1,200, and
5 over 30,000, \$1,500, and in addition thereto for all fines collected, the same fees as are now

6 allowed to attorneys. for suits on written instruments, where judgment is obtained.

SEC. 13. The respective district attorneys, shall hold their office until the expiration of
2 their present term, as now provided by law, and the county attorney, shall assume his du-
3 ties, and receive pay, only from the time of the expiration of the office of the district attor-
4 ney in his respective counties.

SEC. 14. That chapter — of part — of the code of 1873 be and the same, together with all
2 acts and part of acts inconsistent herewith, are hereby repealed.

*Com on
Judicial Districts*

[SUBSTITUTE FOR SENATE FILE No. 78.]

A BILL

FOR AN ACT TO PROVIDE FOR THE ELECTION OF COUNTY ATTORNEYS, DEFINE THEIR DUTIES, AND FIX THEIR COMPENSATION, AND TO REPEAL CHAPTER 8, TITLE 3, OF CODE OF 1883.

Be it enacted by the General Assembly of the State of Iowa :

SECTION 1. That at the general election in 1886, and every two years thereafter, a county attorney shall be elected in each county, who shall hold his office for the term of two years from the first Monday in January next following his election, and until his successor is elected and qualified, who shall before he enters upon the duties of his office execute a bond to the State of Iowa, with two or more sureties, in a sum of not less than five thousand dollars, to be approved by the board of supervisors, which bond shall be conditioned for the faithful performance of the duties of the office and the payment to the county treasurer of all moneys which shall come to the hands of such officer by virtue of his office. The bond shall be filed in the office of the county auditor and be recorded as other official bonds.

SEC. 2. The county attorney shall appear for the State and county in all cases and proceedings in the courts of his county to which the State or county is a party, and in the Supreme Court in all cases in which the county is a party, and shall collect and pay over to the person or officer entitled thereto, all money due the State or county, so far as he is able to collect the same; *provided*, that in criminal cases less than a felony elsewhere than in the district court he may or may not appear as he may determine. In every criminal case appealed from his county to the Supreme Court he shall, at least thirty days prior to the term at which the case is to be heard, prepare and deliver to the Attorney-General, a properly prepared abstract of the case.

SEC. 3. The county attorney shall, without compensation, give opinions and advice to the board of supervisors, and other civil officers of their respective counties, when requested so to do by such board or officers, upon all matters in which the State or county is interested or relating to the duty of the board or officers, in which the State or county may have an interest, but shall not appear before the board of supervisors in the trial of any cause in which the State or county is not interested, or in applications to establish, vacate or alter highways.

SEC. 4. The county attorney may appoint deputies, who shall act without any compensation from the county, to assist him in the discharge of his duties. With the approval of the

3 district court he may procure such assistance in the trial of a person charged with the crime
4 of felony as he shall deem necessary, and such assistant, upon presenting to the board of
5 supervisors a certificate of the district judge before whom said cause was tried, certifying
6 to the service rendered, shall be allowed a reasonable compensation therefor, to be fixed by
7 the board of supervisors. But nothing in this section shall be construed to prevent the
8 board of supervisors from employing an attorney to assist the county attorney in any cause
9 or proceeding in which the State or county is interested.

SEC. 5. In the absence, sickness or disability of the county attorney, and his deputies, the
2 court, before whom it is his duty to appear and in which there may be business for him to
3 attend, may appoint an attorney to act as county attorney, by order to be entered upon the
4 minutes of the court, and he shall receive out of the compensation allowed to the county at-
5 torney, when such appearance is before a magistrate, such sum as the board of supervisors
6 shall determine to be reasonable for the services rendered and when it is before a court of
7 record such sum as the judge shall determine to be a reasonable compensation, and while
8 acting under said appointment he shall have all the authority and be subject to all the re-
9 sponsibilities herein conferred on county attorneys.

SEC. 6. No county attorney shall receive any fee or reward from or on behalf of any prose-
2 cutor or other individual, for services in any prosecution or business to which it shall be his
3 official duty to attend; nor be concerned as an attorney or counsel for a party other than
4 for the State or county, in any civil or criminal action pending upon the same state of facts
5 upon which any civil or criminal prosecution commenced or prosecuted shall depend.

SEC. 7. It shall be the duty of the county attorney whenever he shall receive any money
2 in his official capacity, to give the person paying the same a receipt and file a duplicate with
3 the county auditor.

SEC. 8. Whenever required by the grand jury the county attorney shall attend them for
2 the purpose of examining witnesses in their presence, or of giving them advice in any legal
3 matter, and to cause subpoenas or other writs of process to issue to bring witnesses, and
4 draw up bills of indictment, but he shall not be present with the grand jury when an
5 indictment is considered and found.

SEC. 9. In case of vacancy in the office of county attorney, by death, resignation, or
2 otherwise, the board of supervisors shall appoint a county attorney, who shall give bond
3 and take the same oath, and perform the same duties as the regular county attorney, and
4 shall hold said office until his successor is elected and qualified.

SEC. 10. Wherever the term district attorney appears in the laws of Iowa, it shall here-
2 after mean county attorney, and all laws now in force, regulating the duties of district
3 attorneys in criminal matters and proceedings, shall apply to county attorneys within their
4 respective counties.

SEC. 11. The county attorneys of the several counties in this State shall be allowed by
2 the board of supervisors for their services a salary per year as follows: In counties of not
3 more than 5,000 inhabitants, a salary of \$300; in counties having over 5,000 and under 10,000,
4 a salary of \$600; in counties of from 10,000 to 20,000, \$900; from 20,000 to 30,000, \$1,200; and
5 all over 30,000, \$1,500; said salary to be payable quarterly at the first meeting of the board
6 of supervisors, after it shall become due; and in addition thereto, for all fines collected
7 and school fund mortgages foreclosed, the same fees as are now allowed to attorneys for
8 suits on written instruments where judgment is obtained, and shall be entitled to his nec-
9 essary and actual expenses incurred attending in the discharge of his duty at a place other
10 than his place of residence and the county seat, which shall be audited and allowed by the
11 board of supervisors of the county. Population shall be determined by the last preceding
12 National or State census.

SEC. 12. The term of office of all district attorneys in the State shall end on the first day
2 of January, A. D 1887.

SEC. 13. That chapter 8, of title 3, of the Code of 1873, be and the same, together with all
2 acts and parts of acts inconsistent herewith are hereby repealed.