

PROSECUTING ATTORNEYS:  
HOUSE BILL NO. 160:

Effective date of H.B. 160 is August 29, 1953; Prosecuting Attorneys of 3rd and 4th class counties to be paid proportionately on basis of period of time remaining in 1953 after effective date; Prosecuting Attorneys entitled to be paid for three days in month of August, 1953.

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JOHN M. DALTON

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J.C. JOHNSON

June 5, 1953

No 65



Honorable Charles E. Murrell, Jr.  
Prosecuting Attorney  
Knox County  
Edina, Missouri

Dear Sir:

This department is in receipt of your recent request for an official opinion. You thus state your request:

"I would like to know when House Bill #160, as amended by the Senate, will become effective. I would also like to know if the \$600.00 per annum means \$600.00 for the year 1953 or if only a proportional part of the \$600.00 is to be paid according to months remaining in the year of 1953. If only part of the \$600.00 is payable in 1953, how will the amount be calculated for the month in which the bill becomes effective if it is only a part month."

We note that House Bill No. 160 of the 67th General Assembly provides that prosecuting attorneys in counties of the third and fourth class are required to attend at all hearings and applications for judicial paroles, and to investigate all applicants for judicial paroles, to make a complete investigation of all the facts and circumstances surrounding such applicant, his home life, family, and business, and to make a report of their findings to the circuit judge, and to make recommendations thereon. By this said House Bill, prosecuting attorneys are to receive as compensation for these additional services and duties, in addition to the salaries and fees now allowed prosecuting attorneys, an amount equal to \$600.00 per annum, to be paid in equal monthly installments.

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Your first question is in regard to the effective date of House Bill No. 160. Article III, Section 29, of the Constitution of Missouri, 1945, states:

"Effective date of laws--exceptions--procedure in emergencies and upon recess.--No law passed by the general assembly shall take effect until ninety days after the adjournment of the session at which it was enacted, except an appropriation act or in case of an emergency which must be expressed in the preamble or in the body of the act, the general assembly shall otherwise direct by a two-thirds vote of the members elected to each house, taken by yeas and nays; provided, if the general assembly recesses for thirty days or more it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of such recess."

Section 1.130, RSMo 1949, states:

"A law passed by the general assembly shall take effect ninety days after the adjournment of the session at which it is enacted; provided, however, if the general assembly recesses for thirty days or more, it may prescribe by joint resolution that laws previously passed and not effective shall take effect ninety days from the beginning of the recess, subject to the following exceptions:

"(1) A law necessary for the immediate preservation of the public peace, health or safety, which emergency must be expressed in the body or preamble of the act and which is declared to be thus necessary by the general assembly, by a vote of two-thirds of its members elected to each house, said vote to be taken by yeas and nays, and entered on the journal, or a law making an appropriation for the current expenses of the state government for the maintenance of the state institutions or for the support of public schools, shall take effect as of the hour and minute of its approval by the governor; which hour and minute may be

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endorsed by the governor on the bill at the time of its approval;

"(2) In case the general assembly, as to a law not of the character herein specified, shall provide that such law shall take effect on a date in the future subsequent to the expiration of the period of ninety days herein mentioned, said law shall take effect on the date thus fixed by the general assembly;

"(3) In case the general assembly shall provide that any law shall take effect as provided in subsection (1) of this section, the general assembly may provide in such law that the operative date of the law or parts of the law shall take effect on a date subsequent to the effective date of the law."

House Bill No. 160 was passed without an emergency clause and it was not an appropriation act. Therefore, it becomes effective 90 days after the final adjournment of the Legislature, which occurred on May 31, 1953.

Section 1.040, RSMo 1949, states:

"The time within which an act is to be done shall be computed by excluding the first day and including the last. If the last day be Sunday it shall be excluded."

Following this method of computing the 90 day period referred to above, we find that 90 days after May 31, 1953, would be August 29, 1953, which would be the effective date of House Bill No. 160.

Your second question is whether the \$600.00 per annum means \$600.00 for the year 1953, or only a proportional part of the \$600.00 is to be paid on the basis of the months remaining in the year 1953.

In this regard, House Bill No. 160 states that this payment of \$600.00 per annum is to be "in equal monthly installments," which, for a 12 month period, would be \$50.00 per month. It is our opinion that the meaning of the bill is that payment under it is to be proportional to the months remaining in the year

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1953, after the effective date of the bill, which would be approximately 4 months, meaning that under House Bill No. 160, prosecuting attorneys would receive approximately \$200.00 for the year 1953. Since the additional duties for which this \$600.00 per annum is compensation are not to be performed by prosecuting attorneys until the effective date of the bill, it certainly was not the intent of the Legislature to compensate prosecuting attorneys for those months in the year 1953 when they are not performing the additional duties for which this \$600.00 per annum is compensation.

Your third question is: If only part of the \$600.00 is payable in 1953, how will the amount be calculated for the month in which the bill becomes effective if it is only a part month. Paragraph 6, Section 1.020, RSMo 1949, states that the word "month" shall mean a calendar month unless otherwise expressed. Since August has 31 days, and since House Bill No. 160 becomes effective on August 29, 1953, prosecuting attorneys would be entitled to three days pay in August, which would amount, for three days, to approximately \$4.80.

#### CONCLUSION

It is the opinion of this department: That the effective date of House Bill No. 160 of the 67th General Assembly is August 29, 1953; that prosecuting attorneys of third and fourth class counties are to be paid proportionately and on the basis of the period of time remaining in the year 1953 after the effective date of House Bill No. 160, and not the full \$600.00; that prosecuting attorneys in third and fourth class counties are entitled to be paid for three days in the month of August under House Bill No. 160, which would be approximately \$4.80.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Mr. Hugh P. Williamson.

Yours very truly

JOHN M. DALTON  
Attorney General

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