

No. 1990-39

## AN ACT

SB 758

Amending the act of August 9, 1955 (P.L.323, No.130), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," further providing for the compensation of a full-time district attorney.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1401(g) of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, amended November 6, 1985 (P.L.309, No.77), is amended to read:

Section 1401. District Attorney; Qualifications; Eligibility; Compensation.—\*\*\*

(g) The commissioners of any county may by ordinance fix the services of the district attorney at full time. Such determination may be made at any time, provided that the determination shall not be made between the first day for the circulation of nominating petitions for the office of district attorney and January of the subsequent year. The president judge of the court of common pleas of the judicial district and the district attorney may make recommendations at any time to the county commissioners on the advisability of full-time service by the district attorney, but the same shall not be binding on them.

When the determination by the county commissioners to require a full-time district attorney becomes effective and operative, he shall be compensated at one thousand dollars (\$1,000) lower than the compensation paid to a judge of the court of common pleas in the respective judicial district. It is the legislative intent that all provisions of this subsection requiring full-time service shall be unenforceable until such time as the accompanying salary provisions take effect.

Once the determination for a full-time district attorney is made, it shall not thereafter be changed except by referendum of the electorate of the said county. Such referendum may be instituted by the county commissioners or on petition by five per cent of the electors voting for the office of Governor in the last gubernatorial general election. Such referendum may be held at any election preceding the year in which the district attorney shall be elected. Such district attorney shall devote full time to the office. The district attorney while in office, shall not derive any other income as a result of [the necessary legal education and background, from any source including but not limited to income derived from legal publications or other publications dealing with matters related to the office of district attorney, lectures,] honorariums, profit shares or divisions of income from any firm with which the district attorney was associated prior to election. This limitation shall not be

construed, however, to preclude payment of fees earned for legal work done prior to, but not concluded until after his election as district attorney. In addition the district attorney shall not engage in any private practice and must be completely disassociated with any firm with which the district attorney was affiliated prior to election, nor shall the district attorney-elect accept any civil or criminal cases after being elected to the office. Furthermore, the district attorney shall be subject to the canons of ethics as applied to judges in the courts of common pleas of this Commonwealth in so far as such canons apply to salaries, full-time duties and conflicts of interest.

Any complaint by a citizen of the county that a full-time district attorney may be in violation of this section shall be made to the Disciplinary Board of the Supreme Court of Pennsylvania, for determination as to the merit of the complaint. If any substantive basis is found, the board shall proceed forthwith in the manner prescribed by the rules of the Supreme Court and make such recommendation for disciplinary action as it deems advisable, provided, however, that if the Supreme Court deems the violation so grave as to warrant removal from office, the prothonotary of the said court shall transmit its findings to the Speaker of the House of Representatives for such action as the House deems advisable under Article VI of the Constitution of the Commonwealth of Pennsylvania.

Where no such determination to require a full-time district attorney is made, the district attorney shall be permitted to have an outside practice, and his salary shall be as set forth in the act of November 1, 1971 (P.L.495, No.113).

Section 2. This act shall take effect in 60 days.

APPROVED—The 4th day of May, A. D. 1990.

ROBERT P. CASEY