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Proposed Legislation

Vernon's Annotated **Missouri** Statutes
Constitution of 1945 of the State of **Missouri**
Article VII. Public Officers

V.A.M.S. Const. Art. 7, § **13**

§ **13**. Limitation on increase of compensation and extension of terms of office

Currentness

The compensation of state, county and municipal officers shall not be increased during the term of office; nor shall the term of any officer be extended.

Editors' Notes

Relevant Additional Resources

Additional Resources listed below contain your search terms.

RESEARCH REFERENCES

Other References

Labor & Employment Law ¶ 133140, Case Style: Betty P. Dykes, Respondent, v. Gentry County, **Missouri**, Appellant.

Relevant Notes of Decisions (43)


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Notes of Decisions listed below contain your search terms.

Construction and application

The second clause of this section was not intended to prevent the legislature from making reasonable changes in the time of electing public officers even though the effect is to incidentally lengthen the terms of parties in office. *State ex rel. Attorney General v. McGovney* (1887) 3 S.W. 867, 92 **Mo.** 428; *State ex rel. Attorney General v. Ranson* (1880) 73 **Mo.** 78.

This provision applies to all officers who are elected or appointed for a definite term of office and whose compensation or salary has been fixed by statute. *State ex rel. Stevenson v. Smith* (1885) 87 **Mo.** 158; *Callaway County v. Henderson* (1894) 24 S.W. 437, 119 **Mo.** 32; *Givens v. Daviess County* (1892) 17 S.W. 998, 107 **Mo.** 603.

This section refers to period fixed as term by statute, and not to individual who may happen to be incumbent for more than one term. *State ex rel. Emmons v. Farmer* (Sup. 1917) 196 S.W. 1106, 271 **Mo.** 306. *Public Employment*  362

This section was not contravened by St. Louis City Charter of 1914, continuing old assemblymen in office, but as members of new assembly, with different powers and duties and higher salary. *State ex rel. Truman v. Jost* (Sup. 1916) 191 S.W. 38, 269 **Mo.** 248.

Purpose of section

Const. 1875, Art. 7, § 13 was included in constitution to prevent persons while possessed of prestige and influence of official power from using such power for their own advantage. *State ex rel. Scobee v. Meriwether* (Sup. 1947) 200 S.W.2d 340, 355 **Mo.** 1217. Public Employment 🔑 362

The object of this section is to prevent officers while possessed of influence of official power from using that power to obtain an increase of compensation. *Folk v. City of St. Louis* (Sup. 1913) 157 S.W. 71, 250 **Mo.** 116. Public Employment 🔑 362

Public officers and employees

Fact that clerk of court of appeals had not received commission by Governor was not decisive of questions as to whether such clerk was a state officer within this section. *State ex rel. Webb v. Pigg* (Sup. 1952) 249 S.W.2d 435, 363 **Mo.** 133. Public Employment 🔑 362; States 🔑 1117

Among matters taken into consideration in determining whether certain person is public officer, are duties to be performed, method of performance, end to be obtained, powers granted, and, generally, the surrounding circumstances such as tenure, oath, bond, official designation, compensation, and dignity of the position in question, but no particular fact or circumstance is conclusive. *State ex rel. Webb v. Pigg* (Sup. 1952) 249 S.W.2d 435, 363 **Mo.** 133. Public Employment 🔑 362

In order for an official to be a “state officer”, official in question must have been delegated a portion of sovereign power of government to be exercised for benefit of public and such delegation of sovereign power must be substantial and independently exercised with some continuity and without control of a superior power other than the law. *State ex rel. Webb v. Pigg* (Sup. 1952) 249 S.W.2d 435, 363 **Mo.** 133. Public Employment 🔑 362

Clerk of court of appeals is subject to supervision, direction and control of court by whom he is appointed and whom he serves, and therefore he is an “officer of the court,” but not a “state officer” or “public officer” within this section. *State ex rel. Webb v. Pigg* (Sup. 1952) 249 S.W.2d 435, 363 **Mo.** 133. Public Employment 🔑 361; States 🔑 1117

Assistant commissioner of permanent seat of government is not “public officer,” within this section. *State ex rel. Hueller v. Thompson* (Sup. 1926) 289 S.W. 338, 316 **Mo.** 272. Public Employment 🔑 361

Compensation--In general

A constitutional or statutory provision prohibiting a change of compensation after an election or appointment during term of officer does not apply where, prior to such time, no salary or compensation has been fixed for the office. *State ex rel. Dwyer v. Nolte* (Sup. 1943) 172 S.W.2d 854, 351 **Mo.** 271. Public Employment 🔑 362

Term “compensation” as used in this section is broad enough to include salary, fees, pay or other remuneration for official services. *State ex rel. Emmons v. Farmer* (Sup. 1917) 196 S.W. 1106, 271 **Mo.** 306. Public Employment 🔑 362

---- **Decrease or increase, compensation**

Increase of officer's salary under statute in force at time of his election, permitting increase after election showing increase in population, is not unconstitutional. *State ex rel. Harvey v. Linville* (Sup. 1927) 300 S.W. 1066, 318 Mo. 698. Public Employment 🔑 362

---- **Extra compensation for additional duties**

An act which enjoins on an officer new and additional duties and provides compensation for such new and additional duties is not violative of this section. *State v. Walker* (1889) 10 S.W. 473, 97 Mo. 162; *State ex rel. Harvey v. Sheean* (1917) 190 S.W. 864, 269 Mo. 421; *Cunningham v. Current River R. Co.* (1901) 65 S.W. 556, 165 Mo. 270.

The inhibition of this section applies only to duties incident to the office, and has no application to additional duties not ordinarily incident thereto. *Little River Drainage Dist. v. Lassater* (Sup. 1930) 29 S.W.2d 716, 325 Mo. 493.

Requiring additional duties of an officer without additional pay therefor is not unconstitutional. *Denneny v. Silvey* (Sup. 1924) 259 S.W. 422, 302 Mo. 665.

Particular officers--In general

An adjutant general appointed under Laws 1905, and holding over under Laws 1909, was entitled to the additional compensation, for he was removable at the pleasure of the governor, and hence had no term of office, for a term of office as well as any term implies the existence of a definite boundary. *State ex rel. Rumbold v. Gordon* (Sup. 1911) 142 S.W. 315, 238 Mo. 168, *Am. Ann. Cas.* 1913A,312.

A municipal officer subject to removal at the pleasure of the council is not within this section. *State ex rel. Kane v. Johnson* (Sup. 1894) 25 S.W. 855, affirmed on rehearing 27 S.W. 399, 123 Mo. 43. *Municipal Corporations* 🔑 124(6); *Public Employment* 🔑 362

---- **Collectors, particular officers**

R.S.1919, § 4575, authorizing county courts to increase county and township collectors' fees for collecting drainage taxes was not unconstitutional as authorizing increase in county or municipal officers' compensation during terms. *Little River Drainage Dist. v. Lassater* (Sup. 1930) 29 S.W.2d 716, 325 Mo. 493. *Public Employment* 🔑 362

An ordinance passed during city collector's term of office, requiring him to collect water and light rentals and revenues and giving him a commission thereon, but not increasing the compensation for the duties he was therefore required to perform under an ordinance passed before his term of office began, was not violative of this section. *Denneny v. Silvey* (Sup. 1924) 259 S.W. 422, 302 Mo. 665. *Municipal Corporations* 🔑 164; *Public Employment* 🔑 362

V.A.M.S. § 52.280, as amended in 1969, provides that county collector of third and fourth class counties may retain an increased percentage of fees and commissions for deputy and clerical hire, and such increase is not to the benefit of such collectors, does not constitute increase in compensation during the term of the collector or his deputies within prohibition of this section, and is effective Oct. 13, 1969; and such increase may be used in full for the fiscal year ending Feb. 28, 1970. *Op. Atty. Gen. No. 408*, Holman, 10-9-69.

V.A.M.S. § 52.260, as reenacted in 1963, which became effective October 13, 1963, in all counties, did not increase compensation of collectors in first or second class counties or counties under constitutional charter and would not, during term of collectors of third and fourth class counties then in office, authorize payment to such collectors of compensation in excess of that authorized to be retained by them under provisions of V.A.M.S. § 52.270. Op.Atty.Gen. No. 303, Speer, 9-4-63.

--- **Assessors, particular officers**

Under this section and the charter of the city of St. Louis, compensation of the assessor of water rates cannot be increased during the term for which he is appointed; and as his term of office is four years and until his successor is appointed and qualified he is not entitled to an increase of compensation for such time as he holds over after his term of four years. *State ex rel. Stevenson v. Smith* (1885) 87 Mo. 158.

--- **County or city treasurers, particular officers**

The treasurer of city of St. Louis elected in November, 1938, was entitled to salary at \$8,000 per annum where ordinance which had fixed salary at \$5,000 per annum was void and there was no valid legislative act fixing treasurer's salary at that time. *State ex rel. Dwyer v. Nolte* (Sup. 1943) 172 S.W.2d 854, 351 Mo. 271.

Laws 1885, p. 108, allowing county treasurers to hold over until April 1st, after the election of their successors, in counties adopting township organization, was not in conflict with this section. *State ex rel. Atty. Gen. v. McGovney* (Sup. 1887) 3 S.W. 867, 92 Mo. 428. Counties 65; Public Employment 146

Compensation of county treasurer who was treasurer of fourth class county, and whose term commenced April 1, 1945, would be determined under V.A.M.S. § 54.320, and 1945 Act, founded in Laws of Missouri, 1945, p. 1541, could not have effect of increasing county treasurer's salary in view of provision of this section prohibiting increase of compensation of county officers during their term of office. Op.Atty.Gen. No. 31, Frieze, 6-13-50.

--- **County officers, particular officers**

Midterm increase in compensation for full-time county prosecuting attorney did not violate state constitution's general prohibition against increases in compensation of state, county, and municipal officers during term of office; a statutory formula in place before prosecuting attorney was elected or took office tied her salary to compensation of associate circuit judges, as established by the Missouri Citizens' Commission on Compensation for Elected Officials pursuant to state constitution, and that commission issued report increasing salary for an associate circuit judge during prosecuting attorney's term of office. *State ex rel. George v. Verkamp* (Sup. 2012) 365 S.W.3d 598. District and Prosecuting Attorneys 5(4)

V.A.M.S. § 141.600 is not void as depriving a constitutional officer of emoluments of his office, since legislature has power under this section to provide for and regulate fees of county officers and for such purpose may classify by population or on any other reasonable basis counties to which act regulating such fees shall apply. *Spitcaufsky v. Hatten* (Sup. 1944) 182 S.W.2d 86, 353 Mo. 94.

Upon a third class county becoming a first class county on January 1, the individual serving in the office of Prosecuting Attorney can be a "full-time" prosecutor or remaining a part time Prosecuting Attorney for the compensation set forth in the provisions

of the law for their positions with eligibility for an increase in salary for either position without violation of **Article VII**, §13 of the **Missouri** Constitution. Op.Atty.Gen. No. 123-2001, Daniels, February 2, 2001.

---- **Circuit attorneys, particular officers**

Supreme Court would review de novo a circuit court decision quashing a preliminary order of mandamus in favor of county prosecuting attorney who sought to compel county officials to approve and pay her an increased salary corresponding with that for associate circuit judges as established by the **Missouri** Citizens' Commission on Compensation for Elected Officials, where circuit court's decision was based on interpretation and application of a statute and various state constitutional provisions to stipulated facts. *State ex rel. George v. Verkamp* (Sup. 2012) 365 S.W.3d 598. Mandamus 🗝️ 187.9(1)

Laws 1901, p. 48, fixing the salary of the circuit attorney of cities having a population of 300,000 or more, was in conflict with this section so far as it purported to take effect during the term of office of an incumbent. *Folk v. City of St. Louis* (Sup. 1913) 157 S.W. 71, 250 **Mo.** 116. Public Employment 🗝️ 362

The city of St. Louis accepting and retaining fees which the circuit attorney was entitled to prior to Laws 1901, p. 48, fixing salary in lieu of fees, was not thereby estopped from denying the validity of the act increasing the compensation of the officer in violation of this section. *Folk v. City of St. Louis* (Sup. 1913) 157 S.W. 71, 250 **Mo.** 116. Constitutional Law 🗝️ 951

---- **Circuit clerks and employees, particular officers**

Laws 1915, p. 380, fixing salaries of circuit clerks at stated sums according to the population of the various counties as shown by their total vote at the last presidential election, multiplied by 5, was not a violation of this section. *State ex rel. Moss v. Hamilton* (1924) 260 S.W. 466, 303 **Mo.** 302; *State ex rel. Emmons v. Farmer* (1917) 196 S.W. 1106, 271 **Mo.** 306.

Circuit court reporter, though designated by R.S.1939, § 13339 (**V.A.M.S.** § 242.330) as an officer of the court, being vested with no sovereign power of government was not a “county” or “state officer” within Const.1875, Art. 7, § **13** prohibiting an increase in compensation of such officers during term of office. *State ex rel. Scobee v. Meriwether* (Sup. 1947) 200 S.W.2d 340, 355 **Mo.** 1217. Public Employment 🗝️ 362

The clerk of the Hannibal Court of Common Pleas shall be compensated for the period Oct. **13**, 1969 to the end of his present term, which is Dec. 31, 1970, under provisions of existing law as found in **V.A.M.S.** § 483.470 and of **V.A.M.S.** § 483.455 as amended in 1969, and thereafter, said clerk will be compensated as provided in **V.A.M.S.** § 50.335 of 1969. Op.Atty.Gen. No. 434, Holman, 10-9-69.

---- **Judges, particular officers**

A probate judge elected before enactment of Laws 1911, p. 304, was not entitled to have the compensation fixed therein for the circuit judge considered in determining what fees he might retain, and so increase his salary, in violation of this section. *Greene County v. Lydy* (Sup. 1914) 172 S.W. 376, 263 **Mo.** 77, Am.Ann.Cas. 1917C,274. Judges 🗝️ 22(2)

As a public officer was required to perform services required by law regardless of compensation, R.S.1909, § 7319 constituting the circuit judges of Jackson county and the judge of the court in that county having jurisdiction in felony cases the board of jury commissioners, was not invalid because increasing the compensation of the judges during their term, contrary to this section, for, if the provision as to compensation were invalid, it was the duty of the judges to perform those services without

compensation, and hence a venire drawn by such judges as jury commissioners was not irregular. *Jefferson Bank v. Merchants' Refrigerating Co.* (Sup. 1911) 139 S.W. 545, 236 Mo. 407. Statutes 1535(3)

---- **Law enforcement, particular officers**

A police detective is both a municipal and state officer within this section. *State ex rel. Truman v. Jost* (Sup. 1916) 191 S.W. 38, 269 Mo. 248.

If a sheriff's term of office had commenced before the enactment of Sess. Act 1909, p. 505, authorizing sheriffs to receive fees for mileage in subpoenaing witnesses in criminal cases, the sheriff was not entitled to such fees, since to allow them to him would be to increase his fees during his term of office contrary to this section. *State ex rel. Selleck v. Gordon* (Sup. 1914) 162 S.W. 629, 254 Mo. 471. Public Employment 362

V.A.M.S. § 57.295 of 1969 authorizing uniform allowance to sheriffs and deputy sheriffs does not constitute an increase in compensation during the terms of such officers and is therefore effective Oct. 13, 1969; and V.A.M.S. § 57.355, also provides for additional compensation to sheriffs of class two counties as compensation for additional services by such sheriffs and therefore is not an increase in compensation within meaning of this section, and is effective Oct. 13, 1969. Op.Atty.Gen. No. 408, Holman, 10-9-69.

The duties imposed by V.A.M.S. § 57.395 et seq., as enacted in 1967, are additional duties and these are not subject to this section, which provides limitation on increase of compensation of certain officers; therefore, sheriffs of third and fourth class counties are entitled to receive on and after October 13, 1967, the additional compensation provided for in V.A.M.S. §§ 57.395 and 57.401. Op.Atty.Gen. No. 374, Holman, 10-17-67.

---- **Fire department, particular officers**

A chief engineer of a city fire department, appointed by the council and subject to removal by it, is not within this section. *State ex rel. Kane v. Johnson* (Sup. 1894) 27 S.W. 399, 123 Mo. 43. Municipal Corporations 176(3.1); Public Employment 69

V. A. M. S. Const. Art. 7, § 13, MO CONST Art. 7, § 13

Statutes are current through the end of the 2021 First Regular and First Extraordinary Sessions of the 101st General Assembly. Constitution is current through the November 3, 2020 General Election.