

CHAPTER 73.

COUNTY ATTORNEYS AND THEIR DUTIES—REPEALS CHAPTER 8, TITLE THREE AND SECTION 3775 OF CODE.

AN ACT to Provide for the Election of County Attorneys, Define S. F. 78. their Duties, and Fix their Compensation, and to Repeal Chapter 8, Title 3, and Section 3775 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, 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.

County attorney elected in each county.
Term of office.
Execute bond.
Filed with Auditor.

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 it shall be his duty to appear unless otherwise engaged in the performance of his official duties. 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.

Duties.

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.

Shall give opinions.

SEC. 4. The county attorney may appoint deputies, who shall

May appoint
deputies.

act without any compensation from the county, to assist him in the discharge of his duties. With the approval of the district court he may procure such assistance in the trial of a person charged with the crime of felony as he shall deem necessary, and such assistant, upon presenting to the board of supervisors a certificate of the district judge before whom said cause was tried, certifying to the service rendered, shall be allowed a reasonable compensation therefor, to be fixed by the board of supervisors. But nothing in this section shall be construed to prevent the board of supervisors from employing an attorney to assist the county attorney in any cause or proceeding in which the State or county is interested.

May procure
assistance.

In inability to
act, court may
appoint.

SEC. 5. In the absence, sickness, or disability of the county attorney and his deputies, the court before whom it is his duty to appear and in which there may be business for him to attend may appoint an attorney to act as county attorney by order to be entered upon the minutes of the court, and he shall receive out of the compensation allowed to the county attorney when such appearance is before a justice of the peace, such sum as the board of supervisors shall determine to be reasonable for the services rendered, and when it is before a court of record such sum as the judge shall determine to be a reasonable compensation and while acting under said appointment he shall have all the authority and be subject to all the responsibilities herein conferred on county attorneys. But in criminal cases less than a felony, a justice of the peace or magistrate cannot appoint an attorney at the expense of the county or county attorney; *provided*, that a justice of the peace shall not appoint an attorney to act as county attorney in any case unless reasonable notice in writing has been given the county attorney that his services will be required before such justice at a time therein named.

Shall receive
no other com-
pensation.

SEC. 6. No county attorney shall receive any fee or reward from or on behalf of any prosecutor or other individual, for services in any prosecution or business to which it shall be his official duty to attend, nor be concerned as an attorney or council [sel] for a party other than for the State or county, in any civil or criminal action pending or arising in his county upon the same facts upon which any criminal action or civil action wherein the State or county was a party, has been by such attorney commenced or prosecuted.

Shall give re-
ceipts for all
moneys offici-
ally received.

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

Shall attend
the grand jury.

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

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

When vacancy occurs, board of supervisors appoint.

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

All laws in regard to district attorney shall apply to county attorney.

SEC. 11. The county attorneys of the several counties in this state shall be allowed an annual salary to be fixed by the board of supervisors of their respective counties at their June meeting of each even numbered year as follows: In counties of not more than five thousand inhabitants not to exceed five hundred dollars. In counties of over five thousand and under ten thousand, not exceeding six hundred dollars. In counties of over ten thousand and under fifteen thousand not exceeding seven hundred and fifty dollars. In counties of over fifteen thousand and under twenty thousand, not exceeding nine hundred dollars. In counties of over twenty thousand and under thirty thousand, not exceeding one thousand dollars. In all counties of over thirty thousand not exceeding fifteen hundred dollars; said salary to be paid quarterly at the first meeting of the board of supervisors after it shall become due and in addition thereto for all fines collected (and school fund mortgages foreclosed) the same fees as are now allowed to attorneys for suits on written instruments where judgment is obtained and shall be entitled to his necessary and actual expenses incurred attending the discharge of his duty at a place other than his place of residence and the county seat which shall be audited and allowed by the board of supervisors of the county. Population shall be determined by the last preceding national or state census *providing*; that in no county shall the salary be less than three hundred [dollars] and fees as herein specified.

Compensation.

How paid.

Fees.

Expenses.

Minimum salary.

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

Term of office ends.

SEC. 13. That chapter 8 of title 3 and section 3775 of the Code of 1873 be and the same together with all acts and parts of acts inconsistent herewith are hereby repealed.

Repeals Chap. 8, title 3, and section 3775 of Code.

SEC. 14. This act being of immediate importance shall be in force after its publication in the Iowa State Register and Des Moines Leader newspapers published in Des Moines, Iowa.

Publication.

Approved April 5, 1886.

I hereby certify that the foregoing act was published in the *Iowa State Register* April 13, and the *Des Moines Leader*; April 11, 1886.

FRANK D. JACKSON, *Secretary of State*.