

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1440 Session of  
1997

INTRODUCED BY STETLER, CALTAGIRONE, JOSEPHS, COY, YEWCIC, MELIO,  
STURLA, MUNDY, CASORIO, M. COHEN, STEELMAN, CURRY, MANDERINO,  
PLATTS, RAMOS, SURRA, SANTONI, MICHLOVIC, VAN HORNE,  
MARKOSEK, TRELLO, WALKO, DERMODY, PISTELLA, LaGROTTA,  
C. WILLIAMS, BUXTON, BEBKO-JONES, LEVDANSKY AND MAYERNIK,  
MAY 5, 1997

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 5, 1997

AN ACT

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

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

8 Section 1. Section 401(b) of the act of August 9, 1955  
9 (P.L.323, No.130), known as The County Code, amended December  
10 18, 1984 (P.L.1065, No.211), is amended and the section is  
11 amended by adding a subsection to read:

12 Section 401. Enumeration of Elected Officers.--\* \* \*

13 (b) All such officers, except for the district attorney,  
14 shall be elected at the municipal election next preceding the  
15 expiration of the terms of the officers now in office, and  
16 quadrennially thereafter, and shall hold their offices for a  
17 term of four years from the first Monday of January next after

1 their election and until their successors shall be duly  
2 qualified, but in the event that any such officer so elected,  
3 excepting a county commissioner or auditor, shall fail to  
4 qualify, or if no successor shall be elected, then the chief  
5 deputy, first assistant, first deputy or principal deputy in  
6 office at the time the vacancy occurred shall assume the office  
7 until a successor has been appointed pursuant to section 409 or  
8 until the first Monday in January following the next municipal  
9 election, whichever period is shorter. In the case of a county  
10 commissioner or auditor, there shall be a vacancy which shall be  
11 filled as provided in this act.

12 \* \* \*

13 (d) The district attorney in each county shall be elected at  
14 the municipal election next preceding the expiration of the term  
15 of the officer in office and shall hold office for a term of six  
16 years from the first Monday of January next after being elected.  
17 The term of office thereafter will be for six years. In the  
18 event that any such officer so elected shall fail to qualify or  
19 if no successor shall be elected, then the first assistant  
20 district attorney or the assistant district attorney in office  
21 at the time the vacancy occurred shall assume the office until a  
22 successor has been appointed pursuant to section 409 or until  
23 the first Monday in January following the next municipal  
24 election, whichever period is shorter.

25 Section 2. Section 1401(g) of the act, amended November 23,  
26 1994 (P.L.640, No.98), is amended to read:

27 Section 1401. District Attorney; Qualifications;  
28 Eligibility; Compensation.--\* \* \*

29 (g) (1) The commissioners of any county may by ordinance fix  
30 the services of the district attorney at full time. Such

1 determination may be made at any time, provided that the  
2 determination shall not be made between the first day for the  
3 circulation of nominating petitions for the office of district  
4 attorney and January of the subsequent year. The president judge  
5 of the court of common pleas of the judicial district and the  
6 district attorney may make recommendations at any time to the  
7 county commissioners on the advisability of full-time service by  
8 the district attorney, but the same shall not be binding on  
9 them.

10     (2) When the determination by the county commissioners to  
11 require a full-time district attorney becomes effective and  
12 operative, he shall be compensated at one thousand dollars  
13 (\$1,000) lower than the compensation paid to a judge of the  
14 court of common pleas in the respective judicial district. It is  
15 the legislative intent that all provisions of this subsection  
16 requiring full-time service shall be unenforceable until such  
17 time as the accompanying salary provisions take effect.

18     (3) Once the determination for a full-time district attorney  
19 is made, it shall not thereafter be changed except by referendum  
20 of the electorate of the said county. Such referendum may be  
21 instituted by the county commissioners or on petition by five  
22 per cent of the electors voting for the office of Governor in  
23 the last gubernatorial general election. Such referendum may be  
24 held at any election preceding the year in which the district  
25 attorney shall be elected. Such district attorney shall devote  
26 full time to the office. The district attorney while in office,  
27 shall not derive any other income as a result of honorariums,  
28 profit shares or divisions of income from any firm with which  
29 the district attorney was associated prior to election. This  
30 limitation shall not be construed, however, to preclude payment

1 of fees earned for legal work done prior to, but not concluded  
2 until after his election as district attorney. In addition the  
3 district attorney shall not engage in any private practice and  
4 must be completely disassociated with any firm with which the  
5 district attorney was affiliated prior to election, nor shall  
6 the district attorney-elect accept any civil or criminal cases  
7 after being elected to the office. Furthermore, the district  
8 attorney shall be subject to the canons of ethics as applied to  
9 judges in the courts of common pleas of this Commonwealth in so  
10 far as such canons apply to salaries, full-time duties [and],  
11 conflicts of interest, and political activity inappropriate to  
12 his office.

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

26 (5) Where no such determination to require a full-time  
27 district attorney is made, the district attorney shall be  
28 permitted to have an outside practice.

29 (6) Notwithstanding the provision of any other statute, the  
30 annual salaries of part-time district attorneys shall be as

1 follows: In counties of the third or fourth class, the salary  
2 shall be sixty per cent of the annual salary payable to the  
3 judge of the court of common pleas of the judicial district of  
4 the county; in a county of the fifth or sixth class, the salary  
5 shall be fifty per cent of the annual salary payable to the  
6 judge of the court of common pleas of the judicial district of  
7 the county; and in a county of the seventh or eighth class, the  
8 salary shall be forty per cent of the annual salary payable to  
9 the judge of the court of common pleas of the judicial district  
10 of the county.

11 Section 3. This act shall take effect immediately.