

IC 33-39-6

Chapter 6. Compensation of Prosecuting Attorneys, Deputies, and Investigators

IC 33-39-6-1

Payment of compensation; conferences for coordinated law enforcement plans

Sec. 1. (a) Prosecuting attorneys and deputy prosecuting attorneys are entitled to receive the compensation provided in this chapter. The minimum compensation of the prosecuting attorneys shall be paid in the manner prescribed in section 5 of this chapter. The compensation of the deputy prosecuting attorneys shall be paid in the manner prescribed in section 2 of this chapter.

(b) Upon the allowance of an itemized and verified claim by the board of county commissioners, the auditor of the county shall issue a warrant to a prosecuting attorney or deputy prosecuting attorney who filed the claim to pay any part of the compensation of a prosecuting attorney or a deputy prosecuting attorney that exceeds the amount that the state is to pay.

(c) A deputy prosecuting attorney who knowingly divides compensation with the prosecuting attorney or any other officer or person in connection with employment commits a Class B misdemeanor.

(d) A prosecuting attorney or any other officer or person who knowingly accepts any division of compensation described in subsection (c) commits a Class B misdemeanor.

(e) The attorney general shall call at least one (1) and not more than two (2) conferences of the prosecuting attorneys, each year, to consider, discuss, and develop coordinated plans for the enforcement of the laws of Indiana. The date or dates upon which the conferences are held shall be fixed by the attorney general. The expenses necessarily incurred by a prosecuting attorney in attending a conference, including the actual expense of transportation to and from the place where the conference is held, together with meals and lodging, shall be paid from the general fund of the county upon the presentation of an itemized and verified claim, filed as required by law, and by warrant issued by the county auditor. If there is more than one (1) county in any judicial circuit, the expenses of the prosecuting attorneys incurred by virtue of this subsection shall be paid from the general fund of the respective counties constituting the circuit in the same proportion that the classification factor of each county bears to the classification factor of the judicial circuit as determined according to law by the state board of accounts.

As added by P.L.98-2004, SEC.18. Amended by P.L.65-2004, SEC.19.

IC 33-39-6-2

Chief deputy and additional deputy; appointment; salaries

Sec. 2. (a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

(1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.

(3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.

(4) If the prosecuting attorney is a part-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The prosecuting attorney of Cass County may appoint one (1) additional deputy prosecuting attorney.

(f) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (e) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting attorney, as determined under section 5 of this chapter as though the prosecuting attorney had not elected full-time status.

(g) The salaries provided in this section shall be paid by the state

once every two (2) weeks from the state general fund. There is appropriated annually out of the general fund of the state sufficient funds to pay any amount necessary. However, the salaries fixed in this chapter are determined to be maximum salaries to be paid by the state. This chapter does not limit the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action by the appropriate county officials.

(h) The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit.

As added by P.L.98-2004, SEC.18. Amended by P.L.127-2008, SEC.20; P.L.112-2009, SEC.1; P.L.78-2011, SEC.1.

IC 33-39-6-3

Grading judicial circuits for compensation purposes

Sec. 3. For purposes of fixing the salaries of the various prosecuting attorneys under this chapter, each judicial circuit of the state is:

- (1) graded on the basis of population and gross assessed valuation; and
- (2) set up on the percentage ratio it bears to the state, the whole state being considered as one hundred percent (100%).

As added by P.L.98-2004, SEC.18.

IC 33-39-6-4

Classes of judicial circuits; classification factors

Sec. 4. (a) The nine (9) classes of the several judicial circuits of the state as set out in this chapter are based on a unit factor system. The factors are determined by the relations of the judicial circuit to the state as established and certified to each county auditor by the state board of accounts not later than June 20 of any calendar year. They are as follows:

- (1) Population.
- (2) Gross assessed valuation as shown by the last preceding gross assessed valuation as certified by the various counties to the auditor of the state in the calendar year in which the calculation is made.

(b) The factors for each of the nine (9) classes set out in this chapter shall be obtained as follows:

- (1) The population of each judicial circuit shall be divided by the population of the entire state.
- (2) The gross assessed valuation of each judicial circuit shall be divided by the gross assessed valuation of the entire state.
- (3) The two (2) results thus obtained shall be added together and the sum thus obtained for each judicial circuit shall be divided

by two (2).

(4) The final result so obtained, multiplied by one hundred (100), shall determine the classification of each judicial circuit according to the following schedule:

CLASSIFICATION FACTORS

	HIGH	LOW	CLASS
NO LIMIT		8.00	1
ALL UNDER	8.00	2.25	2
ALL UNDER	2.25	1.25	3
ALL UNDER	1.25	.85	4
ALL UNDER	.85	.70	5
ALL UNDER	.70	.60	6
ALL UNDER	.60	.50	7
ALL UNDER	.50	.35	8
ALL UNDER	.35	No limit	9

As added by P.L.98-2004, SEC.18.

IC 33-39-6-5

Minimum annual salary; full-time or part-time prosecutors

Sec. 5. (a) The annual minimum salary paid by the state to a full-time prosecuting attorney described in section 6 of this chapter is equal to the minimum salary of the circuit court judge of the same judicial circuit as the prosecuting attorney.

(b) A prosecuting attorney of a judicial circuit, other than a full-time prosecuting attorney described in section 6 of this chapter is entitled to a minimum annual salary in an amount equal to sixty percent (60%) of the salary provided in subsection (a), except as provided by subsection (c).

(c) A prosecuting attorney, other than a full-time prosecuting attorney described in section 6 of this chapter, of a judicial circuit:

(1) that has a population of less than eighty-five thousand (85,000) and that adjoins any county having a population of more than one hundred sixty thousand (160,000); or

(2) in which is located:

(A) the Indiana state prison, the Pendleton Correctional Facility, the Plainfield Correctional Facility, the Branchville Correctional Facility, the Wabash Valley Correctional Facility, or the Putnamville Correctional Facility; or

(B) a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients; is entitled to a minimum annual salary in an amount equal to sixty-six percent (66%) of the salary provided in subsection (a).

(d) The state shall pay, from the state general fund, the minimum annual salary of a prosecuting attorney. The state shall pay the minimum annual salary in equal installments with payments being made once every two (2) weeks.

As added by P.L.98-2004, SEC.18.

IC 33-39-6-6

Election to devote full time to duties of office of prosecuting attorney

Sec. 6. (a) Except as provided in section 7 of this chapter, a prosecuting attorney may elect to devote the prosecuting attorney's full professional time to the duties of the office of prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state. The election may be made annually during the prosecuting attorney's term. However, the notice of election must be made before June 30 of the applicable year. An election is effective for each successive year of the term unless it is revoked before June 30 of the year during which the prosecuting attorney wants to change the prosecuting attorney's status. However, only one (1) change in status may be made during the term. A revocation is made by the prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state.

(b) A prosecuting attorney who elects to be a full-time prosecuting attorney:

(1) shall devote the prosecuting attorney's full professional time to the prosecuting attorney's office; and

(2) may not engage in the private practice of law.

(c) If a prosecuting attorney of a judicial circuit of the sixth through ninth class elects to become a full-time prosecuting attorney and the majority of the county council consents to the election, a copy of the consent must be filed with the notice of election to full-time status with the circuit court of the prosecuting attorney's judicial circuit and with the auditor of state.

As added by P.L.98-2004, SEC.18.

IC 33-39-6-7

Full-time offices in certain second class judicial circuits; salary

Sec. 7. The prosecuting attorney of each judicial circuit of the second class within a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000) shall devote the prosecuting attorney's full professional time to the duties of the prosecuting attorney's office. The prosecuting attorney may not engage in the private practice of law for the term for which the prosecuting attorney was elected or appointed, and the prosecuting attorney is entitled to a minimum annual salary that is not less than the salary of the judge of the circuit court of the same judicial circuit.

As added by P.L.98-2004, SEC.18. Amended by P.L.119-2012, SEC.164.

IC 33-39-6-8

Compensation; appearance; travel expenses

Sec. 8. (a) The compensation provided in this chapter for prosecuting attorneys and their deputies is in full for all services required by law. Prosecuting attorneys shall appear in all courts and

in all cases where the law provides that they shall appear.

(b) Prosecuting attorneys, deputy prosecuting attorneys, and investigators are entitled to a sum for mileage for the miles necessarily traveled in the discharge of their duties. The sum for mileage provided by this subsection must:

(1) equal the sum per mile paid to state officers and employees, with the rate changing each time the state government changes its rate per mile;

(2) be allowed by the board of county commissioners on a claim duly filed monthly by the prosecutor, deputy prosecuting attorneys, and investigators itemizing the specific mileage traveled; and

(3) be paid by the county in which the duty arose that necessitated the travel.

(c) This chapter does not prohibit the payment of other expenses as may be allowed by law.

(d) If a board of county commissioners does not furnish the prosecuting attorney with office space, the county council shall appropriate a reasonable amount of money per year to the prosecuting attorney for office space.

As added by P.L.98-2004, SEC.18.

IC 33-39-6-9

Lowering of classification; limitation

Sec. 9. The classification of salary schedules for prosecuting attorneys may not be lowered below the classification first fixed by the state board of accounts under IC 33-14-7 (before its repeal).

As added by P.L.98-2004, SEC.18.