

By: Senator(s) Moffatt

To: Fees, Salaries and
AdministrationSENATE BILL NO. 2170
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 9-1-43, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT THE SALARY LIMITATION ON THE CHANCERY CLERK OR
3 CIRCUIT CLERK APPLIES TO THE OFFICE OF THE CLERK AND LIMITS THE
4 SALARY OF ANY CLERK WHO SERVES LESS THAN ONE YEAR ON A PRO RATA
5 BASIS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 9-1-43, Mississippi Code of 1972, is
8 amended as follows:

9 9-1-43. (1) After making deductions for employee salaries
10 and related salary expenses, and expenses allowed as deductions by
11 Schedule C of the Internal Revenue Code, no office of the chancery
12 clerk or circuit clerk of any county in the state shall receive
13 fees as compensation for the chancery clerk's or circuit clerk's
14 services in excess of Seventy-five Thousand Six Hundred Dollars
15 (\$75,600.00) annually, and from and after January 1, 2000, in
16 excess of Eighty-three Thousand One Hundred Sixty Dollars
17 (\$83,160.00) annually. All such fees received by the office of
18 chancery or circuit clerks that are in excess of the salary
19 limitation shall be deposited by such clerk into the county
20 general fund on or before April 15 for the preceding calendar
21 year. If the chancery clerk or circuit clerk serves less than one
22 (1) year, then he shall not receive as compensation any fees in
23 excess of that portion of the salary limitation that can be
24 attributed to his time in office on a pro rata basis. Upon
25 leaving office, income earned by any clerk in his last full year
26 of office but not received until after his last full year of
27 office shall not be included in determining the salary limitation
28 of the successor clerk. There shall be exempted from the

29 provisions of this subsection any monies or commissions from
30 private or governmental sources which: (a) are to be held by the
31 chancery or circuit clerk in a trust or custodial capacity as
32 prescribed in subsections (4) and (5); or (b) are received as
33 compensation for services performed upon order of a court or board
34 of supervisors which are not required of the chancery clerk or
35 circuit clerk by statute.

36 (2) It shall be unlawful for any chancery clerk or circuit
37 clerk to use fees in excess of Seventy-five Thousand Six Hundred
38 Dollars (\$75,600.00) annually, and from and after January 1, 2000,
39 in excess of Eighty-three Thousand One Hundred Sixty Dollars
40 (\$83,160.00) annually, to pay the salaries or actual or necessary
41 expenses of employees who are related to such clerk by blood or
42 marriage within the first degree of kinship according to the civil
43 law method of computing kinship as provided in Sections 1-3-71 and
44 1-3-73. However, the prohibition of this subsection shall not
45 apply to any individual who was an employee of the clerk's office
46 prior to the date his or her relative was elected as chancery or
47 circuit clerk. The spouse and/or any children of the chancery
48 clerk or circuit clerk employed in the office of the chancery
49 clerk may be paid a salary; however, the combined annual salaries
50 of the clerk, spouse and any child of the clerk may not exceed an
51 amount equal to the salary limitation.

52 (3) The chancery clerk and the circuit clerk shall be liable
53 on their official bond for the proper deposit and accounting of
54 all monies received by his office. The State Auditor shall
55 promulgate uniform accounting methods for the accounting of all
56 sources of income by the offices of the chancery and circuit
57 clerk.

58 (4) There is created in the county depository of each county
59 a clearing account to be designated as the "chancery court clerk
60 clearing account," into which shall be deposited: (a) all such
61 monies as the clerk of the chancery court shall receive from any
62 person complying with any writ of garnishment, attachment,
63 execution or other like process authorized by law for the
64 enforcement of child support, spousal support or any other
65 judgment; (b) any portion of any fees required by law to be
66 collected in civil cases which are to pay for the service of

67 process or writs in another county; and (c) any other money as
68 shall be deposited with the court which by its nature is not, at
69 the time of its deposit, public monies, but which is to be held by
70 the court in a trust or custodial capacity in a case or proceeding
71 before the court. The clerk of the chancery court shall account
72 for all monies deposited in and disbursed from such account and
73 shall be authorized and empowered to draw and issue checks on such
74 account at such times, in such amounts and to such persons as
75 shall be proper and in accordance with law.

76 The following monies paid to the chancery clerk shall be
77 subject to the salary limitation prescribed under subsection (1):

78 (a) all fees required by law to be collected for the filing,
79 recording or abstracting of any bill, petition, pleading or decree
80 in any civil case in chancery; (b) all fees collected for land
81 recordings, charters, notary bonds, certification of decrees and
82 copies of any documents; (c) all land redemption and mineral
83 documentary stamp commissions; and (d) any other monies or
84 commissions from private or governmental sources for statutory
85 functions which are not to be held by the court in a trust
86 capacity. Such fees as shall exceed the salary limitations shall
87 be maintained in a bank account in the county depository and
88 accounted for separately from those monies paid into the chancery
89 court clerk clearing account.

90 (5) There is created in the county depository in each county
91 a clearing account to be designated as the "circuit court clerk
92 civil clearing account," into which shall be deposited: (a) all
93 such monies and fees as the clerk of the circuit court shall
94 receive from any person complying with any writ of garnishment,
95 attachment, execution or any other like process authorized by law
96 for the enforcement of a judgment; (b) any portion of any fees
97 required by law or court order to be collected in civil cases;
98 (c) all fees collected for the issuance of marriage licenses; and
99 (d) any other money as shall be deposited with the court which by
100 its nature is not, at the time of its deposit, public monies but

101 which is to be held by the court in a trust or custodial capacity
102 in a case or proceeding before the court.

103 There is created in the county depository in each county a
104 clearing account to be designated as the "circuit court clerk
105 criminal clearing account," into which shall be deposited: (a)
106 all such monies as are received in criminal cases in the circuit
107 court pursuant to any order requiring payment as restitution to
108 the victims of criminal offenses; (b) any portion of any fees and
109 fines required by law or court order to be collected in criminal
110 cases; and (c) all cash bonds as shall be deposited with the
111 court. The clerk of the circuit court shall account for all
112 monies deposited in and disbursed from such account and shall be
113 authorized and empowered to draw and issue checks on such account,
114 at such times, in such amounts and to such persons as shall be
115 proper and in accordance with law; however, such monies as are
116 forfeited in criminal cases shall be paid by the clerk of the
117 circuit court to the clerk of the board of supervisors for deposit
118 in the general fund of the county.

119 The following monies paid to the circuit clerk shall be
120 subject to the salary limitation prescribed under subsection (1):

121 (a) all fees required by law to be collected for the filing,
122 recording or abstracting of any bill, petition, pleading or decree
123 in any civil action in circuit court; (b) copies of any documents;
124 and (c) any other monies or commissions from private or
125 governmental sources for statutory functions which are not to be
126 held by the court in a trust capacity.

127 (6) The chancery clerk and the circuit clerk shall establish
128 and maintain a cash journal for recording cash receipts from
129 private or government sources for furnishing copies of any papers
130 of record or on file, or for rendering services as a notary
131 public, or other fees wherein the total fee for the transaction is
132 Ten Dollars (\$10.00) or less. The cash journal entry shall
133 include the date, amount and type of transaction, and the clerk
134 shall not be required to issue a receipt to the person receiving

135 such services. The State Auditor shall not take exception to the
136 furnishing of copies or the rendering of services as a notary by
137 any clerk free of charge.

138 In any county having two (2) judicial districts, whenever the
139 chancery clerk serves as deputy to the circuit clerk in one (1)
140 judicial district and the circuit clerk serves as deputy to the
141 chancery clerk in the other judicial district, the chancery clerk
142 may maintain a cash journal, separate from the cash journal
143 maintained for chancery clerk receipts, for recording the cash
144 receipts paid to him as deputy circuit clerk, and the circuit
145 clerk may maintain a cash journal, separate from the cash journal
146 maintained for circuit clerk receipts, for recording the cash
147 receipts paid to him as deputy chancery clerk. The cash receipts
148 collected by the chancery clerk in his capacity as deputy circuit
149 clerk and the cash receipts collected by the circuit clerk in his
150 capacity as deputy chancery clerk shall be subject to the salary
151 limitation prescribed under subsection (1).

152 (7) Any clerk who knowingly shall fail to deposit funds or
153 otherwise violate the provisions of this section shall be guilty
154 of a misdemeanor in office and, upon conviction thereof, shall be
155 fined in an amount not to exceed double the amount that he failed
156 to deposit, or imprisoned for not to exceed six (6) months in the
157 county jail, or be punished by both such fine and imprisonment.

158 SECTION 2. The Attorney General of the State of Mississippi
159 is directed to submit this act, immediately upon approval by the
160 Governor, or upon approval by the Legislature subsequent to a
161 veto, to the Attorney General of the United States or to the
162 United States District Court for the District of Columbia in
163 accordance with the provisions of the Voting Rights Act of 1965,
164 as amended and extended.

165 SECTION 3. This act shall take effect and be in force from
166 and after the date it is effectuated under Section 5 of the Voting
167 Rights Act of 1965, as amended and extended.