

By: Representatives Bozeman, Banks, Clarke,
Flaggs, Robinson (63rd), Straughter, Wallace

To: County Affairs

HOUSE BILL NO. 1026

1 AN ACT TO AMEND SECTIONS 19-13-35, 19-13-39 AND 31-7-57,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A MEMBER OF THE COUNTY
3 BOARD OF SUPERVISORS WILL NOT BE PERSONALLY LIABLE FOR APPROVING A
4 CLAIM WITHOUT KNOWLEDGE THAT THE CLAIM WAS FOR AN UNAUTHORIZED
5 EXPENDITURE OF COUNTY FUNDS, IF THE MEMBER PREVIOUSLY VOTED
6 AGAINST THE APPROPRIATION FROM WHICH THE CLAIM WAS PAID OR WAS
7 ABSENT AT THE TIME OF THE VOTE ON THAT APPROPRIATION; AND FOR
8 RELATED PURPOSES.

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

10 SECTION 1. Section 19-13-35, Mississippi Code of 1972, is
11 amended as follows:

12 19-13-35. (1) If any person shall claim and receive from
13 the board of supervisors of a county any fee or compensation not
14 authorized by law, or if a member of such board shall knowingly
15 vote for the payment of any such unauthorized claim, or any
16 appropriation not authorized by law, he shall be subject to
17 indictment, and, on conviction, be fined not exceeding double the
18 amount of such unlawful charge, or may be imprisoned in the county
19 jail not more than three (3) months, or be subject to both such
20 fine and imprisonment.

21 (2) Any member of the board of supervisors who voted to
22 approve a claim for expenditure of funds of a particular
23 appropriation from the county budget under the provisions of
24 Section 19-13-31, without knowledge that the claim was for an
25 unauthorized expenditure of county funds, shall not be personally
26 or individually liable for the amount of the claim or the
27 appropriation if he previously voted against that particular
28 appropriation and had his vote recorded in the official minutes of
29 the board at the time of the vote, or was absent at the time of

30 the vote on that appropriation.

31 SECTION 2. Section 19-13-39, Mississippi Code of 1972, is
32 amended as follows:

33 19-13-39. (1) Any member of the board of supervisors may
34 have his vote, on any question before the board, recorded on the
35 minutes of the board at the time of such vote, and a member who
36 voted against any unauthorized appropriation of money shall not be
37 liable therefor.

38 (2) Any member of the board of supervisors who voted to
39 approve a claim for expenditure of funds of a particular
40 appropriation from the county budget under the provisions of
41 Section 19-13-31, without knowledge that the claim was for an
42 unauthorized expenditure of county funds, shall not be personally
43 or individually liable for the amount of the claim or the
44 appropriation if he previously voted against that particular
45 appropriation and had his vote recorded in the official minutes of
46 the board at the time of the vote, or was absent at the time of
47 the vote on that appropriation.

48 SECTION 3. Section 31-7-57, Mississippi Code of 1972, is
49 amended as follows:

50 31-7-57. (1) Any elected or appointed public officer of an
51 agency or a governing authority, or the executive head, any
52 employee or agent of an agency or governing authority, who
53 appropriates or authorizes the expenditure of any money to an
54 object not authorized by law, shall be liable personally for up to
55 the full amount of the appropriation or expenditure as will fully
56 and completely compensate and repay such public funds for any
57 actual loss caused by such appropriation or expenditure, to be
58 recovered by suit in the name of the governmental entity involved,
59 or in the name of any person who is a taxpayer suing for the use
60 of the governmental entity involved, and such taxpayer shall be
61 liable for costs in such case. In the case of a governing board
62 of an agency or governing authority, only the individual members
63 of the governing board who voted for the appropriation or
64 authorization for expenditure shall be liable under this
65 subsection.

66 (2) No individual member, officer, employee or agent of any

67 agency or board of a governing authority shall let contracts or
68 purchase commodities or equipment except in the manner provided by
69 law, including the provisions of Section 25-9-120(3), relating to
70 personal and professional service contracts by state agencies; nor
71 shall any such agency or board of a governing authority ratify any
72 such contract or purchase made by any individual member, officer,
73 employee or agent thereof, or pay for the same out of public funds
74 unless such contract or purchase was made in the manner provided
75 by law; provided, however, that any vendor who, in good faith,
76 delivers commodities or printing or performs any services under a
77 contract to or for the agency or governing authority, shall be
78 entitled to recover the fair market value of such commodities,
79 printing or services, notwithstanding some error or failure by the
80 agency or governing authority to follow the law, if the contract
81 was for an object authorized by law and the vendor had no control
82 of, participation in, or actual knowledge of the error or failure
83 by the agency or governing authority.

84 (3) The individual members, officers, employees or agents of
85 any agency or governing authority as defined in Section 31-7-1
86 causing any public funds to be expended, any contract made or let,
87 any payment made on any contract or any purchase made, or any
88 payment made, in any manner whatsoever, contrary to or without
89 complying with any statute of the State of Mississippi, regulating
90 or prescribing the manner in which such contracts shall be let,
91 payment on any contract made, purchase made, or any other payment
92 or expenditure made, shall be liable, individually, and upon their
93 official bond, for compensatory damages, in such sum up to the
94 full amount of such contract, purchase, expenditure or payment as
95 will fully and completely compensate and repay such public funds
96 for any actual loss caused by such unlawful expenditure.

97 (4) In addition to the foregoing provision, for any
98 violation of any statute of the State of Mississippi prescribing
99 the manner in which contracts shall be let, purchases made,

100 expenditure or payment made, any individual member, officer,
101 employee or agent of any agency or governing authority who shall
102 substantially depart from the statutory method of letting
103 contracts, making payments thereon, making purchases or expending
104 public funds shall be liable, individually and on his official
105 bond, for penal damages in such amount as may be assessed by any
106 court of competent jurisdiction, up to three (3) times the amount
107 of the contract, purchase, expenditure or payment. The person so
108 charged may offer mitigating circumstances to be considered by the
109 court in the assessment of any penal damages.

110 (5) Any sum recovered under the provisions hereof shall be
111 credited to the account from which such unlawful expenditure was
112 made.

113 (6) Except as otherwise provided in subsection (1) of this
114 section, any individual member of an agency or governing authority
115 as defined in Section 31-7-1 shall not be individually liable
116 under this section if he voted against payment for contracts let
117 or purchases made contrary to law and had his vote recorded in the
118 official minutes of the board or governing authority at the time
119 of such vote, or was absent at the time of such vote.

120 (7) Notwithstanding any provision of this section to the
121 contrary, any member of the board of supervisors who voted to
122 approve a claim for expenditure of funds of a particular
123 appropriation from the county budget under the provisions of
124 Section 19-13-31, without knowledge that the claim was for an
125 unauthorized expenditure of county funds, shall not be personally
126 or individually liable for the amount of the claim or the
127 appropriation if he previously voted against that particular
128 appropriation and had his vote recorded in the official minutes of
129 the board at the time of the vote, or was absent at the time of
130 the vote on that appropriation.

131 SECTION 4. This act shall take effect and be in force from
132 and after July 1, 1999.