

By: Senator(s) Moffatt

To: Fees, Salaries and
Administration

SENATE BILL NO. 2170
(As Passed the Senate)

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. There shall
25 be exempted from the provisions of this subsection any monies or
26 commissions from private or governmental sources which: (a) are
27 to be held by the chancery or circuit clerk in a trust or
28 custodial capacity as prescribed in subsections (4) and (5); or

29 (b) are received as compensation for services performed upon order
30 of a court or board of supervisors which are not required of the
31 chancery clerk or circuit clerk by statute.

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

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

54 (4) There is created in the county depository of each county
55 a clearing account to be designated as the "chancery court clerk
56 clearing account," into which shall be deposited: (a) all such
57 monies as the clerk of the chancery court shall receive from any
58 person complying with any writ of garnishment, attachment,
59 execution or other like process authorized by law for the
60 enforcement of child support, spousal support or any other
61 judgment; (b) any portion of any fees required by law to be
62 collected in civil cases which are to pay for the service of
63 process or writs in another county; and (c) any other money as
64 shall be deposited with the court which by its nature is not, at
65 the time of its deposit, public monies, but which is to be held by
66 the court in a trust or custodial capacity in a case or proceeding

67 before the court. The clerk of the chancery court shall account
68 for all monies deposited in and disbursed from such account and
69 shall be authorized and empowered to draw and issue checks on such
70 account at such times, in such amounts and to such persons as
71 shall be proper and in accordance with law.

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

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

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

99 There is created in the county depository in each county a
100 clearing account to be designated as the "circuit court clerk

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

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

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

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

134 In any county having two (2) judicial districts, whenever the

135 chancery clerk serves as deputy to the circuit clerk in one (1)
136 judicial district and the circuit clerk serves as deputy to the
137 chancery clerk in the other judicial district, the chancery clerk
138 may maintain a cash journal, separate from the cash journal
139 maintained for chancery clerk receipts, for recording the cash
140 receipts paid to him as deputy circuit clerk, and the circuit
141 clerk may maintain a cash journal, separate from the cash journal
142 maintained for circuit clerk receipts, for recording the cash
143 receipts paid to him as deputy chancery clerk. The cash receipts
144 collected by the chancery clerk in his capacity as deputy circuit
145 clerk and the cash receipts collected by the circuit clerk in his
146 capacity as deputy chancery clerk shall be subject to the salary
147 limitation prescribed under subsection (1).

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

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

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