

By: Representative Martinson

To: County Affairs

HOUSE BILL NO. 329

1 AN ACT TO AMEND SECTION 19-3-47, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE THE BOARD OF SUPERVISORS OF ANY COUNTY TO EMPLOY AN
 3 ATTORNEY AS A FULL-TIME COUNTY EMPLOYEE; TO AMEND SECTION
 4 19-23-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COUNTY
 5 PROSECUTING ATTORNEY MAY NOT BE EMPLOYED BY THE BOARD OF
 6 SUPERVISORS AS SUCH FULL-TIME ATTORNEY; AND FOR RELATED
 7 PURPOSES.

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

9 SECTION 1. Section 19-3-47, Mississippi Code of 1972, is
 10 amended as follows:

11 19-3-47. (1) (a) The board of supervisors shall have the
 12 power, in its discretion, to employ counsel by the year at an
 13 annual salary at an amount that it deems proper, not to exceed the
 14 maximum annual amount authorized by law for payment to a member of
 15 the board.

16 (b) The board of supervisors shall have the power, in
 17 its discretion, to employ counsel in all civil cases in which the
 18 county is interested, including eminent domain proceedings, the
 19 examination and certification of title to property the county is
 20 acquiring and in criminal cases against a county officer for
 21 malfeasance or dereliction of duty in office, when by the criminal
 22 conduct of the officer the county may be liable to be affected
 23 pecuniarily, with the counsel to conduct the proceeding instead of
 24 the district attorney, or in conjunction with him, and to pay the
 25 counsel out of the county treasury or the road fund that may be
 26 involved reasonable compensation, or if counsel so employed is
 27 retained on an annual basis as provided in this subsection,
 28 reasonable additional compensation for his services.

29 (c) The board of supervisors shall have the power, in
30 its discretion, to pay reasonable compensation to attorneys who
31 may be employed by it in the matter of the issuance of bonds and
32 the drafting of orders and resolutions in connection therewith.
33 In no instance shall the attorney's fee for the services exceed
34 the following amounts, to wit:

35 One percent (1%) of the first Five Hundred Thousand Dollars
36 (\$500,000.00) of any one (1) bond issue; one-half percent (1/2%)
37 of the amount of the issue in excess of Five Hundred Thousand
38 Dollars (\$500,000.00) but not more than One Million Dollars
39 (\$1,000,000.00); and one-fourth percent (1/4%) of the amount of
40 the issue in excess of One Million Dollars (\$1,000,000.00). The
41 limitations imposed in this paragraph shall not apply to any bond
42 issue for which a declaration to issue the bonds has heretofore
43 been adopted by proper resolution.

44 (d) This subsection shall not in anyway amend or
45 repeal or otherwise affect subsection (2) of this section, but
46 this subsection shall remain in full force and effect.

47 (2) The board of supervisors of any county, in addition to
48 the authority conferred upon it in subsection (1) of this section,
49 may employ, in its discretion, a firm of attorneys to represent it
50 as its regular attorneys on the same terms, conditions and
51 compensation as provided for employment of an attorney as its
52 regular attorney. However, there shall not be both an attorney
53 and a firm of attorneys employed at the same time as the regular
54 attorney for the board.

55 (3) * * * The board of supervisors of any county, as an
56 alternative to the authority conferred upon it in subsections (1)
57 and (2) of this section, may employ * * *, in its discretion, an
58 attorney as a full-time employee of the county, subject to the
59 following conditions:

60 (a) The attorney shall maintain an office in the county
61 courthouse or other county-owned building and shall represent the

62 board of supervisors and all county agencies responsible to the
63 board;

64 (b) The attorney shall be employed by the board of
65 supervisors in the matter of the issuance of all bonds of the
66 county and the drafting of resolutions in connection therewith,
67 and shall represent the board in all state and federal courts.
68 Attorney's fees for the services which otherwise would have been
69 paid to an attorney under paragraph (1)(c) of this section shall
70 be paid into the county general fund and used to defray the salary
71 of the attorney and his necessary office expenses;

72 (c) During his employment by the county, the attorney
73 shall not engage otherwise in the practice of civil or criminal
74 law and shall not be associated with any other attorney or firm of
75 attorneys;

76 (d) The board of supervisors shall have the power, in
77 its discretion, to pay the attorney an annual salary not to exceed
78 the maximum annual salary authorized by law to be paid to the
79 county judge of that county; and

80 (e) The board of supervisors may authorize, in its
81 discretion, the employment of special counsel to assist the
82 counsel employed pursuant to this subsection, provided that the
83 board shall determine and spread on its minutes that the
84 employment of the special counsel is necessary and in the best
85 interest of the county and setting forth the duties or
86 responsibilities assigned to the special counsel.

87 SECTION 2. Section 19-23-15, Mississippi Code of 1972, is
88 amended as follows:

89 19-23-15. Except in any county in which the board of
90 supervisors employs an attorney as a full-time employee of the
91 county under Section 19-3-47(3), the county prosecuting attorney
92 may be employed by the supervisors as the attorney for the board
93 of supervisors, and may be paid the additional salary otherwise
94 provided by law for the board's attorney, in addition to the

95 salary of the county attorney fixed for services as county
96 prosecuting attorney.

97 SECTION 3. This act shall take effect and be in force from
98 and after October 1, 2001.