

By: Representatives Ryals, Baker, Barbour,
Eakes, Hudson, Mayo, Rushing, Whittington

To: Fees and Salaries of
Public Officers;
Appropriations

HOUSE BILL NO. 1436

1 AN ACT TO AMEND SECTION 25-3-35, MISSISSIPPI CODE OF 1972, TO
2 INCREASE THE SALARY OF DISTRICT ATTORNEYS; TO BRING FORWARD
3 SECTIONS 25-31-8, 25-31-10, 25-31-11, 25-31-13, 25-31-15,
4 25-31-17, 25-31-19, 25-31-21, 25-31-23, 25-31-25, 25-31-27,
5 25-31-29, 25-31-31, 25-31-33, 25-31-35, 25-31-36 AND 25-31-39,
6 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE POWERS AND DUTIES
7 OF DISTRICT ATTORNEYS; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 25-3-35, Mississippi Code of 1972, is
10 amended as follows:

11 25-3-35. (1) The annual salaries of the following judges
12 are fixed as follows, to begin at the commencement of the next
13 term of office immediately succeeding the existing term:

- 14 Chief Justice of the Supreme Court..... \$104,900.00
- 15 Presiding Justice of the Supreme Court..... 102,900.00
- 16 Associate Justices of the Supreme Court, each..... 102,300.00

17 However, in addition to their present official duties, there
18 are imposed upon the Supreme Court Justices the extra duties of
19 making a special study of existing laws and reporting to each
20 regular session of the Legislature such constructive suggestions
21 as they may deem necessary for the improvement of the
22 administration of justice, and of advising and counseling with the
23 State Librarian in the selection of law books for purchase and use
24 in the State Law Library, advising with the librarian thereof upon
25 the removal from the library of any books which may be the least
26 frequently used, and for the placing of same in a convenient
27 location so as to provide additional space for such books and
28 other current publications which may be more frequently used or

29 called for. For such extra services each justice, from and after
30 June 17, 1999, shall receive a sum sufficient when added to the
31 present salaries of the justices to aggregate One Hundred Four
32 Thousand Nine Hundred Dollars (\$104,900.00) for the Chief Justice,
33 One Hundred Two Thousand Nine Hundred Dollars (\$102,900.00) for
34 the Presiding Justice, and One Hundred Two Thousand Three Hundred
35 Dollars (\$102,300.00) for Associate Justices, per annum. As each
36 existing term expires and the above-captioned salaries become
37 effective in due course, the extra duties and compensation
38 provided for shall cease.

39 (2) The annual salaries of the judges of the Court of
40 Appeals of Mississippi are fixed as follows:

41 Chief Judge of the Court of Appeals..... \$ 98,300.00
42 Associate Judges of the Court of Appeals, each..... 95,500.00

43 (3) The annual salaries of the chancery and circuit court
44 judges are fixed as follows:

45 Chancery Judges, each..... \$94,700.00
46 Circuit Judges, each..... 94,700.00

47 In addition to their present official duties, there are
48 imposed upon the chancery and circuit court judges the extra
49 duties of making a special study of existing laws relating to
50 trial courts and reporting to the Supreme Court of the State of
51 Mississippi such constructive suggestions as they may deem
52 necessary for the improvement of the administration of justice,
53 which shall be recommended to the Legislature by the Supreme Court
54 in the manner provided by law. The judges shall advise and
55 supervise in the purchase of law books for the libraries of each
56 district, and shall study and evaluate the inventory of books and
57 facilities now existing in the libraries of each district to
58 effect the removal and relocation of obsolete publications so as
59 to provide additional space for those books and current
60 publications more frequently used. The judges shall study the
61 existing rules promulgated by the circuit and chancery court

62 judicial associations governing the operation of chancery and
63 circuit courts, and revise the same pursuant to existing laws.
64 For such extra services each judge, from and after June 17, 1999,
65 shall receive a sum sufficient when added to the present salaries
66 of the judges to aggregate Ninety-four Thousand Seven Hundred
67 Dollars (\$94,700.00) per annum for each judge. Upon the
68 expiration of the existing term, the above-captioned salaries
69 become effective in due course, and the extra duties and
70 compensation provided for shall cease.

71 (4) The Supreme Court shall prepare a payroll for chancery
72 judges and circuit judges and submit such payroll to the
73 Department of Finance and Administration.

74 (5) The annual salary of the full-time district attorneys
75 shall be Ninety-four Thousand Seven Hundred Dollars (\$94,700.00).

76 (6) The annual salary of the full-time legal assistants
77 shall be not less than Fifteen Thousand Dollars (\$15,000.00) nor
78 more than Sixty-seven Thousand Five Hundred Dollars (\$67,500.00),
79 as established by the district attorney.

80 SECTION 2. Section 25-31-8, Mississippi Code of 1972, is
81 brought forward as follows:

82 25-31-8. From and after July 1, 1979, in all circuit court
83 districts in this state existing now or hereafter created, the
84 district attorney shall receive from sums appropriated for such
85 purpose from the General Fund or any special fund of the State of
86 Mississippi, an office operating allowance for the necessary
87 expenses of operating the office of the district attorney,
88 including stenographic help, and other items and expenditures
89 necessary and incident to the investigation of criminal cases, the
90 general expenses of the office of the investigation of criminal
91 cases, the general expenses of the office of the district attorney
92 for preparing and/or trying felony cases and all other cases
93 requiring the services of the district attorney, the sum of
94 Twenty-six Thousand Dollars (\$26,000.00) for each district, and an

95 additional Three Thousand Five Hundred Dollars (\$3,500.00) for
96 each assistant authorized by Section 25-31-5(1) as of January 1,
97 1996. All expenditures made from said office operating allowances
98 shall be upon written requisition of the duly elected district
99 attorney to the State Auditor, as otherwise provided by law. The
100 district attorney may delegate to the board of supervisors of any
101 county in his district the responsibility and authority to employ
102 and set the salary of not more than one (1) employee for the
103 office of such district attorney, such salary to be paid as other
104 expenditures are paid from the funds provided by this section.
105 Such employee shall be deemed to be appointed and employed by the
106 board of supervisors and the salary shall not be deemed to be a
107 pecuniary benefit provided by the district attorney's office.

108 SECTION 3. Section 25-31-10, Mississippi Code of 1972, is
109 brought forward as follows:

110 25-31-10. (1) Any district attorney may appoint a full-time
111 criminal investigator.

112 (2) The district attorneys of the Third, Fifth, Ninth,
113 Tenth, Eleventh, Twelfth, Fifteenth, Sixteenth, Seventeenth and
114 Twentieth Circuit Court Districts may appoint one (1) additional
115 full-time criminal investigator for a total of two (2) full-time
116 criminal investigators.

117 (3) The district attorneys of the First, Second, Fourth and
118 Seventh and Nineteenth Circuit Court Districts may appoint two (2)
119 additional full-time criminal investigators for a total of three
120 (3) full-time criminal investigators.

121 (4) No district attorney or assistant district attorney
122 shall accept any private employment, civil or criminal, in any
123 matter investigated by such criminal investigators.

124 (5) The full and complete compensation for all public duties
125 rendered by said criminal investigators shall be not more than
126 Forty-five Thousand Dollars (\$45,000.00) per annum, to be
127 determined at the discretion of the district attorney based upon

128 the qualifications, education and experience of the criminal
129 investigator, plus necessary travel and other expenses, to be paid
130 in accordance with Section 25-31-8. However, the maximum salary
131 under this subsection for a criminal investigator who has a law
132 degree may be supplemented by the district attorney from other
133 available funds, but not to exceed the maximum salary for a legal
134 assistant to a district attorney.

135 (6) Any criminal investigator may be designated by the
136 district attorney to attend the Law Enforcement Officers Training
137 Program set forth in Section 45-6-1 et seq., Mississippi Code of
138 1972. The total expenses associated with attendance by criminal
139 investigators at the Law Enforcement Officers Training Program
140 shall be paid out of the funds of the appropriate district
141 attorney.

142 SECTION 4. Section 25-31-11, Mississippi Code of 1972, is
143 brought forward as follows:

144 25-31-11. (1) It shall be the duty of the district attorney
145 to represent the state in all matters coming before the grand
146 juries of the counties within his district and to appear in the
147 circuit courts and prosecute for the state in his district all
148 criminal prosecutions and all civil cases in which the state or
149 any county within his district may be interested; but if two (2)
150 or more counties are adversely interested, the district attorney
151 shall not represent either. Any district attorney may also
152 institute and prosecute to final judgment or decree any case in
153 the name of the state against any person or corporation for any
154 violation of the Constitution or the laws of this state, in order
155 to enforce any penalties, fines or forfeitures imposed by law in
156 any court of his district having jurisdiction, with like effect as
157 if the suit was instituted by the Attorney General.

158 (2) The district attorney may transfer any case handled by
159 him to a county prosecuting attorney when charges in such case no
160 longer constitute a felony.

161 (3) The validity of any judgment or sentence shall not be
162 affected by the division of jurisdiction under this section, and
163 no judgment or sentence may be reversed or modified upon the basis
164 that the case was not processed according to this section.

165 (4) A county prosecuting attorney or municipal prosecuting
166 attorney may be designated by the district attorney to appear on
167 behalf of the district attorney pursuant to an agreement relating
168 to appearances in certain courts or proceedings in the county of
169 the county prosecuting attorney or in the municipality of the
170 municipal prosecuting attorney. Such agreement shall be filed
171 with the circuit court clerk of any county where such agreement
172 shall be operative. Such agreement shall be binding upon the
173 district attorney and county prosecuting attorney or municipal
174 prosecuting attorney until dissolved by either of them in writing
175 upon five (5) days' notice.

176 (5) Where any statute of this state confers a jurisdiction,
177 responsibility, duty, privilege or power upon a county attorney or
178 county prosecuting attorney, either solely, jointly or
179 alternatively with a district attorney, such county prosecuting
180 attorney shall be responsible for the prosecution, handling,
181 appearance, disposition or other duty conferred by such statute.
182 Any such provision shall not be construed to bestow such
183 responsibility, jurisdiction or power upon the district attorney
184 where there is no elected county prosecuting attorney, and any
185 such matter shall be handled pursuant to Section 19-3-49,
186 Mississippi Code of 1972.

187 (6) The district attorney or his designated assistant, or
188 the county prosecuting attorney or his designated assistant, shall
189 assist the Attorney General in appeals from his district to the
190 Mississippi Supreme Court and in other post judgment proceedings,
191 and shall appear for oral argument before the Supreme Court when
192 directed by the Supreme Court.

193 (7) The several district attorneys shall submit reports of
194 revenues and expenditures and shall submit budget requests as
195 required for State General Fund agencies. For purposes of budget
196 control, the several offices of district attorney shall be
197 considered General Fund agencies and the budget and accounts of
198 the several offices, including salaries, travel expenses, office
199 expenses and any other expenditures or revenues, shall be
200 consolidated for all districts as far as such consolidation is
201 practical.

202 All revenue or funds allocated or expended by a district
203 attorney, whether such funds are appropriated from state funds, or
204 whether such funds are received from county funds, grants or
205 otherwise, shall be reported to the Legislative Budget Office.

206 SECTION 5. Section 25-31-13, Mississippi Code of 1972, is
207 brought forward as follows:

208 25-31-13. The district attorney shall attend the
209 deliberations of the grand jury whenever he may be required by the
210 grand jury, and shall give the necessary information as to the law
211 governing each case, in order that the same may be presented in
212 the manner required by law.

213 SECTION 6. Section 25-31-15, Mississippi Code of 1972, is
214 brought forward as follows:

215 25-31-15. All accounts of a public nature, before they are
216 allowed by the circuit court, shall be presented to the district
217 attorney; and his opinion concerning the validity of the same, and
218 whether the same should be allowed or disallowed, shall be
219 obtained in writing and presented to the court.

220 SECTION 7. Section 25-31-17, Mississippi Code of 1972, is
221 brought forward as follows:

222 25-31-17. It shall be the duty of the district attorney,
223 when requested by the county depository or the board of
224 supervisors, or the clerk thereof, to give his opinion in writing
225 upon all cases concerning the revenue or expenses of the county,

226 and with the approval of the Attorney General to institute and
227 prosecute to effect, before the proper court, all persons indebted
228 to the state or any county within his district.

229 SECTION 8. Section 25-31-19, Mississippi Code of 1972, is
230 brought forward as follows:

231 25-31-19. The several district attorneys, with the Attorney
232 General, are hereby authorized to institute or defend any suits
233 arising out of any act or order of the Tax Commission or the
234 Public Service Commission affecting the laws and revenues of the
235 state, and are also clothed with such other authority as is
236 conferred upon them at common law.

237 SECTION 9. Section 25-31-21, Mississippi Code of 1972, is
238 brought forward as follows:

239 25-31-21. If, at the time of impaneling the grand jury in
240 any circuit court, the district attorney be absent or unable to
241 perform his duties or, if after impaneling of the grand jury, the
242 district attorney be absent or unable to perform his duties or be
243 disqualified, the court shall forthwith appoint some attorney at
244 law to act for the state in the place of the district attorney
245 during his absence or inability or disqualification, and the
246 person appointed shall have the power to discharge all the duties
247 of the office during the absence or inability or disqualification
248 of the district attorney, and shall receive a reasonable
249 compensation for his services, to be allowed by the court and
250 certified to the auditor, who shall issue his warrant therefor.
251 Such allowance shall be deducted from the salary of the district
252 attorney, and shall not exceed the amount of the salary of the
253 district attorney for the number of days allotted by law for the
254 term of the court at which such appointees shall act.

255 SECTION 10. Section 25-31-23, Mississippi Code of 1972, is
256 brought forward as follows:

257 25-31-23. The district attorney, at each term of the circuit
258 court, shall carefully examine the minutes of the preceding terms

259 and the execution docket, to see that executions have been issued
260 for all fines, penalties, and forfeitures adjudged at such terms,
261 and that the same have been properly proceeded on and returned,
262 and what fines, penalties, and forfeitures have been collected;
263 and he shall, at the close of every term, make out a statement of
264 all fines, forfeitures, and penalties adjudged and made final at
265 such term; and also of all fines, penalties, and forfeitures
266 collected or received by the sheriff or other officer, stating
267 each case and the amount, and shall deliver the same to the clerk
268 of the board of supervisors of the county. He shall proceed
269 against the officers and their sureties for any neglect of duty of
270 which they may be guilty.

271 SECTION 11. Section 25-31-25, Mississippi Code of 1972, is
272 brought forward as follows:

273 25-31-25. When it may be necessary and proper for the
274 enforcement or collection of any judgment or debt in favor of the
275 state, or any officer thereof in his official capacity, or of any
276 county, the district attorney with the approval of the Attorney
277 General shall institute and prosecute, in behalf of the creditor,
278 a suit or suits to set aside and annul any conveyance or other
279 device fraudulently made by the debtor, or any one for him, to
280 hinder, delay, or defraud the creditor.

281 SECTION 12. Section 25-31-27, Mississippi Code of 1972, is
282 brought forward as follows:

283 25-31-27. No district attorney of this state, without the
284 consent in writing of the Attorney General, shall institute or
285 prosecute any civil suit for a violation of the anti-trust
286 statutes of this state; and no court shall take cognizance of any
287 such suit without such written consent of the Attorney General.

288 SECTION 13. Section 25-31-29, Mississippi Code of 1972, is
289 brought forward as follows:

290 25-31-29. The district attorneys of the several circuit
291 court districts in the State of Mississippi shall furnish the

292 superintendent of the Mississippi State Penitentiary and the
293 Probation and Parole Board, within fifteen (15) days after
294 adjournment of each term of court, a written report on each person
295 sentenced by the court for a term in the State Penitentiary,
296 showing therein a summary of facts of the case for which he is
297 serving sentence, pertinent circumstances of his life, the
298 antecedents of the violation of the law because of which he has
299 been committed to the Penitentiary, and his prior training and
300 employment as available to the district attorney at the time of
301 conviction, including prior convictions, results of mental
302 examinations, and conditions under which arrest was made.

303 SECTION 14. Section 25-31-31, Mississippi Code of 1972, is
304 brought forward as follows:

305 25-31-31. (1) In any circuit court district bordering on
306 the Gulf Coast wherein U.S. Highway 90 and U.S. Highway 49
307 intersect, there is hereby created and established the Office of
308 Criminal Records of such district or districts, the affairs of
309 which office shall be managed and controlled by a custodian to be
310 appointed by the senior circuit judge of the district or
311 districts, said appointment to be approved by the district
312 attorney of said district or districts. Said custodian shall be
313 directly responsible to the district attorney and may be removed
314 only by the unanimous consent of the senior circuit judge and the
315 district attorney, and in case of a controversy between said
316 senior circuit judge and district attorney as to the removal of
317 said custodian, then the circuit clerk of said district or
318 districts shall decide the issue.

319 (2) It shall be the duty of said custodian to perform the
320 duties of maintaining all records of outstanding capiases issued
321 on indictments returned in the circuit court of said district or
322 districts, and to assist the district attorney in the collections
323 of all fines and forfeitures due, in accordance with the duties
324 imposed upon the district attorney's office in Section 25-31-23.

325 The custodian shall be an adult resident citizen of said district
326 or districts, and shall in addition to other duties imposed herein
327 be required to assist in the preparation of the grand jury
328 dockets, the record for extradition of criminals throughout the
329 State of Mississippi, the coordination of law enforcement problems
330 by and between the sheriffs' offices and the various
331 municipalities, constables, military police, and other peace
332 officers of said district or districts, and to assist all said
333 peace officers, under the direction of the duly elected district
334 attorney of said district or districts, and the county attorneys
335 thereof in investigation of criminal cases and the coordination of
336 the work of investigation between local, state, and federal
337 officers.

338 (3) It shall be the duty of the person so appointed to assist
339 in the orderly transfer under the direction of the district
340 attorney's office of all criminal records whenever there shall be
341 a change in administration in the sheriffs' offices so as to
342 effect the continuity of the prosecution on the part of the State
343 of Mississippi, and to continue the pursuit of those persons
344 charged with crimes within the said district or districts who have
345 not been apprehended and returned for prosecution and punishment.

346 (4) The annual salary of such custodian shall be fixed by a
347 majority of the boards of supervisors of the counties composing
348 such district or districts and shall not exceed the annual salary
349 allowed to criminal investigators in the county, payable monthly
350 from the general fund of each county composing such district or
351 districts in proportion to the amount of criminal business and
352 uniform reciprocal support cases originating in each county. The
353 boards of supervisors may pay such other expenses to effectuate
354 the purposes of this section as they may deem necessary to public
355 justice. Said expenses shall be upon requisition of the district
356 attorney, payable in the discretion of the boards.

357 (5) It is the purpose and intent of this section to enable
358 the collection of fines and forfeitures, as well as to coordinate
359 the orderly investigation, apprehension, prosecution, sentence,
360 and punishment of those persons charged with crimes within such
361 district or districts.

362 (6) The records compiled by the office created hereunder
363 shall be the property of the district and shall be transferred by
364 the district attorney to his successor in office.

365 SECTION 15. Section 25-31-33, Mississippi Code of 1972, is
366 brought forward as follows:

367 25-31-33. The board of supervisors of any county having a
368 population in excess of two hundred thousand (200,000) according
369 to the federal decennial census of 1970 shall contribute a sum
370 equal to Four Thousand Five Hundred Dollars (\$4,500.00) per year,
371 payable monthly, to supplement the salary of the district attorney
372 of that county, provided that he serves full time; and shall
373 contribute a sum equal to Three Thousand Dollars (\$3,000.00) per
374 year, payable monthly, per full-time legal assistant to supplement
375 the salary of each full-time legal assistant to the district
376 attorney of that county.

377 The board of supervisors of any Class 1 county bordering on
378 the Gulf of Mexico and having two (2) judicial districts shall
379 contribute a sum equal to Four Thousand Five Hundred Dollars
380 (\$4,500.00) per year, payable monthly, to supplement the salary of
381 the district attorney of that county provided that he serves full
382 time; and shall contribute a sum equal to Five Thousand Dollars
383 (\$5,000.00) per year, payable monthly, to supplement the salary of
384 each full-time legal assistant to the district attorney of that
385 county.

386 SECTION 16. Section 25-31-35, Mississippi Code of 1972, is
387 brought forward as follows:

388 25-31-35. (1) Except as otherwise provided in subsection
389 (2) of this section, it shall be unlawful and shall constitute a

390 high misdemeanor for any district attorney to hold himself out to
391 the general public or otherwise as being engaged in the private
392 practice of law, whether or not he anticipates receiving any form
393 of remuneration from his clients or any person seeking his advice.
394 Any district attorney who shall be found guilty of violation of
395 this provision shall be removed from office by the circuit judge
396 of the county where such violation occurred.

397 (2) Any person not serving as a legal assistant to the
398 district attorney who is appointed by the Governor to serve as
399 district attorney to fill a vacancy occurring in such office until
400 such office shall be filled by a special or regular election as
401 provided by Sections 23-15-193, 23-15-833 and 23-15-843 shall be
402 allowed to engage in the private practice of law while holding the
403 office of district attorney pursuant to such appointment.

404 SECTION 17. Section 25-31-36, Mississippi Code of 1972, is
405 brought forward as follows:

406 25-31-36. (1) Except as otherwise provided herein, no
407 district attorney shall engage in the private practice of law.
408 However, district attorneys may continue to practice for a period
409 of time, not to exceed six (6) months from the date of taking
410 office, in any of the courts so far as to enable them to bring to
411 a conclusion civil cases actually pending in which such district
412 attorneys were employed when they were appointed or elected.

413 (2) Any person not serving as a legal assistant to the
414 district attorney who is appointed by the Governor to serve as
415 district attorney to fill a vacancy occurring in such office until
416 such office shall be filled by a special or regular election as
417 provided by Sections 23-15-193, 23-15-833 and 23-15-843 shall be
418 allowed to engage in the private practice of law while holding the
419 office of district attorney pursuant to such appointment.

420 SECTION 18. Section 25-31-39, Mississippi Code of 1972, is
421 brought forward as follows:

422 25-31-39. There shall be no part-time district attorneys or
423 part-time legal assistants to district attorneys; however, any
424 person not serving as a legal assistant to the district attorney
425 who is appointed by the Governor to serve as district attorney to
426 fill a vacancy occurring in such office until such office shall be
427 filled by a special or regular election as provided by Sections
428 23-15-193, 23-15-833 and 23-15-843 shall be allowed to engage in
429 the private practice of law while holding the office of district
430 attorney pursuant to such appointment.

431 SECTION 19. The Attorney General of the State of Mississippi
432 shall submit this act, immediately upon approval by the Governor,
433 or upon approval by the Legislature subsequent to a veto, to the
434 Attorney General of the United States or to the United States
435 District Court for the District of Columbia in accordance with the
436 provisions of the Voting Rights Act of 1965, as amended and
437 extended.

438 SECTION 20. This act shall take effect and be in force from
439 and after July 1, 2001, if it is effectuated on or before that
440 date under Section 5 of the Voting Rights Act of 1965, as amended
441 and extended. If it is effectuated under Section 5 of the Voting
442 Rights Act of 1965, as amended and extended, after July 1, 2001,
443 this act shall take effect and be in force from and after the
444 first day of the month immediately succeeding the month during
445 which it is effectuated under Section 5 of the Voting Rights Act
446 of 1965, as amended and extended.