

By: Representatives Martinson, Mitchell

To: Fees and Salaries of
Public Officers; County
Affairs

HOUSE BILL NO. 1620

1 AN ACT TO AMEND SECTION 9-1-43, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT ALL SALARIES, FEES AND OTHER INCOME RECEIVED AS
3 COMPENSATION BY CHANCERY CLERKS AND CIRCUIT CLERKS FROM ANY SOURCE
4 MAY NOT EXCEED THE ANNUAL SALARY ESTABLISHED FOR THE GOVERNOR; TO
5 PROVIDE THAT ALL SALARIES, FEES AND INCOME THAT THE CHANCERY CLERK
6 OR THE CIRCUIT CLERK RECEIVES AND ALL ACCOUNTS AND MONIES
7 MAINTAINED BY THE CHANCERY CLERK OR THE CIRCUIT CLERK SHALL BE
8 MAINTAINED IN BANK ACCOUNTS IN AN APPROVED COUNTY DEPOSITORY; AND
9 FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 9-1-43, Mississippi Code of 1972, is
12 amended as follows:

13 9-1-43. (1) After making deductions for employee salaries
14 and related salary expenses, and expenses allowed as deductions by
15 Schedule C of the Internal Revenue Code, no * * * chancery clerk
16 or circuit clerk of any county in the state shall receive
17 salaries, fees or other income as compensation for the chancery
18 clerk's or circuit clerk's services in excess of the annual salary
19 established for the Governor under Section 25-3-31. All such
20 salaries, fees and other income received by a chancery clerk or a
21 circuit clerk from the county, third parties and all other sources
22 related to the clerk's employment by the county in any capacity
23 are included in the salary limitation established in this
24 subsection. All such salaries, fees and other income received by
25 the * * * chancery or circuit clerks that is in excess of the
26 salary limitation shall be deposited by such clerk into the county
27 general fund on or before April 15 for the preceding calendar
28 year. If the chancery clerk or circuit clerk serves less than one
29 (1) year, then he shall not receive as compensation any salary,
30 fees or other income in excess of that portion of the salary



31 limitation that can be attributed to his time in office on a pro
32 rata basis. Upon leaving office, income earned by any clerk in
33 his last full year of office but not received until after his last
34 full year of office shall not be included in determining the
35 salary limitation of the successor clerk. There shall be exempted
36 from the provisions of this subsection any monies or commissions
37 from private or governmental sources which * * * are to be held by
38 the chancery or circuit clerk in a trust or custodial capacity as
39 prescribed in subsections (4) and (5) of this section.

40 (2) It shall be unlawful for any chancery clerk or circuit
41 clerk to use salaries, fees or other income in excess of the
42 annual salary established for the Governor under Section 25-3-31,
43 to pay the salaries or actual or necessary expenses of employees
44 who are related to such clerk by blood or marriage within the
45 first degree of kinship according to the civil law method of
46 computing kinship as provided in Sections 1-3-71 and 1-3-73.
47 However, the prohibition of this subsection shall not apply to any
48 individual who was an employee of the clerk's office prior to the
49 date his or her relative was elected as chancery or circuit clerk.
50 The spouse and/or any children of the chancery clerk or circuit
51 clerk employed in the office of the chancery clerk may be paid a
52 salary; however, the combined annual salaries of the clerk, spouse
53 and any child of the clerk may not exceed an amount equal to the
54 salary limitation.

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

61 (4) There is created in the county depository of each county
62 a clearing account to be designated as the "chancery court clerk
63 clearing account," into which shall be deposited: (a) all such



64 monies as the clerk of the chancery court shall receive from any
65 person complying with any writ of garnishment, attachment,
66 execution or other like process authorized by law for the
67 enforcement of child support, spousal support or any other
68 judgment; (b) any portion of any fees required by law to be
69 collected in civil cases which are to pay for the service of
70 process or writs in another county; and (c) any other money as
71 shall be deposited with the court which by its nature is not, at
72 the time of its deposit, public monies, but which is to be held by
73 the court in a trust or custodial capacity in a case or proceeding
74 before the court. The clerk of the chancery court shall account
75 for all monies deposited in and disbursed from such account and
76 shall be authorized and empowered to draw and issue checks on such
77 account at such times, in such amounts and to such persons as
78 shall be proper and in accordance with law.

79 * * *

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

93 There is created in the county depository in each county a
94 clearing account to be designated as the "circuit court clerk
95 criminal clearing account," into which shall be deposited: (a)
96 all such monies as are received in criminal cases in the circuit



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

109 * * *

110 (6) The chancery clerk and the circuit clerk shall establish
111 and maintain a cash journal for recording cash receipts from
112 private or government sources for furnishing copies of any papers
113 of record or on file, or for rendering services as a notary
114 public, or other fees wherein the total fee for the transaction is
115 Ten Dollars (\$10.00) or less. The cash journal entry shall
116 include the date, amount and type of transaction, and the clerk
117 shall not be required to issue a receipt to the person receiving
118 such services. The State Auditor shall not take exception to the
119 furnishing of copies or the rendering of services as a notary by
120 any clerk free of charge.

121 In any county having two (2) judicial districts, whenever the
122 chancery clerk serves as deputy to the circuit clerk in one (1)
123 judicial district and the circuit clerk serves as deputy to the
124 chancery clerk in the other judicial district, the chancery clerk
125 may maintain a cash journal, separate from the cash journal
126 maintained for chancery clerk receipts, for recording the cash
127 receipts paid to him as deputy circuit clerk, and the circuit
128 clerk may maintain a cash journal, separate from the cash journal
129 maintained for circuit clerk receipts, for recording the cash



130 receipts paid to him as deputy chancery clerk. The cash receipts
131 collected by the chancery clerk in his capacity as deputy circuit
132 clerk and the cash receipts collected by the circuit clerk in his
133 capacity as deputy chancery clerk shall be subject to the salary
134 limitation prescribed under subsection (1)of this section.

135 (7) All salaries, fees and income that the chancery clerk or
136 the circuit clerk receives and all accounts and monies maintained
137 by the chancery clerk or the circuit clerk under this section
138 shall be maintained in bank accounts in an approved county
139 depository. Any clerk who knowingly shall fail to deposit funds
140 or otherwise violate the provisions of this section shall be
141 guilty of a misdemeanor in office and, upon conviction thereof,
142 shall be fined in an amount not to exceed double the amount that
143 he failed to deposit, or imprisoned for not to exceed six (6)
144 months in the county jail, or be punished by both such fine and
145 imprisonment.

146 **SECTION 2.** The Attorney General of the State of Mississippi
147 shall submit this act, immediately upon approval by the Governor,
148 or upon approval by the Legislature subsequent to a veto, to the
149 Attorney General of the United States or to the United States
150 District Court for the District of Columbia in accordance with the
151 provisions of the Voting Rights Act of 1965, as amended and
152 extended.

153 **SECTION 3.** This act shall take effect and be in force from
154 and after January 1, 2003, or the date it is effectuated under
155 Section 5 of the Voting Rights Act of 1965, as amended and
156 extended, whichever is the later date.

