HOUSE BILL NO. 260

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

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

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

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

(b) The board of supervisors shall have the power, in its discretion, to employ counsel in all civil cases in which the county is interested, including eminent domain proceedings, the examination and certification of title to property the county is acquiring and in criminal cases against a county officer for malfeasance or dereliction of duty in office, when by the criminal conduct of the officer the county may be liable to be affected pecuniarily, with the counsel to conduct the proceeding instead of the district attorney, or in conjunction with him, and to pay the counsel out of the county treasury or the road fund that may be involved reasonable compensation, or if counsel so employed is retained on an annual basis as provided in this subsection, reasonable additional compensation for his services.
(c) The board of supervisors shall have the power, in its discretion, to pay reasonable compensation to attorneys who may be employed by it in the matter of the issuance of bonds and the drafting of orders and resolutions in connection therewith. In no instance shall the attorney's fee for the services exceed the following amounts, to wit:

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

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

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

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

(a) The attorney shall maintain an office in the county courthouse or other county-owned building and shall represent the
board of supervisors and all county agencies responsible to the board;

(b) The attorney shall be employed by the board of supervisors in the matter of the issuance of all bonds of the county and the drafting of resolutions in connection therewith, and shall represent the board in all state and federal courts.

Attorney's fees for the services which otherwise would have been paid to an attorney under paragraph (1)(c) of this section shall be paid into the county general fund and used to defray the salary of the attorney and his necessary office expenses;

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

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

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

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

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

SECTION 3. This act shall take effect and be in force from
and after October 1, 2003.