

By: Representatives Coleman (29th), Clark,
Blackmon, Moak

To: Judiciary A;
Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 955

1 AN ACT TO AMEND SECTION 9-1-36, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE OFFICE FUNDING FOR CIRCUIT JUDGES AND CHANCELLORS WHO
3 DO NOT HAVE A PRIMARY OFFICE PROVIDED BY THE COUNTY; TO AMEND
4 SECTION 19-3-41, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 9-1-36, Mississippi Code of 1972, is
8 amended as follows:

9 9-1-36. (1) Each circuit judge and chancellor shall receive
10 an office operating allowance for the expenses of operating the
11 office of such judge, including retaining a law clerk, legal
12 research, stenographic help, stationery, stamps, furniture, office
13 equipment, telephone, office rent and other items and expenditures
14 necessary and incident to maintaining the office of judge. Such
15 allowance shall be paid only to the extent of actual expenses
16 incurred by any such judge as itemized and certified by such judge
17 to the Supreme Court and then in an amount of Four Thousand
18 Dollars (\$4,000.00) per annum; however, such judge may expend sums
19 in excess thereof from the compensation otherwise provided for his
20 office. No part of this expense or allowance shall be used to pay
21 an official court reporter for services rendered to said court.

22 (2) In addition to the amounts provided for in subsection
23 (1), there is hereby created a separate office allowance fund for
24 the purpose of providing support staff to judges. This fund shall
25 be managed by the Administrative Office of Courts.

26 (3) Each judge who desires to employ support staff after
27 July 1, 1994, shall make application to the Administrative Office
28 of Courts by submitting to the Administrative Office of Courts a

29 proposed personnel plan setting forth what support staff is deemed
30 necessary. Such plan may be submitted by a single judge or by any
31 combination of judges desiring to share support staff. In the
32 process of the preparation of the plan, the judges, at their
33 request, may receive advice, suggestions, recommendations and
34 other assistance from the Administrative Office of Courts. The
35 Administrative Office of Courts must approve the positions, job
36 descriptions and salaries before the positions may be filled. The
37 Administrative Office of Courts shall not approve any plan which
38 does not first require the expenditure of the funds in the support
39 staff fund for compensation of any of the support staff before
40 expenditure is authorized of county funds for that purpose. Upon
41 approval by the Administrative Office of Courts, the judge or
42 judges may appoint the employees to the position or positions, and
43 each employee so appointed will work at the will and pleasure of
44 the judge or judges who appointed him but will be employees of the
45 Administrative Office of Courts. Upon approval by the
46 Administrative Office of Courts, the appointment of any support
47 staff shall be evidenced by the entry of an order on the minutes
48 of the court. When support staff is appointed jointly by two (2)
49 or more judges, the order setting forth any appointment shall be
50 entered on the minutes of each participating court.

51 (4) The Administrative Office of Courts shall develop and
52 promulgate minimum qualifications for the certification of court
53 administrators. Any court administrator appointed on or after
54 October 1, 1996, shall be required to be certified by the
55 Administrative Office of Courts.

56 (5) Support staff shall receive compensation pursuant to
57 personnel policies established by the Administrative Office of
58 Courts; however, from and after July 1, 1994, the Administrative
59 Office of Courts shall allocate from the support staff fund an
60 amount of Forty Thousand Dollars (\$40,000.00) per fiscal year
61 (July 1 through June 30) per judge for whom support staff is

62 approved for the funding of support staff assigned to a judge or
63 judges. Any employment pursuant to this subsection shall be
64 subject to the provisions of Section 25-1-53.

65 The Administrative Office of Courts may approve expenditure
66 from the fund for additional equipment for support staff appointed
67 pursuant to this section in any year in which the allocation per
68 judge is sufficient to meet the equipment expense after provision
69 for the compensation of the support staff.

70 (6) For the purposes of this section, the following terms
71 shall have the meaning ascribed herein unless the context clearly
72 requires otherwise:

73 (a) "Judges" means circuit judges and chancellors, or
74 any combination thereof;

75 (b) "Support staff" means court administrators, law
76 clerks, legal research assistants or secretaries, or any
77 combination thereof, but shall not mean school attendance
78 officers;

79 (c) "Compensation" means the gross salary plus all
80 amounts paid for benefits or otherwise as a result of employment
81 or as required by employment; provided, however, that only salary
82 earned for services rendered shall be reported and credited for
83 Public Employees' Retirement System purposes. Amounts paid for
84 benefits or otherwise, including reimbursement for travel
85 expenses, shall not be reported or credited for retirement
86 purposes.

87 (7) Title to all tangible property, excepting stamps,
88 stationery and minor expendable office supplies, procured with
89 funds authorized by this section, shall be and forever remain in
90 the State of Mississippi to be used by the circuit judge or
91 chancellor during the term of his office and thereafter by his
92 successors.

93 (8) Any circuit judge or chancellor who did not have a
94 primary office provided by the county on March 1, 1988, shall be

95 allowed an additional Four Thousand Dollars (\$4,000.00) per annum
96 to defray the actual expenses incurred by such judge or chancellor
97 in maintaining an office; however, any circuit judge or chancellor
98 who had a primary office provided by the county on March 1, 1988,
99 and who vacated the office space after such date for a legitimate
100 reason, as determined by the Department of Finance and
101 Administration, shall be allowed the additional office expense
102 allowance provided under this subsection. The county in which a
103 circuit judge or chancellor sits is authorized to provide funds
104 from any available source to assist in defraying the actual
105 expenses to maintain an office.

106 (9) The Supreme Court, through the Administrative Office of
107 Courts, shall submit to the Department of Finance and
108 Administration the itemized and certified expenses for office
109 operating allowances that are directed to the court pursuant to
110 this section.

111 (10) The Supreme Court, through the Administrative Office of
112 Courts, shall have the power to adopt rules and regulations
113 regarding the administration of the office operating allowance
114 authorized pursuant to this section.

115 **SECTION 2.** Section 19-3-41, Mississippi Code of 1972, is
116 amended as follows:

117 19-3-41. (1) The boards of supervisors shall have within
118 their respective counties full jurisdiction over roads, ferries
119 and bridges, except as otherwise provided by Section 170 of the
120 Constitution, and all other matters of county police. They shall
121 have jurisdiction over the subject of paupers. They shall have
122 power to levy such taxes as may be necessary to meet the demands
123 of their respective counties, upon such persons and property as
124 are subject to state taxes for the time being, not exceeding the
125 limits that may be prescribed by law. They shall cause to be
126 erected and kept in good repair, in their respective counties, a
127 good and convenient courthouse and a jail. A courthouse shall be

128 erected and kept in good repair in each judicial district and a
129 jail may be erected in each judicial district. They may close a
130 jail in either judicial district, at their discretion, where one
131 (1) jail will suffice. They shall have the power, in their
132 discretion, to prohibit or regulate the sale and use of
133 firecrackers, roman candles, torpedoes, skyrockets, and any and
134 all explosives commonly known and referred to as fireworks,
135 outside the confines of municipalities. They shall have and
136 exercise such further powers as are or shall be conferred upon
137 them by law. They shall have authority to negotiate with and
138 contract with licensed real estate brokers for the purpose of
139 advertising and showing and procuring prospective purchasers for
140 county-owned real property offered for sale in accordance with the
141 provisions of Section 19-7-3.

142 (2) The board of supervisors of any county, in its
143 discretion, may contract with a private attorney or private
144 collection agent or agency to collect any type of delinquent
145 payment owed to the county including, but not limited to, past due
146 fees and fines, delinquent ad valorem taxes on personal property
147 and delinquent ad valorem taxes on mobile homes that are entered
148 as personal property on the mobile home rolls. Any such contract
149 may provide for payment contingent upon successful collection
150 efforts or payment based upon a percentage of the delinquent
151 amount collected; however, the entire amount of all delinquent
152 payments collected shall be remitted to the county and shall not
153 be reduced by any collection costs or fees. There shall be due to
154 the county from any person whose delinquent payment is collected
155 pursuant to a contract executed under this subsection an amount,
156 in addition to the delinquent payment, of not to exceed
157 twenty-five percent (25%) of the delinquent payment for
158 collections made within this state and not to exceed fifty percent
159 (50%) of the delinquent payment for collections made outside of
160 this state. However, in the case of delinquent fees owed to the

161 county for garbage or rubbish collection or disposal, only the
162 amount of the delinquent fees may be collected and no amount in
163 addition to the delinquent fees may be collected if the board of
164 supervisors of the county has notified the county tax collector
165 under Section 19-5-22 for the purpose of prohibiting the issuance
166 of a motor vehicle road and bridge privilege license tag to the
167 person delinquent in the payment of such fees. Any private
168 attorney or private collection agent or agency contracting with
169 the county under the provisions of this subsection shall give bond
170 or other surety payable to the county in such amount as the board
171 of supervisors deems sufficient. Any private attorney with whom
172 the county contracts under the provisions of this subsection must
173 be a member in good standing of The Mississippi Bar. Any private
174 collection agent or agency with whom the county contracts under
175 the provisions of this subsection must meet all licensing
176 requirements for doing business in the State of Mississippi.
177 Neither the county nor any officer or employee of the county shall
178 be liable, civilly or criminally, for any wrongful or unlawful act
179 or omission of any person or business with whom the county has
180 contracted under the provisions of this subsection. The
181 Mississippi Department of Audit shall establish rules and
182 regulations for use by counties in contracting with persons or
183 businesses under the provisions of this subsection.

184 (3) In addition to the authority granted under subsection
185 (2) of this section, the board of supervisors of any county, in
186 its discretion, may contract with one or more of the constables of
187 the county to collect delinquent criminal fines imposed in the
188 justice court of the county. Any such contract shall provide for
189 payment contingent upon successful collection efforts, and the
190 amount paid to a constable may not exceed twenty-five percent
191 (25%) of the amount which the constable collects. The entire
192 amount of all delinquent criminal fines collected under such a
193 contract shall be remitted by the constable to the clerk of the

194 justice court for deposit into the county general fund as provided
195 under Section 9-11-19. Any payments made to a constable pursuant
196 to a contract executed under the provisions of this section may be
197 paid only after presentation to and approval by the board of
198 supervisors of the county.

199 (4) If a county uses its own employees to collect any type
200 of delinquent payment owed to the county, then from and after July
201 1, 1999, the county may charge an additional fee for collection of
202 the delinquent payment provided the payment has been delinquent
203 for ninety (90) days. The collection fee may not exceed fifteen
204 percent (15%) of the delinquent payment if the collection is made
205 within this state and may not exceed twenty-five percent (25%) of
206 the delinquent payment if the collection is made outside this
207 state. In conducting collection of delinquent payments, the
208 county may utilize credit cards or electronic fund transfers. The
209 county may pay any service fees for the use of such methods of
210 collection from the collection fee, but not from the delinquent
211 payment.

212 (5) In addition to such authority as is otherwise granted
213 under this section, the board of supervisors of any county may
214 expend funds necessary to maintain and repair, and to purchase
215 liability insurance, tags and decals for, any personal property
216 acquired under the Federal Excess Personal Property Program that
217 is used by the local volunteer fire department.

218 (6) The board of supervisors of any county, in its
219 discretion, may expend funds to provide for training and education
220 of newly elected or appointed county officials before the
221 beginning of the term of office or employment of such officials.
222 Any expenses incurred for such purposes may be allowed only upon
223 prior approval of the board of supervisors. Any payments or
224 reimbursements made under the provisions of this subsection may be
225 paid only after presentation to and approval by the board of
226 supervisors.

227 (7) The board of supervisors of any county may expend funds
228 to purchase, maintain and repair equipment for the electronic
229 filing and storage of filings, files, instruments, documents and
230 records using microfilm, microfiche, data processing, magnetic
231 tape, optical discs, computers or other electronic process which
232 correctly and legibly stores and reproduces or which forms a
233 medium for storage, copying or reproducing documents, files and
234 records for use by one (1), all or any combination of county
235 offices, employees and officials, whether appointed or elected.

236 (8) In addition to the authority granted in this section,
237 the board of supervisors of any county may expend funds as
238 provided in Section 29-3-23(2).

239 (9) The board of supervisors of any county may perform and
240 exercise any duty, responsibility or function, may enter into
241 agreements and contracts, may provide and deliver any services or
242 assistance, and may receive, expend and administer any grants,
243 gifts, matching funds, loans or other monies, in accordance with
244 and as may be authorized by any federal law, rule or regulation
245 creating, establishing or providing for any program, activity or
246 service. The provisions of this paragraph shall not be construed
247 as authorizing any county, the board of supervisors of any county
248 or any member of a board of supervisors to perform any function or
249 activity that is specifically prohibited under the laws of this
250 state or as granting any authority in addition to or in conflict
251 with the provisions of any federal law, rule or regulation.

252 (10) The board of supervisors of any county may provide
253 funds from any available source to assist in defraying the actual
254 expenses to maintain an office as provided in Section 9-1-36. The
255 authority provided in this subsection shall apply to any office
256 regardless of ownership of such office or who may be making any
257 lease payments for such office.

258 **SECTION 3.** This act shall take effect and be in force from
259 and after its passage.