

By: Representative Green

To: Fees and Salaries of
Public Officers; County
Affairs

HOUSE BILL NO. 1208

1 AN ACT TO AMEND SECTION 25-7-9, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE FEES CHARGED BY CHANCERY CLERKS; TO AMEND SECTION
3 9-1-43, MISSISSIPPI CODE OF 1972, TO REVISE THE LIMIT ON
4 COMPENSATION OF CHANCERY AND CIRCUIT CLERKS; TO AMEND SECTION
5 25-11-125, MISSISSIPPI CODE OF 1972, TO AUTHORIZE COUNTY BOARDS OF
6 SUPERVISORS TO PAY THE REQUIRED EMPLOYER CONTRIBUTION TO THE
7 PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR ALL CIRCUIT AND CHANCERY
8 CLERKS; TO AMEND SECTION 27-105-343, MISSISSIPPI CODE OF 1972, TO
9 INCREASE THE COMPENSATION OF CHANCERY CLERKS FOR THE PERFORMANCE
10 OF THEIR DUTIES AS COUNTY TREASURERS; AND FOR RELATED PURPOSES.

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

12 SECTION 1. Section 25-7-9, Mississippi Code of 1972, is
13 amended as follows:

14 25-7-9. (1) The clerks of the chancery courts shall charge
15 the following fees:

- 16 (a) For the act of certifying copies of filed
17 documents, for each complete document..... \$ 1.00
- 18 (b) Recording deeds, wills, leases, amendments,
19 subordinations, liens, releases, cancellations, orders, decrees,
20 oaths, etc., including indexing; for the first fifteen (15) pages
21 10.00
22 Each additional page..... 1.00
23 Sectional index entries per section or subdivision.... 1.00
- 24 (c) Recording deeds of trust, for the first fifteen
25 (15) pages..... 15.00
26 Each additional page..... 1.00
27 Sectional index entries per section or subdivision.... 1.00
- 28 (d) * * * Recording oil and gas leases, cancellations,
29 assignments, etc., including indexing in general indices; for the
30 first fifteen (15) pages..... 18.00
31 Each additional page..... 1.00

32 Sectional index entries per section or subdivision.... 1.00

33 * * *

34 (e) Furnishing copies of any papers of record or on
35 file and entering marginal notations on documents of record:

36 If performed by the clerk or his employee, per page... .50

37 If performed by any other person, per page..... .25

38 (f) For each day's attendance on the board of
39 supervisors, for himself and one (1) deputy, each..... 20.00

40 (g) For other services as clerk of the board of
41 supervisors an allowance shall be made to him (payable
42 semiannually at the July and January meetings) out of the county
43 treasury, an annual sum not exceeding..... 3,000.00

44 (h) For each day's attendance on the chancery court, to
45 be approved by the chancellor:

46 For the first chancellor sitting only, clerk and two (2)
47 deputies, each..... 30.00

48 For the second chancellor sitting, clerk only..... 30.00

49 Provided that the fees herein prescribed shall be the total
50 remuneration for the clerk and his deputies for attending chancery
51 court.

52 (i) On order of the court, clerks and not more than two
53 (2) deputies may be allowed five (5) extra days for each term of
54 court for attendance upon the court to get up records.

55 (j) For public service not otherwise specifically
56 provided for, the chancery court may by order allow the clerk to
57 be paid by the county on the order of the board of supervisors, an
58 annual sum not exceeding..... 5,000.00

59 The chancery clerk shall itemize on the original document a
60 detailed fee bill of all charges due or paid for filing, recording
61 and abstracting same. No person shall be required to pay such
62 fees until same have been so itemized, but said fees may be
63 demanded before the document is recorded.

64 (2) In accordance with Uniform Chancery Court Rule 9.01 as
65 approved by Order of the Mississippi Supreme Court, the following
66 fees shall be a total fee for all services performed by the clerk
67 with respect to a complaint which shall be payable upon filing and
68 shall accrue to the chancery clerk at the time of filing. The
69 clerk or his successor in office shall perform all duties set
70 forth without additional compensation or fee to wit:

- 71 (a) Divorce to be contested..... \$75.00
- 72 (b) Divorce uncontested..... 30.00
- 73 (c) Alteration of birth or marriage certificate. 25.00
- 74 (d) Removal of minority..... 25.00
- 75 (e) Guardianship or conservatorship..... 75.00
- 76 (f) Estate of deceased, intestate..... 75.00
- 77 (g) Estate of deceased, testate..... 75.00
- 78 (h) Adoption..... 75.00
- 79 (i) Land dispute..... 75.00
- 80 (j) Injunction..... 75.00
- 81 (k) Settlement of small claim..... 30.00
- 82 (l) Contempt in child support..... 75.00
- 83 (m) Partition suit..... 75.00
- 84 (n) Any cross-complaint..... 25.00

85 Cost of process shall be borne by the issuing party.
86 Additionally, should the attorney or person filing the pleadings
87 desire the clerk to pay the cost to the sheriff for serving
88 process on one person or more, or to pay the cost of publication,
89 the clerk shall demand the actual charges therefor, at the time of
90 filing.

91 **SECTION 2.** Section 9-1-43, Mississippi Code of 1972, is
92 amended as follows:

93 9-1-43. (1) After making deductions for employee salaries
94 and related salary expenses, and expenses allowed as deductions by
95 Schedule C of the Internal Revenue Code, no office of the chancery
96 clerk or circuit clerk of any county in the state shall receive

97 fees as compensation for the chancery clerk's or circuit clerk's
98 services in excess of ninety percent (90%) of the annual salary of
99 a chancery or circuit judge. All such fees received by the office
100 of chancery or circuit clerks that are in excess of the salary
101 limitation shall be deposited by such clerk into the county
102 general fund on or before April 15 for the preceding calendar
103 year. If the chancery clerk or circuit clerk serves less than one
104 (1) year, then he shall not receive as compensation any fees in
105 excess of that portion of the salary limitation that can be
106 attributed to his time in office on a pro rata basis. Upon
107 leaving office, income earned by any clerk in his last full year
108 of office but not received until after his last full year of
109 office shall not be included in determining the salary limitation
110 of the successor clerk. There shall be exempted from the
111 provisions of this subsection any monies or commissions from
112 private or governmental sources which: (a) are to be held by the
113 chancery or circuit clerk in a trust or custodial capacity as
114 prescribed in subsections (4) and (5); or (b) are received as
115 compensation for services performed upon order of a court or board
116 of supervisors which are not required of the chancery clerk or
117 circuit clerk by statute.

118 (2) It shall be unlawful for any chancery clerk or circuit
119 clerk to use fees in excess of ninety percent (90%) of the annual
120 salary of a chancery or circuit judge, to pay the salaries or
121 actual or necessary expenses of employees who are related to such
122 clerk by blood or marriage within the first degree of kinship
123 according to the civil law method of computing kinship as provided
124 in Sections 1-3-71 and 1-3-73. However, the prohibition of this
125 subsection shall not apply to any individual who was an employee
126 of the clerk's office prior to the date his or her relative was
127 elected as chancery or circuit clerk. The spouse and/or any
128 children of the chancery clerk or circuit clerk employed in the
129 office of the chancery clerk may be paid a salary; however, the

130 combined annual salaries of the clerk, spouse and any child of the
131 clerk may not exceed an amount equal to the salary limitation.

132 (3) The chancery clerk and the circuit clerk shall be liable
133 on their official bond for the proper deposit and accounting of
134 all monies received by his office. The State Auditor shall
135 promulgate uniform accounting methods for the accounting of all
136 sources of income by the offices of the chancery and circuit
137 clerk.

138 (4) There is created in the county depository of each county
139 a clearing account to be designated as the "chancery court clerk
140 clearing account," into which shall be deposited: (a) all such
141 monies as the clerk of the chancery court shall receive from any
142 person complying with any writ of garnishment, attachment,
143 execution or other like process authorized by law for the
144 enforcement of child support, spousal support or any other
145 judgment; (b) any portion of any fees required by law to be
146 collected in civil cases which are to pay for the service of
147 process or writs in another county; and (c) any other money as
148 shall be deposited with the court which by its nature is not, at
149 the time of its deposit, public monies, but which is to be held by
150 the court in a trust or custodial capacity in a case or proceeding
151 before the court. The clerk of the chancery court shall account
152 for all monies deposited in and disbursed from such account and
153 shall be authorized and empowered to draw and issue checks on such
154 account at such times, in such amounts and to such persons as
155 shall be proper and in accordance with law.

156 The following monies paid to the chancery clerk shall be
157 subject to the salary limitation prescribed under subsection (1):
158 (a) all fees required by law to be collected for the filing,
159 recording or abstracting of any bill, petition, pleading or decree
160 in any civil case in chancery; (b) all fees collected for land
161 recordings, charters, notary bonds, certification of decrees and
162 copies of any documents; (c) all land redemption and mineral

163 documentary stamp commissions; and (d) any other monies or
164 commissions from private or governmental sources for statutory
165 functions which are not to be held by the court in a trust
166 capacity. Such fees as shall exceed the salary limitations shall
167 be maintained in a bank account in the county depository and
168 accounted for separately from those monies paid into the chancery
169 court clerk clearing account.

170 (5) There is created in the county depository in each county
171 a clearing account to be designated as the "circuit court clerk
172 civil clearing account," into which shall be deposited: (a) all
173 such monies and fees as the clerk of the circuit court shall
174 receive from any person complying with any writ of garnishment,
175 attachment, execution or any other like process authorized by law
176 for the enforcement of a judgment; (b) any portion of any fees
177 required by law or court order to be collected in civil cases;
178 (c) all fees collected for the issuance of marriage licenses; and
179 (d) any other money as shall be deposited with the court which by
180 its nature is not, at the time of its deposit, public monies but
181 which is to be held by the court in a trust or custodial capacity
182 in a case or proceeding before the court.

183 There is created in the county depository in each county a
184 clearing account to be designated as the "circuit court clerk
185 criminal clearing account," into which shall be deposited: (a)
186 all such monies as are received in criminal cases in the circuit
187 court pursuant to any order requiring payment as restitution to
188 the victims of criminal offenses; (b) any portion of any fees and
189 fines required by law or court order to be collected in criminal
190 cases; and (c) all cash bonds as shall be deposited with the
191 court. The clerk of the circuit court shall account for all
192 monies deposited in and disbursed from such account and shall be
193 authorized and empowered to draw and issue checks on such account,
194 at such times, in such amounts and to such persons as shall be
195 proper and in accordance with law; however, such monies as are

196 forfeited in criminal cases shall be paid by the clerk of the
197 circuit court to the clerk of the board of supervisors for deposit
198 in the general fund of the county.

199 The following monies paid to the circuit clerk shall be
200 subject to the salary limitation prescribed under subsection (1):
201 (a) all fees required by law to be collected for the filing,
202 recording or abstracting of any bill, petition, pleading or decree
203 in any civil action in circuit court; (b) copies of any documents;
204 and (c) any other monies or commissions from private or
205 governmental sources for statutory functions which are not to be
206 held by the court in a trust capacity.

207 (6) The chancery clerk and the circuit clerk shall establish
208 and maintain a cash journal for recording cash receipts from
209 private or government sources for furnishing copies of any papers
210 of record or on file, or for rendering services as a notary
211 public, or other fees wherein the total fee for the transaction is
212 Ten Dollars (\$10.00) or less. The cash journal entry shall
213 include the date, amount and type of transaction, and the clerk
214 shall not be required to issue a receipt to the person receiving
215 such services. The State Auditor shall not take exception to the
216 furnishing of copies or the rendering of services as a notary by
217 any clerk free of charge.

218 In any county having two (2) judicial districts, whenever the
219 chancery clerk serves as deputy to the circuit clerk in one (1)
220 judicial district and the circuit clerk serves as deputy to the
221 chancery clerk in the other judicial district, the chancery clerk
222 may maintain a cash journal, separate from the cash journal
223 maintained for chancery clerk receipts, for recording the cash
224 receipts paid to him as deputy circuit clerk, and the circuit
225 clerk may maintain a cash journal, separate from the cash journal
226 maintained for circuit clerk receipts, for recording the cash
227 receipts paid to him as deputy chancery clerk. The cash receipts
228 collected by the chancery clerk in his capacity as deputy circuit

229 clerk and the cash receipts collected by the circuit clerk in his
230 capacity as deputy chancery clerk shall be subject to the salary
231 limitation prescribed under subsection (1).

232 (7) Any clerk who knowingly shall fail to deposit funds or
233 otherwise violate the provisions of this section shall be guilty
234 of a misdemeanor in office and, upon conviction thereof, shall be
235 fined in an amount not to exceed double the amount that he failed
236 to deposit, or imprisoned for not to exceed six (6) months in the
237 county jail, or be punished by both such fine and imprisonment.

238 **SECTION 3.** Section 25-11-125, Mississippi Code of 1972, is
239 amended as follows:

240 25-11-125. The board of supervisors is hereby authorized and
241 empowered to appropriate and include in its budget for public
242 purposes a sufficient sum to pay the required employer
243 contribution to the public employees' retirement system for all
244 fee paid elected officials in judicial capacities of the county
245 and supervisors' districts, and for all circuit and chancery
246 clerks of the county. Such contributions shall be included by the
247 clerk of the board in his regular reports and remittals to the
248 executive secretary of the public employees' retirement system for
249 other county officers and regular county employees whose employer
250 contributions are not included in and paid from the annual county
251 budget.

252 **SECTION 4.** Section 27-105-343, Mississippi Code of 1972, is
253 amended as follows:

254 27-105-343. From and after the passage of this section, all
255 the duties except the duty of receiving and disbursing money that
256 were imposed by law on county treasurers shall be required to be
257 done by chancery clerks, and they shall be the custodians of all
258 the books, records, papers, and vouchers heretofore belonging to
259 county treasurers, and shall be custodians of all the promissory
260 notes, bonds, and other like property belonging to or deposited

261 with the county, and said clerks shall in all respects be liable
262 on their official bonds for the proper care of the same.

263 The duty of receipting for and disbursing all monies
264 heretofore deposited with county treasurers shall be done and
265 performed by the designated county and drainage district
266 depositories appointed in the manner provided by law; and any
267 person or corporation required to pay money into a county treasury
268 shall hereafter pay the same to a properly designated depository
269 and such depository shall issue receipts therefor in duplicate,
270 one of which shall be filed with the chancery clerk and the other
271 retained by the person or corporation making such payment, and
272 such payment when made to a designated depository shall discharge
273 the person or corporation making such payment from any further
274 liability therefor.

275 In the event there shall be no designated depository for any
276 money required to be paid into a county treasury, such payment
277 shall be made to the tax collector who shall receipt for same in
278 duplicate as required in the preceding paragraph and shall pay the
279 same over to a legally appointed depository within ten (10) days
280 after one is qualified to receive the same. The tax collector
281 shall be the custodian of all money belonging to a county or any
282 subdivision thereof until there be appointed a depository for any
283 such funds and the said tax collectors shall be liable on their
284 official bond for the proper accounting and payment of any funds
285 so paid to them.

286 Boards of supervisors shall allow chancery clerks for their
287 compensation for performance of the duties required of them by
288 this section the sum of Two Thousand Five Hundred Dollars
289 (\$2,500.00) per annum.

290 Nothing in this section shall preclude drainage districts
291 from selecting their treasurer or depository as now provided by
292 law.

293 **SECTION 5.** The Attorney General of the State of Mississippi
294 shall submit this act, immediately upon approval by the Governor,
295 or upon approval by the Legislature subsequent to a veto, to the
296 Attorney General of the United States or to the United States
297 District Court for the District of Columbia in accordance with the
298 provisions of the Voting Rights Act of 1965, as amended and
299 extended.

300 **SECTION 6.** This act shall take effect and be in force from
301 and after the date it is effectuated under Section 5 of the Voting
302 Rights Act of 1965, as amended and extended, or July 1, 2004,
303 whichever occurs later.