

By: Representatives Denny, Beckett,
Bondurant, Chism, Davis, Ellington,
Fillingane, Formby, Gregory, Mayhall, Mims,
Moore, Upshaw, Wells-Smith, Zuber

To: Judiciary A;
Appropriations

HOUSE BILL NO. 67

1 AN ACT TO BE ENTITLED THE "MISSISSIPPI OPEN LAWYER FEES ACT
2 OF 2005"; TO PROVIDE THAT NO STATE AGENCY SHALL ENTER INTO A
3 CONTRACT FOR LEGAL SERVICES WITH PRIVATE ATTORNEYS EXCEEDING ONE
4 MILLION DOLLARS WITHOUT A HEARING ON THE TERMS OF THE CONTRACT
5 CONDUCTED BY THE LEGISLATURE; TO PROVIDE DEFINITIONS; TO ESTABLISH
6 A JOINT LEGISLATIVE COMMITTEE ON STATE AGENCY LEGAL CONTRACTS FOR
7 THE PURPOSE OF CONDUCTING SUCH HEARINGS; TO PROVIDE A PROCEDURE
8 FOR THE SUBMISSION OF SUCH PROPOSED CONTRACTS FOR COMMENT BY THE
9 LEGISLATIVE COMMITTEE; TO AMEND SECTIONS 7-5-1 AND 7-5-7,
10 MISSISSIPPI CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

12 SECTION 1. This act shall be known and may be cited as the
13 "Mississippi Open Lawyer Fees Act of 2006."

14 SECTION 2. For the purposes of this act, a contract in
15 excess of One Million Dollars (\$1,000,000.00) is one in which the
16 fee paid to a private attorney or group of attorneys, either in
17 the form of a flat, hourly or contingent fee, and their expenses,
18 exceed, or can be reasonably expected to exceed, One Million
19 Dollars (\$1,000,000.00).

20 SECTION 3. No state agency, or public official on behalf of
21 a state agency, shall enter into a contract for legal services
22 exceeding One Million Dollars (\$1,000,000.00) without the
23 opportunity for at least one (1) hearing in the Legislature on the
24 terms of the legal contract in accordance with Section 4 of this
25 act.

26 SECTION 4. (1) As provided in the requirements of Section
27 3, any state agency or public official on behalf of a state agency
28 entering into a contract for legal services in excess of One
29 Million Dollars (\$1,000,000.00) shall file a copy of said proposed
30 contract with the Clerk of the House of Representatives and the
31 Secretary of the Senate who shall submit such contract to the

32 Chairman of the Joint Legislative Committee on State Agency Legal
33 Contracts created under subsection (2).

34 (2) There is created the Joint Legislative Committee on
35 State Agency Legal Contracts, hereinafter referred to as the
36 "Joint Committee." The Joint Committee shall be composed of the
37 Speaker of the House of Representatives, the Lieutenant Governor
38 of the State of Mississippi, the Speaker Pro Tempore of the House
39 of Representatives, the President Pro Tempore of the Senate, the
40 Chairman of the Judiciary "A" Committee of the House of
41 Representatives, the Chairman of the Judiciary "A" Committee of
42 the Senate, four (4) members of the House of Representatives to be
43 named by the Speaker and four (4) members of the Senate to be
44 named by the Lieutenant Governor. The chairmanship of the Joint
45 Committee shall alternate for twelve-month periods, beginning on
46 May 1 of each year, between the Chairman of the Judiciary "A"
47 Committee of the House and the Chairman of the Judiciary "A"
48 Committee of the Senate, with the Chairman of the Judiciary "A"
49 Committee of the Senate serving as the first chairman. If an
50 appointed member is unable to attend, another legislator may be
51 designated to attend by the Speaker or the Lieutenant Governor, as
52 the case may be.

53 There shall be no business transacted without the presence of
54 a quorum of the Joint Committee. A quorum shall be eight (8)
55 members, to consist of four (4) members from the House of
56 Representatives and four (4) members from the Senate. No action
57 shall be valid unless approved by the majority of those members
58 present and voting.

59 The members of the Joint Committee shall receive per diem as
60 authorized by law for their services in carrying out the duties of
61 the Joint Committee, and a daily expense allowance equal to that
62 received for regular committee meetings, including mileage as
63 authorized by Section 25-3-41, however, in no case shall the

64 members of the Joint Committee draw per diem while the Legislature
65 is in regular or special session.

66 The Joint Committee shall meet upon the call of the chairman.
67 The authority of the Joint Committee to meet shall not be limited
68 to those occasions when the Legislature is in regular session.

69 (3) Within forty-five (45) days after the receipt of a
70 contract for legal services by the Clerk of the House and
71 Secretary of the Senate, the Joint Committee shall hold a public
72 hearing or hearings on the proposed contract and shall issue a
73 report to the referring state agency or official. The report
74 shall include any proposed changes to the proposed contract voted
75 upon by the committee. The state agency or state official shall
76 review the report and adopt a final contract as deemed appropriate
77 in view of the report and shall file its final contract with the
78 Joint Committee.

79 (4) If the proposed contract does not contain the changes
80 proposed by the Joint Committee, the referring state agency or
81 official shall send a letter to the Joint Committee accompanying
82 the final contract stating the reasons why such proposed changes
83 were not adopted. The Joint Committee may again hold a public
84 hearing or hearings on the proposed contract or take other such
85 action it deems appropriate. Not earlier than forty-five (45)
86 days after the filing of such letter and final contract with the
87 committee, the state agency or official may enter into the final
88 contract.

89 (5) Nothing in this act shall be construed to expand the
90 authority of any state agency or public official to enter into
91 contracts where no such authority previously existed.

92 **SECTION 5.** Section 7-5-1, Mississippi Code of 1972, is
93 amended as follows:

94 7-5-1. The Attorney General provided for by Section 173 of
95 the Mississippi Constitution shall be elected at the same time and
96 in the same manner as the Governor is elected. His term of office

97 shall be four (4) years and his compensation shall be fixed by the
98 Legislature. He shall be the chief legal officer and advisor for
99 the state, both civil and criminal, and is charged with managing
100 all litigation on behalf of the state. No arm or agency of the
101 state government shall bring or defend a suit against another such
102 arm or agency without prior written approval of the Attorney
103 General. He shall have the powers of the Attorney General at
104 common law and is given the sole power to bring or defend a
105 lawsuit on behalf of a state agency, the subject matter of which
106 is of statewide interest, and he shall intervene and argue the
107 constitutionality of any statute when notified of a challenge
108 thereto, pursuant to the Mississippi Rules of Civil Procedure.
109 His qualifications for office shall be as provided for chancery
110 and circuit judges in Section 154 of the Mississippi Constitution.
111 This section shall be subject to the provisions of House Bill No.
112 ___, 2006 Regular Session.

113 **SECTION 6.** Section 7-5-7, Mississippi Code of 1972, is
114 amended as follows:

115 7-5-7. The Governor may engage counsel to assist the
116 Attorney General in cases to which the state is a party when, in
117 his opinion, the interest of the state requires it, subject to the
118 action of the Legislature in providing compensation for such
119 services, and subject to the provisions of House Bill No. ___, 2006
120 Regular Session.

121 The Attorney General is hereby authorized and empowered to
122 appoint and employ special counsel, on a fee or salary basis, to
123 assist the Attorney General in the preparation for, prosecution,
124 or defense of any litigation in the state or federal courts or
125 before any federal commission or agency in which the state is a
126 party or has an interest.

127 The Attorney General may designate such special counsel as
128 special assistant attorney general, and may pay such special
129 counsel reasonable compensation to be agreed upon by the Attorney

130 General and such special counsel, in no event to exceed recognized
131 bar rates for similar services.

132 The Attorney General may also employ special investigators on
133 a per diem or salary basis, to be agreed upon at the time of
134 employment, for the purpose of interviewing witnesses,
135 ascertaining facts, or rendering any other services that may be
136 needed by the Attorney General in the preparation for and
137 prosecution of suits by or against the State of Mississippi, or in
138 suits in which the Attorney General is participating on account of
139 same being of statewide interest.

140 The Attorney General may pay travel and other expenses of
141 employees and appointees made hereunder in the same manner and
142 amount as authorized by law for the payment of travel and expenses
143 of state employees and officials.

144 The compensation of appointees and employees made hereunder
145 shall be paid out of the Attorney General's Contingent Fund, or
146 out of any other funds appropriated to the Attorney General's
147 Office.

148 This section is subject to the provisions of House Bill No.
149 ____, 2006 Regular Session.

150 **SECTION 7.** This act shall take effect and be in force from
151 and after its passage.