

By: Martinson

To: County Affairs

## HOUSE BILL NO. 116

1 AN ACT TO AMEND SECTION 19-3-47, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE BOARD OF SUPERVISORS OF ANY COUNTY TO EMPLOY AN  
3 ATTORNEY AS A FULL-TIME COUNTY EMPLOYEE; TO AMEND SECTION  
4 19-23-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COUNTY  
5 PROSECUTING ATTORNEY MAY NOT BE EMPLOYED BY THE BOARD OF  
6 SUPERVISORS AS SUCH FULL-TIME ATTORNEY; AND FOR RELATED PURPOSES.

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

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

10 19-3-47. (1) (a) The board of supervisors shall have the  
11 power, in its discretion, to employ counsel by the year at an  
12 annual salary at an amount that it deems proper, not to exceed the  
13 maximum annual amount authorized by law for payment to a member of  
14 the board.

15 (b) The board of supervisors shall have the power, in  
16 its discretion, to employ counsel in all civil cases in which the  
17 county is interested, including eminent domain proceedings, the  
18 examination and certification of title to property the county is  
19 acquiring and in criminal cases against a county officer for  
20 malfeasance or dereliction of duty in office, when by the criminal  
21 conduct of the officer the county may be liable to be affected  
22 pecuniarily, with the counsel to conduct the proceeding instead of  
23 the district attorney, or in conjunction with him, and to pay the  
24 counsel out of the county treasury or the road fund that may be  
25 involved reasonable compensation, or if counsel so employed is  
26 retained on an annual basis as provided in this subsection,  
27 reasonable additional compensation for his services.

28 (c) The board of supervisors shall have the power, in

29 its discretion, to pay reasonable compensation to attorneys who  
30 may be employed by it in the matter of the issuance of bonds and  
31 the drafting of orders and resolutions in connection therewith.  
32 In no instance shall the attorney's fee for the services exceed  
33 the following amounts, to wit:

34       One percent (1%) of the first Five Hundred Thousand Dollars  
35 (\$500,000.00) of any one (1) bond issue; one-half percent (1/2%)  
36 of the amount of the issue in excess of Five Hundred Thousand  
37 Dollars (\$500,000.00) but not more than One Million Dollars  
38 (\$1,000,000.00); and one-fourth percent (1/4%) of the amount of  
39 the issue in excess of One Million Dollars (\$1,000,000.00). The  
40 limitations imposed in this paragraph shall not apply to any bond  
41 issue for which a declaration to issue the bonds has heretofore  
42 been adopted by proper resolution.

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

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

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

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

62 board;

63           (b) The attorney shall be employed by the board of  
64 supervisors in the matter of the issuance of all bonds of the  
65 county and the drafting of resolutions in connection therewith,  
66 and shall represent the board in all state and federal courts.  
67 Attorney's fees for the services which otherwise would have been  
68 paid to an attorney under paragraph (1)(c) of this section shall  
69 be paid into the county general fund and used to defray the salary  
70 of the attorney and his necessary office expenses;

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

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

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

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

88           19-23-15. Except in any county in which the board of  
89 supervisors employs an attorney as a full-time employee of the  
90 county under Section 19-3-47(3), the county prosecuting attorney  
91 may be employed by the supervisors as the attorney for the board  
92 of supervisors, and may be paid the additional salary otherwise  
93 provided by law for the board's attorney, in addition to the  
94 salary of the county attorney fixed for services as county

95 prosecuting attorney.

96       SECTION 3. This act shall take effect and be in force from  
97 and after October 1, 2000.