

By: Martinson

To: County Affairs

HOUSE BILL NO. 116
(As Passed the House)

1 AN ACT TO AMEND SECTION 19-3-47, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE BOARDS OF SUPERVISORS OF CERTAIN COUNTIES TO EMPLOY
3 AN 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) In any county having a 1980 federal census population in
55 excess of one hundred eighteen thousand (118,000), and in which is
56 located a major refinery for the production of petroleum products
57 and a facility for the construction of ships for the United States
58 Navy; in any county which is traversed by an interstate highway
59 and having a 1980 federal census population in excess of sixty-six
60 thousand (66,000), and in which is located a comprehensive
61 university operated by the Board of Trustees of State Institutions

62 of Higher Learning and a National Guard training base; in any
63 county in which is located the State Capitol and the state's
64 largest municipality; in any county which is traversed by
65 Interstate Highway 55, United States Highway 51 and United States
66 Highway 98; in any county bordering the Gulf of Mexico, having a
67 1980 federal census population in excess of one hundred
68 fifty-seven thousand (157,000), and in which is located a
69 state-owned port; * * * in any county which is traversed by
70 Interstate Highway 20, United States Highway 49 and United States
71 Highway 80, and in which is located the State Hospital and an
72 international airport; and in any county which is traversed by
73 Interstate Highway 55, Mississippi Highway 16 and the Natchez
74 Trace Parkway; all of which foregoing criteria the Legislature
75 finds to be conducive to industrial development requiring the
76 issuance of industrial revenue bonds and which counties would gain
77 benefits by employment of counsel in the manner authorized by this
78 subsection, the board of supervisors, as an alternative to the
79 authority conferred upon it in subsections (1) and (2) of this
80 section, may employ annually, in its discretion, an attorney as a
81 full-time employee of the county, subject to the following
82 conditions:

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

87 (b) The attorney shall be employed by the board of
88 supervisors in the matter of the issuance of all bonds of the
89 county and the drafting of resolutions in connection therewith,
90 and shall represent the board in all state and federal courts.
91 Attorney's fees for the services which otherwise would have been
92 paid to an attorney under paragraph (1)(c) of this section shall
93 be paid into the county general fund and used to defray the salary
94 of the attorney and his necessary office expenses;

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

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

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

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

112 19-23-15. Except in any county in which the board of
113 supervisors employs an attorney as a full-time employee of the
114 county under Section 19-3-47(3), the county prosecuting attorney
115 may be employed by the supervisors as the attorney for the board
116 of supervisors, and may be paid the additional salary otherwise
117 provided by law for the board's attorney, in addition to the
118 salary of the county attorney fixed for services as county
119 prosecuting attorney.

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