

By: Horne, Bowles, Frierson, Moore (60th),
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To: County Affairs;
Municipalities

HOUSE BILL NO. 584

1 AN ACT TO AMEND SECTION 19-3-47, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE COUNTIES TO USE A REQUEST FOR PROPOSALS PROCESS IN
3 SELECTING COUNSEL FOR COUNTY BOND ISSUES; TO AMEND SECTION
4 21-15-25, MISSISSIPPI CODE OF 1972, TO REQUIRE MUNICIPALITIES TO
5 USE A REQUEST FOR PROPOSALS PROCESS IN SELECTING COUNSEL FOR
6 MUNICIPAL BOND ISSUES; TO PROVIDE THAT THE REQUEST FOR PROPOSALS
7 PROCESS USED BY COUNTIES AND MUNICIPALITIES SHALL BE CONDUCTED IN
8 THE SAME MANNER, AS FAR AS IS PRACTICABLE, AS THE REQUEST FOR
9 PROPOSALS PROCESS USED BY THE STATE BOND COMMISSION IN SELECTING
10 BOND COUNSEL FOR STATE GENERAL OBLIGATION BOND AND REVENUE BOND
11 ISSUES; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 19-3-47, Mississippi Code of 1972, is
14 amended as follows:[LH1]

15 19-3-47. (1) (a) The board of supervisors shall have the
16 power, in its discretion, to employ counsel by the year at an
17 annual salary at an amount that it deems proper, not to exceed the
18 maximum annual amount authorized by law for payment to a member of
19 the board.

20 (b) The board of supervisors shall have the power, in
21 its discretion, to employ counsel in all civil cases in which the
22 county is interested, including eminent domain proceedings, the
23 examination and certification of title to property the county is
24 acquiring and in criminal cases against a county officer for
25 malfeasance or dereliction of duty in office, when by the criminal

26 conduct of the officer the county may be liable to be affected
27 pecuniarily, with the counsel to conduct the proceeding instead of
28 the district attorney, or in conjunction with him, and to pay the
29 counsel out of the county treasury or the road fund that may be
30 involved reasonable compensation, or if counsel so employed is
31 retained on an annual basis as provided in this subsection,
32 reasonable additional compensation for his services.

33 (c) The board of supervisors shall have the power, in
34 its discretion, to pay reasonable compensation to attorneys who
35 may be employed by it in the matter of the issuance of bonds and
36 the drafting of orders and resolutions in connection therewith.
37 In no instance shall the attorney's fee for the services exceed
38 the following amounts, to wit:

39 One percent (1%) of the first Five Hundred Thousand Dollars
40 (\$500,000.00) of any one (1) bond issue; one-half percent (1/2%)
41 of the amount of the issue in excess of Five Hundred Thousand
42 Dollars (\$500,000.00) but not more than One Million Dollars
43 (\$1,000,000.00); and one-fourth percent (1/4%) of the amount of
44 the issue in excess of One Million Dollars (\$1,000,000.00). The
45 limitations imposed in this paragraph shall not apply to any bond
46 issue for which a declaration to issue the bonds has heretofore
47 been adopted by proper resolution. However, for any bond issue
48 for which a declaration of intent to issue the bonds is adopted by
49 proper resolution on or after the effective date of House Bill No.
50 _____ , 2000 Regular Session, the board of supervisors shall
51 use a request for proposals process in selecting counsel for the
52 bond issue. Such request for proposals process shall be conducted
53 in the same manner and according to the same terms, as far as is
54 practicable, as the request for proposals process used by the
55 State Bond Commission in selecting bond counsel for state general
56 obligation bond issues and revenue bond issues.

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

60 (2) The board of supervisors of any county, in addition
61 to the authority conferred upon it in subsection (1) of this
62 section, may employ, in its discretion, a firm of attorneys to
63 represent it as its regular attorneys on the same terms,
64 conditions and compensation as provided for employment of an
65 attorney as its regular attorney. However, there shall not be
66 both an attorney and a firm of attorneys employed at the same time
67 as the regular attorney for the board.

68 (3) In any county having a 1980 federal census
69 population in excess of one hundred eighteen thousand (118,000),
70 and in which is located a major refinery for the production of
71 petroleum products and a facility for the construction of ships
72 for the United States Navy; in any county which is traversed by an
73 interstate highway and having a 1980 federal census population in
74 excess of sixty-six thousand (66,000), and in which is located a
75 comprehensive university operated by the Board of Trustees of
76 State Institutions of Higher Learning and a National Guard
77 training base; in any county in which is located the State Capitol
78 and the state's largest municipality; in any county which is
79 traversed by Interstate Highway 55, United States Highway 51 and
80 United States Highway 98; in any county bordering the Gulf of
81 Mexico, having a 1980 federal census population in excess of one
82 hundred fifty-seven thousand (157,000), and in which is located a
83 state-owned port; and in any county which is traversed by
84 Interstate Highway 20, United States Highway 49 and United States

85 Highway 80, and in which is located the State Hospital and an
86 international airport; all of which foregoing criteria the
87 Legislature finds to be conducive to industrial development
88 requiring the issuance of industrial revenue bonds and which
89 counties would gain benefits by employment of counsel in the
90 manner authorized by this subsection, the board of supervisors, as
91 an alternative to the authority conferred upon it in subsections
92 (1) and (2) of this section, may employ annually, in its
93 discretion, an attorney as a full-time employee of the county,
94 subject to the following conditions:

95 (a) The attorney shall maintain an office in the county
96 courthouse or other county-owned building and shall represent the
97 board of supervisors and all county agencies responsible to the
98 board;

99 (b) The attorney shall be employed by the board of
100 supervisors in the matter of the issuance of all bonds of the
101 county and the drafting of resolutions in connection therewith,
102 and shall represent the board in all state and federal courts.
103 Attorney's fees for the services which otherwise would have been
104 paid to an attorney under paragraph (1)(c) of this section shall
105 be paid into the county general fund and used to defray the salary
106 of the attorney and his necessary office expenses;

107 (c) During his employment by the county, the attorney
108 shall not engage otherwise in the practice of civil or criminal
109 law and shall not be associated with any other attorney or firm of
110 attorneys;

111 (d) The board of supervisors shall have the power, in
112 its discretion, to pay the attorney an annual salary not to exceed

113 the maximum annual salary authorized by law to be paid to the
114 county judge of that county; and

115 (e) The board of supervisors may authorize, in its
116 discretion, the employment of special counsel to assist the
117 counsel employed pursuant to this subsection, provided that the
118 board shall determine and spread on its minutes that the
119 employment of the special counsel is necessary and in the best
120 interest of the county and setting forth the duties or
121 responsibilities assigned to the special counsel.

122 SECTION 2. Section 21-15-25, Mississippi Code of 1972, is
123 amended as follows:[LH2]

124 21-15-25. The governing authorities may annually appoint an
125 attorney at law for the municipality, prescribe his duties and fix
126 his compensation, and/or they may employ counsel to represent the
127 interest of the municipality, should the occasion require. For
128 services and duties which the regular city attorney is not
129 required to perform as a result of his employment as such, and
130 which are not covered by the regular compensation paid him, such
131 municipal attorney may be employed and compensated additionally.
132 In cases where an attorney, whether same be the regular municipal
133 attorney or another, shall be employed in the matter of issuing or
134 refunding of bonds and the drafting of all orders and resolutions
135 in connection therewith, the governing authorities shall have the
136 power to pay reasonable compensation to such attorney, but in no
137 instance shall such compensation so paid exceed one percent (1%)
138 of the bonds issued or refunded; however, where the regular
139 contract of employment and compensation paid to the municipal
140 attorney covers and includes services in connection with the

141 issuing or refunding of bonds, then such regular municipal
142 attorney shall not be paid additional compensation for such
143 services. For any bond issue for which a declaration of intent to
144 issue the bonds is adopted by proper resolution on or after the
145 effective date of House Bill No. _____, 2000 Regular Session, the
146 governing authorities shall use a request for proposals process in
147 selecting any attorney, other than the regular municipal attorney,
148 for services in connection with the bond issue. Such request for
149 proposals process shall be conducted in the same manner and
150 according to the same terms, as far as is practicable, as the
151 request for proposals process used by the State Bond Commission in
152 selecting bond counsel for state general obligation bond issues
153 and revenue bond issues.

154 Should the services and duties required of a regular
155 municipal attorney at any time during his term of office become
156 greater than that anticipated by the governing authorities at the
157 time of his appointment, the governing authorities, by unanimous
158 vote, and on proper finding, may increase the compensation of such
159 attorney for the remaining portion of his term in such amount as
160 the governing board may find and adjudge to be fair and reasonable
161 to compensate said attorney for his excessive and unanticipated
162 services and duties.

163 SECTION 3. This act shall take effect and be in force from
164 and after its passage.