

By: Burton

To: Judiciary

SENATE BILL NO. 3095  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 19-19-5, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE CONSTABLES TO ATTEND AND PASS A TRAINING PROGRAM PROVIDED  
3 OR APPROVED BY THE MISSISSIPPI LAW ENFORCEMENT OFFICERS TRAINING  
4 ACADEMY, TO PRESCRIBE THE COMPONENTS OF THE TRAINING PROGRAM AND  
5 TO PROVIDE CERTAIN EXEMPTIONS FROM THE PROGRAM; TO AMEND SECTION  
6 25-4-105, MISSISSIPPI CODE OF 1972, TO ALLOW A COUNTY EMPLOYEE TO  
7 SERVE AS A CONSTABLE OF THE COUNTY EMPLOYING HIM; AND FOR RELATED  
8 PURPOSES.

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

10 SECTION 1. Section 19-19-5, Mississippi Code of 1972, is  
11 amended as follows:[CSQ1]

12 19-19-5. (1) It shall be the duty of every constable to  
13 keep and preserve the peace within his county, by faithfully  
14 aiding and assisting in executing the criminal laws of the state;  
15 to give information, without delay, to some justice court judge or  
16 other proper officer, of all riots, routs and unlawful assemblies,  
17 and of every violation of the penal laws which may come to his  
18 knowledge in any manner whatsoever; to execute and return all  
19 process, civil and criminal, lawfully directed to him, according  
20 to the command thereof; and to pay over all monies, when collected  
21 by him to the person lawfully authorized to receive the same. No  
22 constable shall receive any fee provided by law for making an  
23 arrest, or attending any trial, wherein the defendant has been  
24 arrested, or is being tried for any violation of the motor vehicle  
25 laws committed on any designated United States highway located  
26 within the district or county of the constable.

27 (2) (a) During a constable's term of office, each constable  
28 shall attend and, to the extent to which he is physically able,  
29 participate in a curriculum having a duration of two (2)

30 weeks which addresses the nature and scope of specific duties and  
31 responsibilities of a constable and which includes firearm use and  
32 safety training, to be established by the Board on Law Enforcement  
33 Officers Standards and Training in the field of law enforcement at  
34 the Mississippi Law Enforcement Officers' Training Academy or such  
35 other training programs that are approved by the Board on Law  
36 Enforcement Officers Standards and Training pursuant to Section  
37 45-6-9. No physical fitness test shall be required to be  
38 successfully completed in order to complete the training program.  
39 The board of supervisors of the county shall be responsible for  
40 paying, only one (1) time, the tuition, living and travel expenses  
41 incurred by any constable of that county in attendance at such  
42 training program or curriculum. If such constable does not attend  
43 and, to the extent to which he is physically able, participate in  
44 the entirety of the required program or curriculum, any further  
45 training which may be required by this section shall be completed  
46 at the expense of such constable. No constable shall be entitled  
47 to the receipt of any fees, costs or compensation authorized by  
48 law after the first twenty-four (24) months in office if he fails  
49 to attend the required training and, to the extent to which he is  
50 physically able, participate in the entirety of the appropriate  
51 program or curriculum. Any constable who does not complete the  
52 required training when required may execute and return civil  
53 process but thereafter shall not be paid any fees, costs or  
54 compensation for executing such process and shall not be allowed  
55 to exercise any law enforcement functions or to carry a firearm in  
56 the performance of his duties until he has completed such  
57 training. \* \* \*

58           (b) (i) The Board of Law Enforcement Officers  
59 Standards and Training shall develop a program of continuing  
60 education training for constables to attend consisting of eight  
61 (8) hours annually. The program shall be divided equally between  
62 firearms training and safety and instruction in both substantive  
63 and procedural law. The training program shall be conducted by  
64 the Mississippi Constables Association, and appropriate parts of  
65 the program may be conducted by members who have been certified by  
66 the board to conduct the training program. The cost of travel,

67 tuition and living expenses in attending the continuing training  
68 shall be paid out of the Law Enforcement Officers Training Fund  
69 created in Section 45-6-15.

70 (ii) No constable elected prior to January 1,  
71 2000, shall be required to comply with the continuing education  
72 requirements of this paragraph (b); however, any constable may  
73 elect to attend the annual training and shall be reimbursed  
74 therefor as provided in this paragraph (b).

75 (c) The provisions of this subsection shall not apply  
76 to a constable who has received a certificate from the Board on  
77 Law Enforcement Officers Standards and Training evidencing  
78 satisfaction of subsections (2) and (3) of Section 45-6-11, or who  
79 is exempt from the requirements of subsections (2) and (3) of  
80 Section 45-6-11 by the provisions of subsection (1) of Section  
81 45-6-11.

82 SECTION 2. Section 25-4-105, Mississippi Code of 1972, is  
83 amended as follows:[CSQ2]

84 25-4-105. (1) No public servant shall use his official  
85 position to obtain pecuniary benefit for himself other than that  
86 compensation provided for by law, or to obtain pecuniary benefit  
87 for any relative or any business with which he is associated.

88 (2) No public servant shall be interested, directly or  
89 indirectly, during the term for which he shall have been chosen,  
90 or within one (1) year after the expiration of such term, in any  
91 contract with the state, or any district, county, city or town  
92 thereof, authorized by any law passed or order made by any board  
93 of which he may be or may have been a member.

94 (3) No public servant shall:

95 (a) Be a contractor, subcontractor or vendor with the  
96 governmental entity of which he is a member, officer, employee or  
97 agent, other than in his contract of employment, or have a  
98 material financial interest in any business which is a contractor,  
99 subcontractor or vendor with the governmental entity of which he

100 is a member, officer, employee or agent.

101 (b) Be a purchaser, direct or indirect, at any sale  
102 made by him in his official capacity or by the governmental entity  
103 of which he is an officer or employee, except in respect of the  
104 sale of goods or services when provided as public utilities or  
105 offered to the general public on a uniform price schedule.

106 (c) Be a purchaser, direct or indirect, of any claim,  
107 certificate, warrant or other security issued by or to be paid out  
108 of the treasury of the governmental entity of which he is an  
109 officer or employee.

110 (d) Perform any service for any compensation during his  
111 term of office or employment by which he attempts to influence a  
112 decision of the authority of the governmental entity of which he  
113 is a member.

114 (e) Perform any service for any compensation for any  
115 person or business after termination of his office or employment  
116 in relation to any case, decision, proceeding or application with  
117 respect to which he was directly concerned or in which he  
118 personally participated during the period of his service or  
119 employment.

120 (4) Notwithstanding the provisions of subsection (3) of this  
121 section, a public servant or his relative:

122 (a) May be an officer or stockholder of banks or  
123 savings and loan associations or other such financial institutions  
124 bidding for bonds, notes or other evidences of debt or for the  
125 privilege of keeping as depositories the public funds of a  
126 governmental entity thereof or the editor or employee of any  
127 newspaper in which legal notices are required to be published in  
128 respect to the publication of said legal notices.

129 (b) May be a contractor or vendor with any authority of  
130 the governmental entity other than the authority of the  
131 governmental entity of which he is a member, officer, employee or  
132 agent or have a material financial interest in a business which is

133 a contractor or vendor with any authority of the governmental  
134 entity other than the authority of the governmental entity of  
135 which he is a member, officer, employee or agent where such  
136 contract is let to the lowest and best bidder after competitive  
137 bidding and three (3) or more legitimate bids are received or  
138 where the goods, services or property involved are reasonably  
139 available from two (2) or fewer commercial sources, provided such  
140 transactions comply with the public purchases laws.

141 (c) May be a subcontractor with any authority of the  
142 governmental entity other than the authority of the governmental  
143 entity of which he is a member, officer, employee or agent or have  
144 a material financial interest in a business which is a  
145 subcontractor with any authority of the governmental entity other  
146 than the authority of the governmental entity of which he is a  
147 member, officer, employee or agent where the primary contract is  
148 let to the lowest and best bidder after competitive bidding or  
149 where such goods or services involved are reasonably available  
150 from two (2) or fewer commercial sources, provided such  
151 transactions comply with the public purchases laws.

152 (d) May be a contractor, subcontractor or vendor with  
153 any authority of the governmental entity of which he is a member,  
154 officer, employee or agent or have a material financial interest  
155 in a business which is a contractor, subcontractor or vendor with  
156 any authority of the governmental entity of which he is a member,  
157 officer, employee or agent: (i) where such goods or services  
158 involved are reasonably available from two (2) or fewer commercial  
159 sources, provided such transactions comply with the public  
160 purchases laws; or (ii) where the contractual relationship  
161 involves the further research, development, testing, promotion or  
162 merchandising of an intellectual property created by the public  
163 servant.

164 (e) May purchase securities issued by the governmental  
165 entity of which he is an officer or employee if such securities

166 are offered to the general public and are purchased at the same  
167 price as such securities are offered to the general public.

168 (f) May have an interest less than a material financial  
169 interest in a business which is a contractor, subcontractor or  
170 vendor with any governmental entity.

171 (g) May contract with the Mississippi Veteran's Home  
172 Purchase Board, Mississippi Housing Finance Corporation, or any  
173 other state loan program, for the purpose of securing a loan;  
174 however, public servants shall not receive favored treatment.

175 (h) May be employed by or receive compensation from an  
176 authority of the governmental entity other than the authority of  
177 the governmental entity of which the public servant is an officer  
178 or employee.

179 (i) If a member of the Legislature or other public  
180 servant employed on less than a full-time basis, may represent a  
181 person or organization for compensation before an authority of the  
182 governmental entity other than an authority of the governmental  
183 entity of which he is an officer or employee.

184 (j) If a constable, may be employed and receive  
185 compensation as a deputy sheriff or other employee of the county  
186 for which he serves as constable.

187 (5) No person may intentionally use or disclose information  
188 gained in the course of or by reason of his official position or  
189 employment as a public servant in any way that could result in  
190 pecuniary benefit for himself, any relative, or any other person,  
191 if the information has not been communicated to the public or is  
192 not public information.

193 (6) Any contract made in violation of this section may be  
194 declared void by the governing body of the contracting or selling  
195 authority of the governmental subdivision or a court of competent  
196 jurisdiction and the contractor or subcontractor shall retain or  
197 receive only the reasonable value, with no increment for profit or  
198 commission, of the property or the services furnished prior to the

199 date of receiving notice that the contract has been voided.

200 (7) Any person violating the provisions of this section  
201 shall be punished as provided for in Sections 25-4-109 and  
202 25-4-111.

203 SECTION 3. The Attorney General of the State of Mississippi  
204 shall submit this act, immediately upon approval by the Governor,  
205 or upon approval by the Legislature subsequent to a veto, to the  
206 Attorney General of the United States or to the United States  
207 District Court for the District of Columbia in accordance with the  
208 provisions of the Voting Rights Act of 1965, as amended and  
209 extended.

210 SECTION 4. This act shall take effect and be in force from  
211 and after the date it is effectuated under Section 5 of the Voting  
212 Rights Act of 1965, as amended and extended, or on July 1, 2000,  
213 whichever occurs later.