

By: Representative Martinson

To: County Affairs

HOUSE BILL NO. 364

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. In
32 no instance shall the attorney's fee for the services exceed the
33 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 repeal
44 or otherwise affect subsection (2) of this section, but this
45 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 a 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, 2005.