

By: Representative Guice

To: Fees and Salaries of
Public Officers; County
Affairs

HOUSE BILL NO. 650

1 AN ACT TO AMEND SECTION 9-1-43, MISSISSIPPI CODE OF 1972, TO
2 SUBJECT TO THE STATUTORY SALARY LIMITATION OF THE CHANCERY CLERK
3 AND CIRCUIT CLERK ANY MONIES RECEIVED FOR ANY SERVICES PERFORMED
4 FOR THE COUNTY IN WHICH THE CLERK SERVES, WHICH ARE NOT REQUIRED
5 OF THE CLERKS BY STATUTE; TO AMEND SECTIONS 19-4-3, 23-15-225 AND
6 25-3-23, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
7 SECTION; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 9-1-43, Mississippi Code of 1972, is
10 amended as follows:

11 9-1-43. (1) After making deductions for employee salaries
12 and related salary expenses, and expenses allowed as deductions by
13 Schedule C of the Internal Revenue Code, no office of the chancery
14 clerk or circuit clerk of any county in the state shall receive
15 fees as compensation for the chancery clerk's or circuit clerk's
16 services in excess of Ninety Thousand Dollars (\$90,000.00). All
17 such fees received by the office of chancery or circuit clerks
18 that are in excess of the salary limitation shall be deposited by
19 such clerk into the county general fund on or before April 15 for
20 the preceding calendar year. If the chancery clerk or circuit
21 clerk serves less than one (1) year, then he shall not receive as
22 compensation any fees in excess of that portion of the salary
23 limitation that can be attributed to his time in office on a pro
24 rata basis. Upon leaving office, income earned by any clerk in
25 his last full year of office but not received until after his last
26 full year of office shall not be included in determining the
27 salary limitation of the successor clerk. There shall be exempted
28 from the provisions of this subsection any monies or commissions
29 from private or governmental sources, except monies from county

30 governmental sources, which * * * are to be held by the chancery
31 or circuit clerk in a trust or custodial capacity as prescribed in
32 subsections (4) and (5) * * *.

33 (2) It shall be unlawful for any chancery clerk or circuit
34 clerk to use fees in excess of Ninety Thousand Dollars
35 (\$90,000.00), to pay the salaries or actual or necessary expenses
36 of employees who are related to such clerk by blood or marriage
37 within the first degree of kinship according to the civil law
38 method of computing kinship as provided in Sections 1-3-71 and
39 1-3-73. However, the prohibition of this subsection shall not
40 apply to any individual who was an employee of the clerk's office
41 prior to the date his or her relative was elected as chancery or
42 circuit clerk. The spouse and/or any children of the chancery
43 clerk or circuit clerk employed in the office of the chancery
44 clerk may be paid a salary; however, the combined annual salaries
45 of the clerk, spouse and any child of the clerk may not exceed an
46 amount equal to the salary limitation.

47 (3) The chancery clerk and the circuit clerk shall be liable
48 on their official bond for the proper deposit and accounting of
49 all monies received by his office. The State Auditor shall
50 promulgate uniform accounting methods for the accounting of all
51 sources of income by the offices of the chancery and circuit
52 clerk.

53 (4) There is created in the county depository of each county
54 a clearing account to be designated as the "chancery court clerk
55 clearing account," into which shall be deposited: (a) all such
56 monies as the clerk of the chancery court shall receive from any
57 person complying with any writ of garnishment, attachment,
58 execution or other like process authorized by law for the
59 enforcement of child support, spousal support or any other
60 judgment; (b) any portion of any fees required by law to be
61 collected in civil cases which are to pay for the service of
62 process or writs in another county; and (c) any other money as

63 shall be deposited with the court which by its nature is not, at
64 the time of its deposit, public monies, but which is to be held by
65 the court in a trust or custodial capacity in a case or proceeding
66 before the court. The clerk of the chancery court shall account
67 for all monies deposited in and disbursed from such account and
68 shall be authorized and empowered to draw and issue checks on such
69 account at such times, in such amounts and to such persons as
70 shall be proper and in accordance with law.

71 The following monies paid to the chancery clerk shall be
72 subject to the salary limitation prescribed under subsection (1):
73 (a) all fees required by law to be collected for the filing,
74 recording or abstracting of any bill, petition, pleading or decree
75 in any civil case in chancery; (b) all fees collected for land
76 recordings, charters, notary bonds, certification of decrees and
77 copies of any documents; (c) all land redemption and mineral
78 documentary stamp commissions; * * * (d) any other monies or
79 commissions from private or governmental sources for statutory
80 functions which are not to be held by the court in a trust
81 capacity; and (e) any monies received as compensation for services
82 performed upon order of the court in which the chancery clerk
83 serves or other services for the county which are not required by
84 statute of the chancery clerk. Such fees as shall exceed the
85 salary limitations shall be maintained in a bank account in the
86 county depository and accounted for separately from those monies
87 paid into the chancery court clerk clearing account.

88 (5) There is created in the county depository in each county
89 a clearing account to be designated as the "circuit court clerk
90 civil clearing account," into which shall be deposited: (a) all
91 such monies and fees as the clerk of the circuit court shall
92 receive from any person complying with any writ of garnishment,
93 attachment, execution or any other like process authorized by law
94 for the enforcement of a judgment; (b) any portion of any fees
95 required by law or court order to be collected in civil cases;

96 (c) all fees collected for the issuance of marriage licenses; and
97 (d) any other money as shall be deposited with the court which by
98 its nature is not, at the time of its deposit, public monies but
99 which is to be held by the court in a trust or custodial capacity
100 in a case or proceeding before the court.

101 There is created in the county depository in each county a
102 clearing account to be designated as the "circuit court clerk
103 criminal clearing account," into which shall be deposited: (a)
104 all such monies as are received in criminal cases in the circuit
105 court pursuant to any order requiring payment as restitution to
106 the victims of criminal offenses; (b) any portion of any fees and
107 fines required by law or court order to be collected in criminal
108 cases; and (c) all cash bonds as shall be deposited with the
109 court. The clerk of the circuit court shall account for all
110 monies deposited in and disbursed from such account and shall be
111 authorized and empowered to draw and issue checks on such account,
112 at such times, in such amounts and to such persons as shall be
113 proper and in accordance with law; however, such monies as are
114 forfeited in criminal cases shall be paid by the clerk of the
115 circuit court to the clerk of the board of supervisors for deposit
116 in the general fund of the county.

117 The following monies paid to the circuit clerk shall be
118 subject to the salary limitation prescribed under subsection (1):
119 (a) all fees required by law to be collected for the filing,
120 recording or abstracting of any bill, petition, pleading or decree
121 in any civil action in circuit court; (b) copies of any
122 documents; * * * (c) any other monies or commissions from private
123 or governmental sources for statutory functions which are not to
124 be held by the court in a trust capacity; and (d) any monies
125 received as compensation for services performed upon order of the
126 court in which the circuit clerk serves or other services for the
127 county which are not required by statute of the circuit clerk.

128 (6) The chancery clerk and the circuit clerk shall establish
129 and maintain a cash journal for recording cash receipts from
130 private or government sources for furnishing copies of any papers
131 of record or on file, or for rendering services as a notary
132 public, or other fees wherein the total fee for the transaction is
133 Ten Dollars (\$10.00) or less. The cash journal entry shall
134 include the date, amount and type of transaction, and the clerk
135 shall not be required to issue a receipt to the person receiving
136 such services. The State Auditor shall not take exception to the
137 furnishing of copies or the rendering of services as a notary by
138 any clerk free of charge.

139 In any county having two (2) judicial districts, whenever the
140 chancery clerk serves as deputy to the circuit clerk in one (1)
141 judicial district and the circuit clerk serves as deputy to the
142 chancery clerk in the other judicial district, the chancery clerk
143 may maintain a cash journal, separate from the cash journal
144 maintained for chancery clerk receipts, for recording the cash
145 receipts paid to him as deputy circuit clerk, and the circuit
146 clerk may maintain a cash journal, separate from the cash journal
147 maintained for circuit clerk receipts, for recording the cash
148 receipts paid to him as deputy chancery clerk. The cash receipts
149 collected by the chancery clerk in his capacity as deputy circuit
150 clerk and the cash receipts collected by the circuit clerk in his
151 capacity as deputy chancery clerk shall be subject to the salary
152 limitation prescribed under subsection (1).

153 (7) Any clerk who knowingly shall fail to deposit funds or
154 otherwise violate the provisions of this section shall be guilty
155 of a misdemeanor in office and, upon conviction thereof, shall be
156 fined in an amount not to exceed double the amount that he failed
157 to deposit, or imprisoned for not to exceed six (6) months in the
158 county jail, or be punished by both such fine and imprisonment.

159

160 **SECTION 2.** Section 19-4-3, Mississippi Code of 1972, is
161 amended as follows:

162 **[With regard to any county which is exempt from the**
163 **provisions of Section 19-2-3, this section shall read as follows:]**

164 19-4-3. The county administrator so employed shall hold
165 office at the pleasure of the board of supervisors and his
166 employment may be terminated at any time by a majority vote of the
167 board of supervisors. He shall be paid a salary to be fixed by
168 the board of supervisors which may be paid from the county general
169 fund or from the proceeds of any tax levied by the board of
170 supervisors for the support and maintenance of any unit of county
171 government, excluding schools and hospitals, or from any funds
172 which may be available to defray the financial administration
173 expenses of county government. The board shall provide travel and
174 transportation expense and other office expenses as are needed in
175 the performance of the duties of the office of county
176 administrator. Said travel and transportation expense shall be
177 paid on itemized vouchers in accordance with the provisions of
178 Section 25-3-41, Mississippi Code of 1972.

179 **[With regard to any county which is required to operate on a**
180 **countywide system of road administration as described in Section**
181 **19-2-3, this section shall read as follows:]**

182 19-4-3. The person appointed as county administrator under
183 Section 19-4-1 shall serve at the will and pleasure of the board
184 of supervisors and may be removed from such position by a majority
185 vote of the board. The compensation of the county administrator
186 shall be fixed by the board of supervisors and may be paid from
187 the county general fund or from any funds which may be available
188 to defray the financial administration expenses of county
189 government. Any chancery clerk who agrees to also serve as county
190 administrator may be paid * * *. The board shall provide travel
191 and transportation expense and other office expenses as are needed
192 in the performance of the duties of the office of county

193 administrator. Said travel and transportation expense shall be
194 paid on itemized vouchers in accordance with the provisions of
195 Section 25-3-41, Mississippi Code of 1972.

196 **SECTION 3.** Section 23-15-225, Mississippi Code of 1972, is
197 amended as follows:

198 23-15-225. (1) The registrar shall be entitled to such
199 compensation, payable monthly out of the county treasury, which
200 the board of supervisors of the county shall allow on an annual
201 basis in the following amounts:

202 (a) For counties with a total population of more than
203 two hundred thousand (200,000), an amount not to exceed
204 Twenty-nine Thousand Nine Hundred Dollars (\$29,900.00), but not
205 less than Nine Thousand Two Hundred Dollars (\$9,200.00).

206 (b) For counties with a total population of more than
207 one hundred thousand (100,000) and not more than two hundred
208 thousand (200,000), an amount not to exceed Twenty-five Thousand
209 Three Hundred Dollars (\$25,300.00), but not less than Nine
210 Thousand Two Hundred Dollars (\$9,200.00).

211 (c) For counties with a total population of more than
212 fifty thousand (50,000) and not more than one hundred thousand
213 (100,000), an amount not to exceed Twenty-three Thousand Dollars
214 (\$23,000.00), but not less than Nine Thousand Two Hundred Dollars
215 (\$9,200.00).

216 (d) For counties with a total population of more than
217 thirty-five thousand (35,000) and not more than fifty thousand
218 (50,000), an amount not to exceed Twenty Thousand Seven Hundred
219 Dollars (\$20,700.00), but not less than Nine Thousand Two Hundred
220 Dollars (\$9,200.00).

221 (e) For counties with a total population of more than
222 twenty-five thousand (25,000) and not more than thirty-five
223 thousand (35,000), an amount not to exceed Eighteen Thousand Four
224 Hundred Dollars (\$18,400.00), but not less than Nine Thousand Two
225 Hundred Dollars (\$9,200.00).

226 (f) For counties with a total population of more than
227 fifteen thousand (15,000) and not more than twenty-five thousand
228 (25,000), an amount not to exceed Sixteen Thousand One Hundred
229 Dollars (\$16,100.00), but not less than Nine Thousand Two Hundred
230 Dollars (\$9,200.00).

231 (g) For counties with a total population of more than
232 ten thousand (10,000) and not more than fifteen thousand (15,000),
233 an amount not to exceed Thirteen Thousand Eight Hundred Dollars
234 (\$13,800.00), but not less than Eight Thousand Fifty Dollars
235 (\$8,050.00).

236 (h) For counties with a total population of more than
237 six thousand (6,000) and not more than ten thousand (10,000), an
238 amount not to exceed Eleven Thousand Five Hundred Dollars
239 (\$11,500.00), but not less than Eight Thousand Fifty Dollars
240 (\$8,050.00).

241 (i) For counties with a total population of not more
242 than six thousand (6,000), an amount not to exceed Nine Thousand
243 Two Hundred Dollars (\$9,200.00) but not less than Six Thousand
244 Three Hundred Twenty-five Dollars (\$6,325.00).

245 (j) For counties having two (2) judicial districts, the
246 board of supervisors of the county may allow, in addition to the
247 sums prescribed herein, in its discretion, an amount not to exceed
248 Eleven Thousand Five Hundred Dollars (\$11,500.00).

249 (2) In the event of a reregistration within such county, or
250 a redistricting which necessitates the hiring of additional deputy
251 registrars, the board of supervisors may by contract compensate
252 the county registrar * * *.

253 (3) As compensation for their services in assisting the
254 county election commissioners in performance of their duties in
255 the revision of the registration books and the pollbooks of the
256 several voting precincts of the several counties and in assisting
257 the election commissioners, executive committees or boards of
258 supervisors in connection with any election, the registrar shall

259 receive the same daily per diem and limitation on meeting days as
260 provided for the board of election commissioners as set out in
261 Sections 23-15-153 and 23-15-227 to be paid from the general fund
262 of the county.

263 (4) In any case where an amount has been allowed by the
264 board of supervisors pursuant to this section, such amount shall
265 not be reduced or terminated during the term for which the
266 registrar was elected.

267 (5) The circuit clerk shall * * * be entitled to receive as
268 compensation from the board of supervisors the amount of Two
269 Thousand Dollars (\$2,000.00) per year. This payment shall be for
270 the performance of his duties in regard to the conduct of
271 elections and the performance of his other duties.

272 (6) The municipal clerk shall, in addition to any other
273 compensation for performance of duties, be eligible to receive as
274 compensation from the municipality's governing authorities a
275 reasonable amount of additional compensation for reimbursement of
276 costs and for additional duties associated with mail-in
277 registration of voters.

278 (7) The board of supervisors shall not allow any additional
279 compensation authorized under this section for services as county
280 registrar to any circuit clerk who is receiving fees as
281 compensation for his services equal to the limitation on
282 compensation prescribed in Section 9-1-43.

283 **SECTION 4.** Section 25-3-23, Mississippi Code of 1972, is
284 amended as follows:

285 25-3-23. The board of supervisors of any county having two
286 (2) judicial districts and having an assessed valuation of less
287 than Five Million Dollars (\$5,000,000.00) for the year 1945, and
288 having a population of less than twenty thousand (20,000) based on
289 the federal census of 1940, may, in their discretion, pay a salary
290 not to exceed One Thousand Two Hundred Dollars (\$1,200.00) per
291 annum to a regular appointed deputy chancery clerk, who shall

292 reside in and serve in the judicial district of the county other
293 than the judicial district of the county in which the chancery
294 clerk resides, provided the chancery clerk's office in both
295 districts be kept open for official business during the hours
296 required by law.

297 In counties having two (2) judicial districts, a regular
298 appointed deputy chancery clerk in each judicial district, a total
299 assessed valuation in excess of Fifteen Million Dollars
300 (\$15,000,000.00) for the year 1973 and in which Mississippi
301 Highways 8 and 15 intersect, the chancery clerk or deputy clerks
302 designated by him, may be allowed, payable monthly out of the
303 county treasury such sum as the board of supervisors may allow,
304 payable out of the general county fund; provided, the chancery
305 clerk's office in both judicial districts be kept open for
306 official business during the hours required by law. * * *

307 In counties having two (2) judicial districts, a regular
308 appointed deputy chancery court clerk, a total assessed valuation
309 in excess of Ninety Million Dollars (\$90,000,000.00), a total
310 population of more than one hundred nineteen thousand (119,000)
311 according to the federal census for the year 1960, and two (2)
312 cities located within such county, each of which had a population
313 of more than thirty thousand (30,000) according to the federal
314 census for the year 1960, the chancery clerk may be allowed,
315 payable monthly out of the county treasury, such sum as the board
316 of supervisors may allow, but not less than Four Hundred Dollars
317 (\$400.00) monthly, payable out of the general county fund of such
318 county * * *.

319 In counties having two (2) judicial districts, a regular
320 appointed deputy chancery court clerk, a total population of more
321 than forty-nine thousand (49,000) but less than fifty thousand
322 (50,000) according to the federal census of 1970, the board of
323 supervisors may, in its discretion, pay a salary not to exceed Two
324 Thousand Four Hundred Dollars (\$2,400.00) per annum to a regular

325 appointed deputy chancery clerk who shall reside in and serve in
326 the judicial district of the county other than the judicial
327 district of the county in which the chancery clerk resides,
328 provided the chancery clerk's office in both districts be kept
329 open for official business during the hours required by law.

330 The board of supervisors of any Class 4 county, having two
331 (2) judicial districts, traversed by U.S. Highway 51, wherein
332 Mississippi Highways 7 and 32 intersect, may, in its discretion,
333 pay a salary not to exceed Three Hundred Fifty Dollars (\$350.00)
334 monthly to a regular appointed deputy chancery clerk who shall
335 reside and serve in the judicial district of the county other than
336 the judicial district in which the chancery clerk resides,
337 provided the chancery clerk's office in both districts be kept
338 open for official business during the hours required by law.

339 **SECTION 5.** The Attorney General of the State of Mississippi
340 shall submit this act, immediately upon approval by the Governor,
341 or upon approval by the Legislature subsequent to a veto, to the
342 Attorney General of the United States or to the United States
343 District Court for the District of Columbia in accordance with the
344 provisions of the Voting Rights Act of 1965, as amended and
345 extended.

346 **SECTION 6.** This act shall take effect and be in force from
347 and after the date it is effectuated under Section 5 of the Voting
348 Rights Act of 1965, as amended and extended.