MISSISSIPPI LEGISLATURE REGULAR SESSION 2011

By: Representative Ellington

To: Judiciary A

HOUSE BILL NO. 13

AN ACT TO AMEND SECTION 25-41-15, MISSISSIPPI CODE OF 1972, TO REVISE PENALTIES FOR VIOLATIONS OF ETHICS LAWS RELATED TO VIOLATIONS BY A PUBLIC BODY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-41-15, Mississippi Code of 1972, is amended as follows:

25-41-15. The Mississippi Ethics Commission shall have the authority to enforce the provisions of this chapter upon a complaint filed by any person, including the Attorney General and any district attorney having jurisdiction. Upon receiving a complaint, the Ethics Commission shall forward a copy of the complaint to the head of the public body involved. The public body shall have fourteen (14) days from receipt of the complaint to file a response with the commission. After receiving the response to the complaint or, if no response is received after fourteen (14) days, the commission, in its discretion, may dismiss the complaint or proceed by setting a hearing in accordance with rules and regulations promulgated by the * * * commission.

The chancery courts shall have concurrent authority to enforce the provisions of this chapter upon a complaint filed by any person, including the Attorney General and any district attorney having jurisdiction, and shall have the authority to issue injunctions and writs of mandamus to accomplish that purpose. Complaints filed with the Ethics Commission pursuant to this section may not be removed to chancery court, although orders of the Ethics Commission may be appealed as set forth hereinafter.

The Ethics Commission or chancery court may order the public

body to take whatever reasonable measures necessary, if any, to comply with this chapter. If the Ethics Commission or chancery court finds that a public body has violated the provisions of this chapter, the Ethics Commission or chancery court may nullify and void any action taken by the body in connection with the violation.

If the Ethics Commission or chancery court finds that members of a public body have violated the provisions of this chapter, the Ethics Commission or chancery court may impose a civil fine upon the individual members of the public body found to have violated this chapter in a sum not to exceed One Thousand Dollars ($1,000.00) per person for each violation, plus all reasonable expenses incurred by the person or persons in bringing the complaint to enforce this chapter, which expenses may be assessed to the public body or the individual members. Such expenses shall be awarded where the person bringing the complaint has prevailed on a majority of the claims asserted and where there are no special circumstances making the award unjust.

Any fine imposed under this section shall be paid into the general fund of the public body violating this chapter. Any person having been fined for violations of this chapter on three (3) separate occasions pursuant to the three (3) separate complaints may, upon petition filed with the chancery by any person, be removed from office by the chancery judge.

Nothing in this chapter shall be construed to prohibit the Ethics Commission from mediating or otherwise resolving disputes arising under this chapter or from entering orders agreed to by the parties. In carrying out its responsibilities under this section, the Ethics Commission shall have all the powers and authority granted to it in Title 25, Chapter 4, Mississippi Code of 1972.

Any party may petition the chancery court of the county in which the public body is located to enforce or appeal any order of

the Ethics Commission issued pursuant to this chapter. In any such appeal the chancery court shall conduct a de novo review.

SECTION 2. This act shall take effect and be in force from and after July 1, 2011.