MISSISSIPPI LEGISLATURE REGULAR SESSION 2013

By: Representatives Martinson, Bennett To: County Affairs

HOUSE BILL NO. 1237

AN ACT TO AMEND SECTION 19-3-47, MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORITY OF THE BOARD OF SUPERVISORS OF ANY COUNTY TO EMPLOY AN ATTORNEY AS A FULL-TIME COUNTY EMPLOYEE; TO AMEND SECTION 19-23-15, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE COUNTY PROSECUTING ATTORNEY MAY NOT BE EMPLOYED BY THE BOARD OF SUPERVISORS AS THE FULL-TIME COUNTY ATTORNEY; TO AMEND SECTION 19-3-69, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PREVIOUS SECTION AND FOR RELATED PURPOSES.

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

SECTION 1. Section 19-3-47, Mississippi Code of 1972, is amended as follows:

19-3-47. (1) (a) The board of supervisors shall have the power, in its discretion, to employ *** * *** an attorney as a part-time employee of the county at a salary *** * *** in an amount that it deems proper *** * ***.

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

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

(c) The board of supervisors shall have the power, in its discretion, to pay reasonable compensation to attorneys who may be employed by it in the matter of the issuance of bonds and the drafting of orders and resolutions in connection therewith. * * *

* * *

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

(2) The board of supervisors of any county, in addition to the authority conferred upon it in subsection (1) of this section, may employ, in its discretion, a firm of attorneys to represent it as its * * * county attorneys * * *. However, there shall not be both an attorney and a firm of attorneys employed at the same time as the * * * county attorney for the board.

(3) * * * The board of supervisors * * * may employ * * *, in its discretion, an attorney as a full-time employee of the county, subject to the following conditions:

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

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

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

(d) The board of supervisors shall have the power, in its discretion, to pay the attorney an annual salary *** * ***; and

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

SECTION 2. Section 19-23-15, Mississippi Code of 1972, is amended as follows:

19-23-15. Except in a county in which the board of supervisors employs an attorney as a full-time employee of the county under Section 19-3-47(3), the county prosecuting attorney may be employed by the supervisors as the attorney for the board of supervisors, and may be paid the additional salary otherwise provided by law for the board's attorney, in addition to the salary of the county attorney, fixed for services as county prosecuting attorney.

SECTION 3. Section 19-3-69, Mississippi Code of 1972, is amended as follows:

19-3-69. The board of supervisors of each county may, in its discretion, contract with certain professionals when the board determines that such professional services are necessary and in the best interest of the county.

The board of supervisors shall spread upon its minutes its finding that the professional services are necessary and in the best interest of the county. The contract for professional services, except the contract for the professional services of an attorney, shall be approved by the attorney for the board of supervisors and made a part of the minutes. The contract for the professional services of an attorney shall be regulated by the provisions of Section 19-3-47. Notwithstanding any other provision of law, the board of supervisors may request and

consider the price of the services in its initial and subsequent contact with professionals.

A professional within the meaning of this section shall be limited to:

(a) Attorneys *** * ***, admitted to practice law in this state by the State Board of Bar Admissions;

(b) Accountants, certified by the State Board of Public Accountancy;

(c) Architects, licensed by the State Board of Architecture;

(d) Engineers and land surveyors, registered by the State Board of Registration for Professional Engineers and Land Surveyors;

(e) Physicians, licensed by the State Board of Medical Licensure;

(f) Appraisers, licensed by the Mississippi Real Estate Commission or as otherwise provided by law or ad valorem appraisers holding the MAE designation from the Department of Revenue;

(g) Real estate brokers, licensed by the Mississippi Real Estate Commission;

(h) In the sale of personal property pursuant to the provisions of Section 19-7-5, auctioneers who meet standards established by the State Department of Audit.

SECTION 4. This act shall take effect and be in force from and after October 1, 2013.