MISSISSIPPI LEGISLATURE REGULAR SESSION 2014

By: Representatives Kinkade, Alday, Barton, Boyd, Jackson, Jennings, Ladner, Massengill, Nelson, Rushing, Taylor, Willis

To: Judiciary A; Ways and Means

HOUSE BILL NO. 621

AN ACT TO AMEND SECTION 27-33-77, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE STATE OF MISSISSIPPI SHALL REIMBURSE COUNTIES AND SCHOOL DISTRICTS THE FULL AMOUNT OF HOMESTEAD EXEMPTION ALLOWED FOR EACH APPLICANT; TO AMEND SECTION 27-33-79, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION; TO REQUIRE THE LEGISLATURE TO APPROPRIATE SUFFICIENT FUNDS EACH YEAR TO FULLY FUND THE DISTRICT ATTORNEYS' OFFICES AND STAFF, THE CIRCUIT COURT REPORTERS, THE CIRCUIT COURT ADMINISTRATORS, THE CHANCERY COURT REPORTERS, THE CHANCERY COURT ADMINISTRATORS, THE JUVENILE DRUG COURTS, THE COUNTY OFFICES OF THE STATE DEPARTMENT OF HEALTH AND THE DEPARTMENT OF HUMAN SERVICES, AND THE COSTS OF AUDIT SERVICES, SO THAT THE STATE OF MISSISSIPPI IS FULLY FUNDING THE EXPENSES OF THE STATE SERVICES PROVIDED BY THOSE ENTITIES AND THE COUNTIES ARE NOT HAVING TO SUBSIDIZE THE EXPENSES OF THOSE STATE SERVICES; TO AMEND SECTION 9-17-1, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; TO BRING FORWARD SECTION 9-17-5, MISSISSIPPI CODE OF 1972, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTION 9-13-19, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; TO BRING FORWARD SECTIONS 9-13-21 AND 9-13-63, MISSISSIPPI CODE OF 1972, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTIONS 7-7-211 AND 7-7-213, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 27-33-77, Mississippi Code of 1972, is amended as follows:

27-33-77. Beginning with the *** * *** 2015 supplemental roll, and for each succeeding year's roll thereafter, the amount of tax

loss to be reimbursed because of exemptions provided for in this article * * * for county taxes exempted and school taxes exempted * * * shall be the amount of the actual exemption allowed per applicant qualifying for homestead exemption under this article.

The reimbursement received by the county shall be distributed by the county treasurer to the general fund.

* * * Tax losses sustained by municipalities because of exemptions granted to homeowners described in subsection (2) of Section 27-33-67 shall be reimbursed * * * the amount of the actual exemption allowed, not to exceed Two Hundred Dollars ($200.00) per qualified applicant.

The reimbursement received by a county, municipality or school district may be pledged as security for a loan if the reimbursement to the county or school district is otherwise authorized or required by law to be pledged as security for such a loan.

SECTION 2. Section 27-33-79, Mississippi Code of 1972, is amended as follows:

27-33-79. * * * No taxing unit shall be reimbursed more than one hundred six percent (106%) or less than the amount of the reimbursement made to the same taxing unit, for the next preceding year, unless such reimbursement is reduced as a result of a reduction in approved homestead applicants; * * * however, for the 2015 calendar year, a taxing unit may be reimbursed more than one

hundred six percent (106%) of the amount of the reimbursement made to the same taxing unit for the next preceding year.

SECTION 3. The Legislature shall appropriate sufficient funds each year to fully fund the district attorneys' offices and staff, the circuit court reporters, the circuit court administrators, the chancery court reporters, the chancery court administrators, the juvenile drug courts, the county offices of the State Department of Health and the Department of Human Services, and the costs of audit services, so that the State of Mississippi is fully funding the expenses of the state services provided by those entities and the counties are not having to subsidize the expenses of those state services.

SECTION 4. Section 9-17-1, Mississippi Code of 1972, is amended as follows:

9-17-1. (1) The judges and chancellors of judicial districts, including chancery, circuit and county courts, may, in their discretion, jointly or independently, establish the office of court administrator in any county by an order entered on the minutes of each participating court in the county.

The establishment of the office of court administrator shall be accomplished by vote of a majority of the participating judges and chancellors in the county, and such court administrator shall be appointed by vote of a majority of the judges or chancellors and may be removed by a majority vote of the judges or

chancellors. In case of a tie vote, the senior judge or senior chancellor shall cast two (2) votes.

(2) The court administrator shall be provided office space in the same manner as such is afforded the judges and chancellors.

(3) The annual salary of each court administrator appointed pursuant to this section shall be set by vote of the judges and chancellors of each participating county and shall be submitted to the Administrative Office of Courts for approval pursuant to Section 9-1-36. The salary shall be paid in twelve (12) installments on the last working day of the month by the Administrative Office of Courts after it has been authorized by the participating judges and chancellors and an order has been duly placed on the minutes of each participating court. The cost of the salaries of court administrators shall be paid with funds appropriated for that purpose by the Legislature.

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(4) For all travel required in the performance of official duties, the court administrator shall be paid mileage *** * *** in which the duties were performed at the same rate as provided for state employees in Section 25-3-41 *** * ***. The cost of the travel expenses of court administrators shall be paid with funds appropriated for that purpose by the Legislature.

SECTION 5. Section 9-17-5, Mississippi Code of 1972, is brought forward as follows:

9-17-5. (1) In each county where a court administrator has been appointed pursuant to this chapter, a special fund in the county treasury is hereby established to be known as the "court administration fund."

(2) (a) The judges and chancellors may apply their expense allowance in Section 9-1-36, Mississippi Code of 1972, to the court administration fund.

(b) The board of supervisors of any county within a judicial district having a court administrator is authorized to pay its pro rata cost of the salary and furnish an equipped office for the court administrator and his staff from county funds. The board of supervisors is further authorized to accept grants, gifts, donations or federal funds for the benefit of the office of the court administrator.

(c) The board of supervisors of any county within a judicial district having a court administrator is authorized, in its discretion, to charge, in addition to all other costs required by law, an amount not to exceed Two Dollars ($2.00) for each complaint filed in the chancery, circuit and county courts of such county. Any money collected pursuant to this subsection shall be paid into the court administrator fund.

(d) Money paid into the court administration fund under this chapter shall be applied to the office of the court administrator for the purpose of funding that office.

(3) All expenditures made from the court administration fund shall be upon written requisition of the court administrator approved by a judge or chancellor to the county or counties of the district designated by him, in proportion to the business of his office in the county.

SECTION 6. Section 9-13-19, Mississippi Code of 1972, is amended as follows:

9-13-19. (1) Court reporters for circuit and chancery courts shall be paid an annual salary payable by the Administrative Office of Courts not to exceed Forty Thousand Five Hundred Dollars ($40,500.00) for court reporters with five (5) years' experience or less; not to exceed Forty-three Thousand Five Hundred Dollars ($43,500.00) for court reporters who have more than five (5) years' experience but less than ten (10) years; and not to exceed Forty-six Thousand Dollars ($46,000.00) for court reporters who have ten (10) years or more experience. In addition, any court reporter performing the duties of a court administrator in the same judicial district in which the person is employed as a court reporter may be paid additional compensation for performing the court administrator duties. The annual amount of the additional compensation shall be set by vote of the judges and chancellors for whom the court administrator duties are performed, with consideration given to the number of hours per month devoted by the court reporter to performing the duties of a court administrator. The additional compensation shall be

submitted to the Administrative Office of Courts for approval. The cost of the salaries of court reporters shall be paid with funds appropriated for that purpose by the Legislature.

(2) * * * For purposes of this section, the term "compensation" means the gross salary plus all amounts paid for benefits, or otherwise, as a result of employment or as required by employment, but does not include transcript fees otherwise authorized to be paid by or through the counties. However, only salary earned for services rendered shall be reported and credited for retirement purposes. Amounts paid for transcript fees, benefits or otherwise, including reimbursement for travel expenses, shall not be reported or credited for retirement purposes.

* * *

(3) The salary and any additional compensation for the performance of court administrator duties shall be paid in twelve (12) installments on the last working day of each month after it has been duly authorized by the appointing judge or chancellor and an order duly placed on the minutes of the court. * * * The Administrative Office of Courts shall pay to the court reporter the total amount of salary due for that month. * * *

(4) * * * All circuit and chancery court reporters will be employees of the Administrative Office of Courts.

(5) No circuit or chancery court reporter shall be entitled to any compensation for any special or extended term of court after passage of this section.

(6) No chancery or circuit court reporter shall practice law in the court within which he or she is the court reporter.

(7) For all travel required in the performance of official duties, the circuit or chancery court reporter shall be paid mileage *** * *** at the same rate as provided for state employees in Section 25-3-41. The court reporter shall file in the office of the clerk of the court which he serves a certificate of mileage expense incurred during that term and payment of such expense to the court reporter shall be paid on allowance by the judge of such court. The cost of the travel expenses of court reporters shall be paid with funds appropriated for that purpose by the Legislature.

SECTION 7. Section 9-13-21, Mississippi Code of 1972, is brought forward as follows:

9-13-21. In each suit, cause or matter where (1) a plea or answer is filed, and (2) in probate or any other cause or matter wherein the court reporter actually serves, a court reporter's tax fee of Ten Dollars ($10.00) shall be collected as costs, and paid into the treasury of the county in which the case is tried, as the jury tax is collected by law and paid in the circuit court.

SECTION 8. Section 9-13-63, Mississippi Code of 1972, is brought forward as follows:

9-13-63. In all cases filed in the county court, a court reporter's fee shall be charged as an item of cost as follows: A fee of One Dollar ($1.00) shall be charged in all cases which, if there were no county court, would have been filed in the justice of the peace court; a fee of Two Dollars ($2.00) shall be charged in all cases appealed to the county court and a fee of Three Dollars ($3.00) shall be charged in all cases which, if there were no county court, would be filed in the circuit or chancery courts. All of said reporter's fees above mentioned are to be paid into the general fund of the county; provided, however, that no jury tax shall be charged in any case unless there is an issue joined and no court reporter's fee shall be charged unless issue has been joined in such case and testimony taken.

SECTION 9. Section 7-7-211, Mississippi Code of 1972, is amended as follows:

7-7-211. The department shall have the power and it shall be its duty:

(a) To identify and define for all public offices of the state and its subdivisions generally accepted accounting principles or other accounting principles as promulgated by nationally recognized professional organizations and to consult with the State Fiscal Officer in the prescription and implementation of accounting rules and regulations;

(b) To provide best practices, for all public offices of regional and local subdivisions of the state, systems of

accounting, budgeting and reporting financial facts relating to said offices in conformity with legal requirements and with generally accepted accounting principles or other accounting principles as promulgated by nationally recognized professional organizations; to assist such subdivisions in need of assistance in the installation of such systems; to revise such systems when deemed necessary, and to report to the Legislature at periodic times the extent to which each office is maintaining such systems, along with such recommendations to the Legislature for improvement as seem desirable;

(c) To study and analyze existing managerial policies, methods, procedures, duties and services of the various state departments and institutions upon written request of the Governor, the Legislature or any committee or other body empowered by the Legislature to make such request to determine whether and where operations can be eliminated, combined, simplified and improved;

(d) To postaudit each year and, when deemed necessary, preaudit and investigate the financial affairs of the departments, institutions, boards, commissions or other agencies of state government, as part of the publication of a comprehensive annual financial report for the State of Mississippi. In complying with the requirements of this paragraph, the department shall have the authority to conduct all necessary audit procedures on an interim and year-end basis;

(e) To postaudit and, when deemed necessary, preaudit and investigate separately the financial affairs of (i) the offices, boards and commissions of county governments and any departments and institutions thereof and therein; (ii) public school districts, departments of education and junior college districts; and (iii) any other local offices or agencies which share revenues derived from taxes or fees imposed by the State Legislature or receive grants from revenues collected by governmental divisions of the state; the cost of such audits, investigations or other services to be paid as follows: Except as otherwise provided in this paragraph, such part shall be paid by the state from appropriations made by the Legislature for the operation of the State Department of Audit as may exceed the sum of Thirty Dollars ($30.00) per man hour for the services of each staff person engaged in performing the audit or other service plus the actual cost of any independent specialist firm contracted by the State Auditor to assist in the performance of the audit, which sum shall be paid by the * * * district, department, institution or other agency audited out of its general fund or any other available funds from which such payment is not prohibited by law. Costs paid for independent specialists or firms contracted by the State Auditor shall be paid by the audited entity through the State Auditor to the specialist or firm conducting the postaudit. For audits of entities described in subparagraph (i) of this paragraph, such part shall be paid by the state from

appropriations made by the Legislature for the operation of the State Department of Audit for the services of each staff person engaged in performing the audit or other service plus the actual cost of any independent specialist firm contracted by the State Auditor to assist in the performance of the audit.

Each school district in the state shall have its financial records audited annually, at the end of each fiscal year, either by the State Auditor or by a certified public accountant approved by the State Auditor. Beginning with the audits of fiscal year 2010 activity, no certified public accountant shall be selected to perform the annual audit of a school district who has audited that district for three (3) or more consecutive years previously. Certified public accountants shall be selected in a manner determined by the State Auditor. The school district shall have the responsibility to pay for the audit, including the review by the State Auditor of audits performed by certified public accountants;

(f) To postaudit and, when deemed necessary, preaudit and investigate the financial affairs of the levee boards; agencies created by the Legislature or by executive order of the Governor; profit or nonprofit business entities administering programs financed by funds flowing through the State Treasury or through any of the agencies of the state, or its subdivisions; and all other public bodies supported by funds derived in part or wholly from public funds, except municipalities which annually

submit an audit prepared by a qualified certified public accountant using methods and procedures prescribed by the department;

(g) To make written demand, when necessary, for the recovery of any amounts representing public funds improperly withheld, misappropriated and/or otherwise illegally expended by an officer, employee or administrative body of any state, county or other public office, and/or for the recovery of the value of any public property disposed of in an unlawful manner by a public officer, employee or administrative body, such demands to be made (i) upon the person or persons liable for such amounts and upon the surety on official bond thereof, and/or (ii) upon any individual, partnership, corporation or association to whom the illegal expenditure was made or with whom the unlawful disposition of public property was made, if such individual, partnership, corporation or association knew or had reason to know through the exercising of reasonable diligence that the expenditure was illegal or the disposition unlawful. Such demand shall be premised on competent evidence, which shall include at least one (1) of the following: (i) sworn statements, (ii) written documentation, (iii) physical evidence, or (iv) reports and findings of government or other law enforcement agencies. Other provisions notwithstanding, a demand letter issued pursuant to this paragraph shall remain confidential by the State Auditor until the individual against whom the demand letter is being filed

has been served with a copy of such demand letter. If, however, such individual cannot be notified within fifteen (15) days using reasonable means and due diligence, such notification shall be made to the individual's bonding company, if he or she is bonded. Each such demand shall be paid into the proper treasury of the state, county or other public body through the office of the department in the amount demanded within thirty (30) days from the date thereof, together with interest thereon in the sum of one percent (1%) per month from the date such amount or amounts were improperly withheld, misappropriated and/or otherwise illegally expended. In the event, however, such person or persons or such surety shall refuse, neglect or otherwise fail to pay the amount demanded and the interest due thereon within the allotted thirty (30) days, the State Auditor shall have the authority and it shall be his duty to institute suit, and the Attorney General shall prosecute the same in any court of the state to the end that there shall be recovered the total of such amounts from the person or persons and surety on official bond named therein; and the amounts so recovered shall be paid into the proper treasury of the state, county or other public body through the State Auditor. In any case where written demand is issued to a surety on the official bond of such person or persons and the surety refuses, neglects or otherwise fails within one hundred twenty (120) days to either pay the amount demanded and the interest due thereon or to give the State Auditor a written response with specific reasons for

nonpayment, then the surety shall be subject to a civil penalty in an amount of twelve percent (12%) of the bond, not to exceed Ten Thousand Dollars ($10,000.00), to be deposited into the State General Fund;

(h) To investigate any alleged or suspected violation of the laws of the state by any officer or employee of the state, county or other public office in the purchase, sale or the use of any supplies, services, equipment or other property belonging thereto; and in such investigation to do any and all things necessary to procure evidence sufficient either to prove or disprove the existence of such alleged or suspected violations. The Department of Investigation of the State Department of Audit may investigate, for the purpose of prosecution, any suspected criminal violation of the provisions of this chapter. For the purpose of administration and enforcement of this chapter, the enforcement employees of the Department of Investigation of the State Department of Audit have the powers of a law enforcement officer of this state, and shall be empowered to make arrests and to serve and execute search warrants and other valid legal process anywhere within the State of Mississippi. All enforcement employees of the Department of Investigation of the State Department of Audit hired on or after July 1, 1993, shall be required to complete the Law Enforcement Officers Training Program and shall meet the standards of the program;

(i) To issue subpoenas, with the approval of, and returnable to, a judge of a chancery or circuit court, in termtime or in vacation, to examine the records, documents or other evidence of persons, firms, corporations or any other entities insofar as such records, documents or other evidence relate to dealings with any state, county or other public entity. The circuit or chancery judge must serve the county in which the records, documents or other evidence is located; or where all or part of the transaction or transactions occurred which are the subject of the subpoena;

(j) In any instances in which the State Auditor is or shall be authorized or required to examine or audit, whether preaudit or postaudit, any books, ledgers, accounts or other records of the affairs of any public hospital owned or owned and operated by one or more political subdivisions or parts thereof or any combination thereof, or any school district, including activity funds thereof, it shall be sufficient compliance therewith, in the discretion of the State Auditor, that such examination or audit be made from the report of any audit or other examination certified by a certified public accountant and prepared by or under the supervision of such certified public accountant. Such audits shall be made in accordance with generally accepted standards of auditing, with the use of an audit program prepared by the State Auditor, and final reports of such audits shall conform to the format prescribed by the State

Auditor. All files, working papers, notes, correspondence and all other data compiled during the course of the audit shall be available, without cost, to the State Auditor for examination and abstracting during the normal business hours of any business day. The expense of such certified reports shall be borne by the respective hospital, or any available school district funds other than minimum program funds, subject to examination or audit. The State Auditor shall not be bound by such certified reports and may, in his or their discretion, conduct such examination or audit from the books, ledgers, accounts or other records involved as may be appropriate and authorized by law;

(k) The State Auditor shall have the authority to contract with qualified public accounting firms to perform selected audits required in paragraphs (d), (e), (f) and (j) of this section, if funds are made available for such contracts by the Legislature, or if funds are available from the governmental entity covered by paragraphs (d), (e), (f) and (j). Such audits shall be made in accordance with generally accepted standards of auditing. All files, working papers, notes, correspondence and all other data compiled during the course of the audit shall be available, without cost, to the State Auditor for examination and abstracting during the normal business hours of any business day;

(l) The State Auditor shall have the authority to establish training courses and programs for the personnel of the various state and local governmental entities under the

jurisdiction of the Office of the State Auditor. The training courses and programs shall include, but not be limited to, topics on internal control of funds, property and equipment control and inventory, governmental accounting and financial reporting, and internal auditing. The State Auditor is authorized to charge a fee from the participants of these courses and programs, which fee shall be deposited into the Department of Audit Special Fund. State and local governmental entities are authorized to pay such fee and any travel expenses out of their general funds or any other available funds from which such payment is not prohibited by law;

(m) Upon written request by the Governor or any member of the State Legislature, the State Auditor may audit any state funds and/or state and federal funds received by any nonprofit corporation incorporated under the laws of this state;

(n) To conduct performance audits of personal or professional service contracts by state agencies on a random sampling basis, or upon request of the State Personal Service Contract Review Board under Section 25-9-120(3).

SECTION 10. Section 7-7-213, Mississippi Code of 1972, is amended as follows:

7-7-213. (1) The costs of audits and other services required by Sections 7-7-201 through 7-7-215, except for those audits and services authorized by Section 7-7-211(k) and those audits and services authorized by Section 7-7-211(e) for the

entities described in Section 7-7-211(e)(i), which shall be funded by appropriations made by the Legislature from such funds as it deems appropriate, shall be paid from a special fund * * * that is created in the State Treasury, to be known as the State Department of Audit Fund, into which will be paid each year the amounts received for performing audits required by law. Except as provided in Section 7-7-211(d) and any municipality required under this chapter to be audited by the State Auditor, the amounts to be charged for performing audits and other services shall be the actual cost, not to exceed Thirty Dollars ($30.00) per man hour plus the actual cost of any independent specialist firm contracted by the State Auditor to assist in the performance of the audit. Costs paid for independent specialists or firms contracted by the State Auditor shall be paid by the audited entity through the State Auditor to the specialist or firm conducting the audit. In the event of failure by any unit of government to pay the charges authorized herein, the Department of Audit shall notify the State Fiscal Officer, and upon a determination that the charges are substantially correct, the State Fiscal Officer shall notify the defaulting unit of his determination. If payment is not made within thirty (30) days after such notification, the State Fiscal Officer shall notify the State Treasurer and Department of Public Accounts that no further warrants are to be issued to the defaulting unit until the deficiency is paid.

(2) The cost of any service by the department not required of it under the provisions of the cited sections but made necessary by the willful fault or negligence of an officer or employee of any public office of the state shall be recovered (i) from such officer or employee and/or surety on official bond thereof and/or (ii) from the individual, partnership, corporation or association involved, in the same manner and under the same terms, when necessary, as provided the department for recovering public funds in Section 7-7-211.

(3) The State Auditor shall deliver a copy of any audit of the fiscal and financial affairs of a county to the chancery clerk of such county and shall deliver a notice stating that a copy of such audit is on file in the chancery clerk's office to some newspaper published in the county to be published. If no newspaper is published in the county, a copy of such notice shall be delivered to a newspaper having a general circulation therein.

SECTION 11. This act shall take effect and be in force from and after July 1, 2014.