MISSISSIPPI LEGISLATURE REGULAR SESSION 2016

By: Representatives Smith, Dixon To: Ways and Means

HOUSE BILL NO. 1421

AN ACT TO AMEND SECTION 25-3-69, MISSISSIPPI CODE OF 1972, TO INCREASE THE PER DIEM COMPENSATION ALLOWED TO ALL OFFICERS AND EMPLOYEES OF STATE AGENCIES, BOARDS, COMMISSIONS, DEPARTMENTS AND INSTITUTIONS; TO BRING FORWARD SECTION 17-17-313, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE BOARD OF COMMISSIONERS FOR THE MISSISSIPPI REGIONAL SOLID WASTE MANAGEMENT AUTHORITY ACT, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 25-7-61, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE COMPENSATION PAID TO JURORS, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 73-43-7, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES THE MEETING GUIDELINES AND PER DIEM COMPENSATION FOR MEMBERS OF THE STATE BOARD OF MEDICAL LICENSURE, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 25-3-69, Mississippi Code of 1972, is amended as follows:

25-3-69. Unless otherwise provided by law, all officers and employees of state agencies, boards, commissions, departments and institutions authorized by law to receive per diem compensation for each day or fraction thereof occupied with the discharge of official duties shall be entitled to *** * *** <u>One Hundred Fifty Dollars ($150.00)</u> per diem compensation. When the Governor, Lieutenant Governor or Speaker of the House of Representatives

appoints a person to a board, commission or other position that requires confirmation by the Senate, the person may receive per diem compensation for the performance of official duties before such appointment is confirmed by the Senate, as such per diem compensation is authorized under this section.

SECTION 2. Section 17-17-313, Mississippi Code of 1972, is brought forward as follows:

17-17-313. (1) All powers of the authority shall be vested in the board of commissioners. Each member of the authority shall have at least one (1) commissioner on the board.

The incorporators shall by duly adopted resolution or bylaws designate the vote of each commissioner based upon pro rata population, municipal solid waste volume or such other criteria as they may determine. In the alternative, the incorporators by duly adopted resolution, may authorize appointments to the board by the members to reflect population, municipal solid waste volume or such other criteria as the incorporators may determine. In addition, the incorporators shall designate a term for each commissioner at the time of incorporation so as to establish staggered terms of office. No commissioner shall serve for a term to exceed four (4) years unless duly reappointed. Such resolutions for the composition of the board and the vote of its commissioners shall be filed with the incorporation agreement.

(a) Initially, the board shall be composed as follows:

(i) Within thirty (30) days of the effective date of the incorporation agreement, the board of supervisors of each participating county and the mayor of each municipality acting on behalf and with the consent of the governing body of each participating municipality shall appoint at least one (1) person to the board as determined by the resolution of the incorporators.

(ii) The governing body of each county or municipality shall appoint only individuals who are residents of its respective county or municipality or an employee thereof.

(iii) The number of commissioners of the board shall be increased by at least one (1) each time a county or municipality enters into membership and executes a contract for solid waste management. The board shall establish the vote or number of commissioners based upon the same terms as the original resolution of the incorporators. Within fifteen (15) days of entering into the contract, the governing body of the county or municipality, entering into such contract shall appoint at least one (1) person to the board. Any commissioner appointed under the provision shall serve for a term of four (4) years.

(iv) After the initial term, the commissioners shall serve a term of four (4) years, and for such period thereafter until a successor shall be duly appointed and qualified.

(v) Upon selection of a site for any municipal solid waste management facility owned and/or operated by the

authority, the situs county shall have a minimum representation at least as great as any single member. Such representation shall include a minimum of one (1) commissioner from the supervisor district in which the facility is located. The supervisor of the district or his designee shall serve in this position.

(b) Each commissioner of the board shall be eligible for reappointment. All vacancies shall be filled by appointment in the same manner, provided that any person appointed to fill a vacancy shall serve only for the unexpired term. Any commissioner may be removed at any time prior to the expiration of the member's term of office for misfeasance, malfeasance or willful neglect of duty, as determined by the appointing political subdivision. Before assuming office, each commissioner shall take and subscribe to the constitutional oath of office before a chancery clerk, and a record of such oath shall be filed with the Secretary of State. The board of commissioners shall annually select a chairman and a vice chairman.

(2) The board may appoint an executive committee to be composed of not less than five (5) persons. No member shall have more than one (1) representative on the executive committee. The chairman of the board shall serve as chairman of the executive committee. The executive committee is empowered to execute all powers vested in the full board between meetings of the board. A majority plus one (1) shall constitute a quorum for the transaction of business. All actions of the executive committee

must be ratified by a majority of the board at a regular or called meeting of the board.

(3) The board may employ such personnel and appoint and prescribe the duties of such officers as the board deems necessary or advisable, including a general manager and a secretary of the authority. The general manager may also serve as secretary and shall be a person of good moral character and of proven ability as an administrator with a minimum of five (5) years' experience in the management and administration of a public works operation or comparable experience which may include, but is not limited to, supervision, public financing, regulatory codes and related functions as minimum qualifications to administer the programs and duties of the authority. The general manager shall administer, manage and direct the affairs and business of the authority, subject to the policies, control and direction of the board. The general manager and any commissioner not bonded in another capacity shall give bond executed by a surety company or companies authorized to do business in this state in the penal sum of Fifty Thousand Dollars ($50,000.00) payable to the authority conditioned upon the faithful performance of his duties and the proper accounting for all funds. The board may require any of its employees to be bonded. The cost of any bond required by this section or by the board shall be paid from funds of the authority. The secretary shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and

papers filed with the authority, the minute book or journal, and the official seal. The secretary may make copies of all minutes and other records and documents of the authority and to certify under the seal of the authority that such copies are true and accurate copies, and all persons dealing with the authority may rely upon such certificates.

(4) Regular meetings of the board shall be held as set forth in its bylaws, rules or regulations. Additional meetings of the board shall be held at the call of the chairman or whenever any three (3) commissioners so request.

(5) Upon express, prior authorization of the authority, each commissioner may receive compensation in an amount not to exceed Forty Dollars ($40.00) per day for attending each day's meeting of the board and for each day spent in attending to the business of the authority and, in addition, may receive reimbursement for actual and necessary expenses incurred as provided by Section 25-3-41, Mississippi Code of 1972. Each commissioner shall not be entitled to any additional compensation other than that specifically provided for in this subsection.

(6) The board shall prepare a budget for the authority for each fiscal year at least ninety (90) days prior to the beginning of each fiscal year, which shall be from July 1 to June 30 of each year, and shall submit it to the governing body of each member.

SECTION 3. Section 25-7-61, Mississippi Code of 1972, is brought forward as follows:

[Effective until January 1, 2008, or such time as the Lengthy Trial Fund is fully funded by a specific appropriation of the Legislature, whichever is later, this section shall read as follows:]

25-7-61. (1) Fees of jurors shall be payable as follows:

(a) Grand jurors and petit jurors in the chancery, county, circuit and special eminent domain courts shall be paid an amount to be set by the board of supervisors, not to be less than Twenty-five Dollars ($25.00) per day and not to be greater than Forty Dollars ($40.00) per day, plus mileage authorized in Section 25-3-41. In the trial of all cases where jurors are in charge of bailiffs and are not permitted to separate, the sheriff with the approval of the trial judge may pay for room and board of jurors on panel for actual time of trial.

No grand juror shall receive any compensation except mileage unless he has been sworn as provided by Section 13-5-45; and no petit juror except those jurors called on special venires shall receive any compensation authorized under this subsection except mileage unless he has been sworn as provided by Section 13-5-71.

(b) Jurors making inquisitions of intellectual disability, mental illness or unsound mind and jurors on coroner's inquest shall be paid Five Dollars ($5.00) per day plus mileage authorized in Section 25-3-41 by the county treasurer on order of the board of supervisors on certificate of the clerk of the chancery court in which the inquisition is held.

(c) Jurors in the justice courts shall be paid an amount of not less than Ten Dollars ($10.00) per day and not more than Fifteen Dollars ($15.00) per day, to be established by the board of supervisors. In all criminal cases in the justice court in which the prosecution fails, the fees of jurors shall be paid by the county treasurer on order of the board of supervisors on certificate of the county attorney in all counties that have county attorneys, otherwise by the justice court judge.

(2) Any juror may return the fees provided as compensation for service as a juror to the county that paid for the person's service as a juror. The fees returned to the county may be earmarked for a particular purpose to be selected by the juror, including:

(a) The local public library;

(b) Local law enforcement;

(c) The Mississippi Burn Care Fund created in Section 7-9-70; or

(d) Any other governmental agency.

[From and after January 1, 2008, or such time as the Lengthy Trial Fund is fully funded by a specific appropriation of the Legislature, whichever is later, this section shall read as follows:]

25-7-61. (1) Fees of jurors shall be payable as follows:

(a) Grand jurors and petit jurors in the chancery, county, circuit and special eminent domain courts shall be paid an

amount to be set by the board of supervisors, not to be less than Twenty-five Dollars ($25.00) per day and not to be greater than Forty Dollars ($40.00) per day, plus mileage authorized in Section 25-3-41. In the trial of all cases where jurors are in the charge of bailiffs and are not permitted to separate, the sheriff with the approval of the trial judge may pay for room and board of jurors on panel for actual time of trial.

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(b) Jurors making inquisitions of intellectual disability, mental illness or unsound mind and jurors on coroner's inquest shall be paid Five Dollars ($5.00) per day plus mileage authorized in Section 25-3-41 by the county treasurer on order of the board of supervisors on certificate of the clerk of the chancery court in which the inquisition is held.

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certificate of the county attorney in all counties that have county attorneys, otherwise by the justice court judge.

(2) Any juror may return the fees provided as compensation for service as a juror to the county that paid for the person's service as a juror. The fees returned to the county may be earmarked for a particular purpose to be selected by the juror, including:

(a) The local public library;

(b) Local law enforcement;

(c) The Mississippi Burn Care Fund created in Section 7-9-70; or

(d) Any other governmental agency.

(3) The Administrative Office of Courts shall promulgate rules to establish a Lengthy Trial Fund to be used to provide full or partial wage replacement or wage supplementation to jurors who serve as petit jurors in civil cases for more than ten (10) days.

(a) The Uniform Circuit and County Court Rules shall provide for the following:

(i) The selection and appointment of an administrator for the fund.

(ii) Procedures for the administration of the fund, including payments of salaries of the administrator and other necessary personnel.

(iii) Procedures for the accounting, auditing and investment of money in the Lengthy Trial Fund.

(iv) A report by the Administrative Office of Courts on the administration of the Lengthy Trial Fund in its annual report on the judicial branch, setting forth the money collected for and disbursed from the fund.

(v) The Lengthy Trial Fund Administrator and all other necessary personnel shall be employees of the Administrative Office of Courts.

(b) The administrator shall use any monies deposited in the Lengthy Trial Fund to pay full or partial wage replacement or supplementation to jurors whose employers pay less than full regular wages when the period of jury service lasts more than ten (10) days.

(c) To the extent funds are available in the Lengthy Trial Fund, and in accordance with any rules or regulations promulgated by the Administrative Office of Courts, the court may pay replacement or supplemental wages out of the Lengthy Trial Fund not to exceed Three Hundred Dollars ($300.00) per day per juror beginning on the eleventh day of jury service. In addition, for any jurors who qualify for payment by virtue of having served on a jury for more than ten (10) days, the court, upon finding that the service posed a significant financial hardship to a juror, even in light of payments made with respect to jury service after the tenth day, may award replacement or supplemental wages out of the Lengthy Trial Fund not to exceed One Hundred Dollars

($100.00) per day from the fourth to the tenth day of jury service.

(d) Any juror who is serving or has served on a jury that qualifies for payment from the Lengthy Trial Fund, provided the service began on or after January 1, 2008, may submit a request for payment from the Lengthy Trial Fund on a form that the administrator provides. Payment shall be limited to the difference between the jury fee specified in subsection (1) of this section and the actual amount of wages a juror earns, up to the maximum level payable, minus any amount the juror actually receives from the employer during the same time period.

(i) The form shall disclose the juror's regular wages, the amount the employer will pay during the term of jury service starting on the eleventh day and thereafter, the amount of replacement or supplemental wages requested, and any other information the administrator deems necessary for proper payment.

(ii) The juror also shall be required to submit verification from the employer as to the wage information provided to the administrator, for example, the employee's most recent earnings statement or similar document, before initiation of payment from the fund.

(iii) If an individual is self-employed or receives compensation other than wages, the individual may provide a sworn affidavit attesting to his or her approximate gross weekly

income, together with such other information as the administrator may require, in order to verify weekly income.

(4) Nothing in this section shall be construed to impose an obligation on any county to place monies in the Lengthy Trial Fund or to pay replacement or supplemental wages to any juror from county funds.

SECTION 4. Section 73-43-7, Mississippi Code of 1972, is brought forward as follows:

73-43-7. Five (5) members shall constitute a quorum, and a majority of those present shall be necessary to reject any application. All regular meetings of the board shall be held at least quarterly upon the call of the president, except the first meeting of the original appointees which shall be called by the Governor. The members of the board shall be entitled to a per diem of Forty Dollars ($40.00) for each day's service in attending meetings of the board and for conducting examinations for professional certificates, and shall receive reimbursement for necessary expenses and mileage as is authorized by law.

SECTION 5. This act shall take effect and be in force from and after July 1, 2016.