



# State of Mississippi

## COUNTY GOVERNMENT LEGAL DIGEST 2010

OFFICE OF THE STATE AUDITOR

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**Office of the State Auditor  
Division of Technical Assistance**

**DIGEST OF PARTS OF  
MISSISSIPPI CODE OF 1972  
AFFECTING COUNTY AFFAIRS**

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## INTRODUCTION

The Office of the State Auditor, Division of Technical Assistance, is pleased to present the *Digest of Parts of Mississippi Code of 1972 Affecting County Affairs*, also referred to as the *County Government Legal Digest*, revised through the 2003 regular session of the Mississippi Legislature.

This publication provides a convenient reference guide to the Mississippi Code for those having responsibility at the county government level. It directs the user to pertinent code sections and presents them in full length or summary form, or directs the user to the relevant section of the Mississippi Code. However, persons wishing to research legal questions in detail should refer directly to the Mississippi Code.

The Digest is published as a service of the Office of the State Auditor. First used only within the Office, the publication has evolved into a dependable code reference source for county officials, county attorneys and others who hold county government level responsibility.

The Digest is organized by Code Title and Chapter. Some Chapters are listed only by reference number, but most are summarized, and some contain editorial remarks (shown in brackets). An index aligning subjects with code sections follows the text. The index is a particularly valuable research tool, and contains some references to code sections not included in the text.

Questions or suggestions regarding this publication should be directed to the Division of Technical Assistance at 1-800-321-1275. Copies are available at cost from the Office of the State Auditor, Division of Technical Assistance, PO Box 956, Jackson, Ms, 39205.

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# DIGEST OF PARTS OF MISSISSIPPI CODE OF 1972

## AFFECTING COUNTY AFFAIRS

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### TITLE 1. LAWS AND STATUTES

#### CHAPTER 1. CODE OF 1972

1-1-11. Distribution of the Code of 1972. Details the distribution of the Mississippi Code of 1972 (purchased by the State) by the Joint Committee on Compilation, Revision, and Publication of Legislation, including to circuit clerks, chancery clerks, and sheriffs. 1997, 385; 1998, 325, 546; 1999, 310; 2000, 511; 2003, 551; 2010,

#### CHAPTER 3. CONSTRUCTION OF STATUTES

1-3-63. Year. The term "year," when used in any statute, means a calendar year, unless a contrary intention be expressed. 1942, 701.

1-3-67. Time, how computed when a number of days is prescribed. When process shall be required to be served or notice given any number of days, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday or a legal holiday, or any other day when the courthouse or the clerk's office is in fact closed, whether with or without legal authority, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, a legal holiday, or any other day when the courthouse or the clerk's office is closed. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. 1991, 573.

1-3-69. Publications, time of, when a number of weeks is prescribed. When publication shall be required to be made in some newspaper "for three (3) weeks," such publication shall be made once each week for three (3) successive weeks, and the time within which the noticed party is required to act or within which the noticing party may proceed shall be computed from the first date of publication. This rule shall furnish a guide for any similar case, whether the time required be more or less than three (3) weeks. 1942, 706; 1991, 573.

1-3-71. Relationship within "third degree" defined. In each and every statute of this state in which the phrase "kindred within the third degree" or "relationship within the third degree" is used, and in which no other rule is applied or indicated, the civil law rule in computing relationship shall govern. 1942, 707.

**Editor's Note--** American Jurisprudence, "Descent and Distribution," desk book, Document No. 184, computes degrees of kindred through the twelfth degree. The first four degrees are as follows:

First Degree: Father or mother, son or daughter.

Second Degree: Brother or sister, grandfather or grandmother, grandson or granddaughter.

Third Degree: Great-grandfather or great grandmother, great-grandson or great-granddaughter, uncle or aunt, nephew or niece.

Fourth Degree: Great-great-grandfather or great-great-grandmother, great-great-grandson or great-great-granddaughter, great-uncle or great-aunt, great-nephew or great-niece, first cousin.

### **TITLE 3. STATE SOVEREIGNTY, JURISDICTION AND HOLIDAYS**

#### **CHAPTER 3. STATE BOUNDARIES, HOLIDAYS, ETC.**

**3-3-7. Legal holidays.** (1) Except as otherwise provided in subsection (2) of this section, the following are declared to be legal holidays, viz.: the first day of January (New Year's Day); the third Monday of January (Robert E. Lee's birthday and Dr. Martin Luther King, Jr.'s birthday); the third Monday of February (Washington's birthday); the last Monday of April (Confederate Memorial Day); the last Monday in May (National Memorial Day and Jefferson Davis' birthday); the fourth day of July (Independence Day); the first Monday of September (Labor Day); the eleventh day of November (Armistice or Veterans' Day); the day fixed by proclamation by the governor of Mississippi as a day of Thanksgiving, which shall be fixed to correspond to the date proclaimed by the President of the United States (Thanksgiving Day); and the twenty-fifth day of December (Christmas Day). Provided, however, that in the event any holiday hereinbefore declared legal shall fall on Sunday, then the next following day shall be a legal holiday.

(2) In lieu of any one (1) legal holiday provided for in subsection (1) of this section, with the exception of the third Monday in January (Robert E. Lee's and Martin Luther King, Jr.'s birthday), the governing authorities of any municipality or county may declare, by order spread upon its minutes, Mardi Gras Day or any one (1) other day during the year, to be a legal holiday.

(3) August 16 is declared to be Elvis Aaron Presley Day in recognition and appreciation of Elvis Aaron Presley's many contributions, international recognition and the rich legacy left to us by Elvis Aaron Presley. This day shall be a day of recognition and observation and shall not be recognized as a legal holiday.

(4) May 8 is declared to be Hernando de Soto Day in recognition, observation and commemoration of Hernando de Soto, who led the first and most imposing expedition ever made by Europeans into the wilds of North America and the State of Mississippi, and in further recognition of the Spanish explorer's 187-day journey from the Tombigbee River basin on our state's eastern boundary, westward to the place of discovery of the Mississippi River on May 8, 1541. This day shall be a day of commemoration, recognition and observation of Hernando de Soto and European exploration and shall not be recognized as a legal holiday.

(5) Insofar as possible, Armistice Day shall be observed by appropriate exercises in all the public schools in the State of Mississippi at the eleventh hour in the morning of the eleventh day of the eleventh month of the year. 1970, 460; 1987, 398; 1993, 301; 1997, 339, effective from and after July 1, 1997.

**Cross references--**

For office hours of courthouse officers, see §25-1-99.

## TITLE 7. EXECUTIVE DEPARTMENT

### CHAPTER 1. GOVERNOR

7-1-41. Superintendent of auditor's, treasurer's, and other offices. The governor shall superintend and at any time may make a personal inspection of all the books, vouchers, and other official papers of the treasurer, audit, etc. Office of land commissioner abolished. 1980, 458.

7-1-45. Examiner of public accounts. The governor is authorized to appoint an expert accountant to audit and examine the books, accounts, and vouchers of all officers, state or county, or of any of the state educational, charitable, or reformatory institutions, or of the officers thereof, or of any other institution supported in whole or in part by the state. 1942, 3992.

7-1-47. Compensation of examiner of public accounts. The governor is vested with power to direct and control the examiner and he shall fix compensation of such examiner at not exceeding \$7.00 a day while actually employed, the examiner to pay his own expenses. 1942, 3993.

7-1-51. Special audit of county books. Where an accountant is appointed by the governor to audit the books and accounts of county officers of any county and the accountant performs such services, he shall submit his itemized bill for services to the circuit judge of the district, whose duty it shall be to approve the same if it is found to be correct and reasonable. The governor shall then approve the same, if found correct and proper, and thereupon it shall be the duty of the board of supervisors of the county involved to allow said account. ... This section shall apply only to cases where the governor has been petitioned by 25% of the qualified electors of the county to appoint an accountant. 1914, 241.

7-1-55. Examiner's report. The examiner shall make report to the governor, under oath, of the result of any examination made by him, and show therein the true condition and state of the books and accounts examined at the time of his examination. Such reports shall be public records. 1942, 3997.

7-1-57. Defaulting state treasurer and tax collectors suspended. Whenever it shall be credibly alleged to the governor that the state treasurer or any tax collector is a defaulter, the governor shall direct the examiner forthwith to examine the records, books, and accounts of such officer and, as soon as practicable, to report the condition of the books so examined. If the report shows such officer to be a defaulter or short in his accounts, the governor shall at once suspend him and appoint some other person to perform the duties of the office pending the investigation of his account. 1942, 3998.

#### Cross references--

As to suspension of tax collector who fails to make report to auditor of public accounts and clerk of the board of supervisors, see §27-29-25.

As to clerk of board of supervisors being required to report defaulting officers to the grand jury, see §19-17-19.

As to removal of tax collector for failure to make monthly payment or final settlement, see §97-11-47.

### CHAPTER 3. SECRETARY OF STATE

7-3-45. Reports to be filed by constables. Each and every constable being compensated in whole or in part on a fee basis shall file not later than April 15 of each year, with the

Secretary of State, a true and correct annual report on a form to be designed and supplied to each by the State Auditor of Public Accounts immediately after January 1 of each year, said form to include at least information showing gross receipts from all sources accruing as compensation to his office and disbursements occurring as necessary expenses involved solely in complying with laws governing the office. Said report shall be in triplicate, and each copy shall be sworn to and signed, and shall also be spread upon the minutes of the board of supervisors of the respective counties from which the report is made. Each such constable, upon resigning or leaving office otherwise before the expiration of term of office, shall submit a supplemental report as above, covering the final period of his term not included in a previous report.

Any person who shall knowingly and willfully fail to file the report as required by this section, or who shall, although filing such report, knowingly and willfully fail to disclose information required by this section, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Five Thousand Dollars (\$5,000.00). 1996, 535.

#### 7-3-47. Penalty for failure or evasion.

(1) On or before April 20 of each year, the Secretary of State shall notify by mail every constable being compensated in whole or in part on a fee basis who has failed to file the report required by section 7-3-45; and on or before May 15 of each year, he will notify the Attorney General of the ones of same by name who still have not filed such report, and the attorney general shall thereupon prosecute such delinquent officers. If such report is not made by July 1 of each year, injunctive action and discovery in the chancery court of the residence of any such delinquent officer shall lie, and the Attorney General shall prosecute an action or actions in such court to obtain the proper information for each delinquent report.

(2) Failure on the part of any such officer to file such report by May 15 or evasion of the cited section, either by failure to report properly or by false entry, shall constitute a misdemeanor and shall be punishable by a fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), or by imprisonment for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment as the court may direct.

(3) If any such constable compensated by fees shall fail to file such report by May 1 in any year, all fees, salaries, and other remuneration collected by such official from May 1 until the date when such report is filed shall be forfeited to the general fund of the county. Any such official going out of office at the end of his or her term shall be liable on his or her official bond for the refund of all allowances, fees, salaries, or other remuneration received by him or her from the county treasury during the last year of his or her term of office, if such report is not filed with the Secretary of State by May 1 of the following year. 1996, 535.

## **CHAPTER 5. ATTORNEY GENERAL**

7-5-25. To give opinions in writing. The attorney general shall give his opinion in writing without fee to the Legislature, or either house or any committee thereof, state officials, heads of agencies and institutions, as stipulated in the act, and to the boards of supervisors, sheriffs, chancery clerks, circuit clerks, superintendents of education, tax assessors, county surveyors, county attorneys, attorneys for the board of supervisors, and to municipal officers as set forth in the law. When any officer shall have secured an opinion from the attorney general, there shall be no liability, civil or criminal, accruing to or against any such officer, board, commission, department or person who, in good faith, follows the direction of such opinion and acts in accordance therewith unless a court of competent jurisdiction, after a full hearing, shall judicially declare that such opinion is manifestly wrong and without any substantial support. No opinion shall be given or considered if said opinion is given after suit is filed or prosecution begun. 1978, 458; 1997, 332.

7-5-39. To represent the state and state officers in suits. The attorney general shall represent the state as counsel in all suits against it in other courts than the Mississippi Supreme Court; he shall act as counsel for any state officer in suits brought by or against them in their official capacity; he may pursue the collection of any claim or judgment in favor of the state outside of the state. 1942, 3841.

7-5-43. May advise public officials and employees investigated or sued as result of discharging duties. The attorney general may, in his discretion, render such services as he may deem necessary in advising or representing all officers or employees of any county district, county, or municipality, or the state or any agency, department or institution thereof, in any state or federal court, in any proceedings relative to the official discharge of the duties of office of the person involved. 1958, 257.

7-5-53. To assist district attorneys. 1988, 511.

7-5-54. Prosecution of official corruption and other white collar crimes. 1988, 511.

7-5-59. Investigation of official corruption and other white collar crimes. 1988, 511.

## **CHAPTER 7. DEPARTMENT OF AUDIT**

7-7-60. Petty cash funds for offices within county, municipality, or board of education. A petty cash fund for offices within the county, municipality or board of education may be established in accordance with regulations set forth by the State Auditor's Office. 1985, 425.

7-7-67. Investigation of fiscal officers and depositories. The state auditor has the duty to investigate the books, accounts, and vouchers of all fiscal officers and depositories of the state and of every county, levee board, and taxing district of every kind, and to sue for, collect, and pay over all money improperly withheld by such fiscal officer or depository. He has the power to sue all such officers and depositories and their sureties to collect any such moneys. He may also, in his discretion, investigate the books and accounts of any municipality, even though an audit thereof has been made by a certified public accountant or an accounting firm. 1970, 542.

7-7-69. Examination or records of various boards. The state auditor has authority to examine the records, minutes, and allowances of the various boards of supervisors, drainage boards, and all other boards empowered to make allowances of public money under the laws of the state. He shall notify any of such boards of funds credited to any erroneous account, and of funds in public treasuries to an erroneous account; and unless such board shall within thirty (30) days correct such errors or omissions, the members thereof shall be guilty of misfeasance of office. Should the state auditor discover that any of the boards mentioned herein have appropriated any money to a purpose or purposes not authorized by law, he has authority to bring suit against the members voting for any such allowance, and, in the event of recovery, same shall be paid into the fund to which it is due; and he may assess a penalty thereon not to exceed twenty percent (20%), which shall be paid into the general fund of the state treasury. 1970, 542.

7-7-71. Examination of records of public officers. The state auditor shall have full power and authority to examine and investigate the books, records, papers, accounts, and vouchers of any state, county municipal, or other office. 1970, 542.

7-7-73. Embezzlement by public officer or employee. When the state auditor shall have reason to believe that a public officer or employee has embezzled any public funds, he shall notify

the governor and the proper district attorney, and shall attend the trial as a witness for the state, if necessary. 1970, 542.

7-7-75. Suits by state auditor. All suits by the state auditor under the provisions of Sections 7-7-67 to 7-7-79 shall be in his own name for the use of the state, county, municipality, levee board, or other taxing district interested; and he shall not be liable for costs, and may appeal without bond. Such suits may be tried at the return term and shall take precedence over other suits. 1970, 542.

7-7-77 and 7-7-79. Settlement and accounting for moneys collected; reports. The state auditor shall settle with the proper officers and pay over all moneys collected by him under the provisions of Sections 7-7-67 to 7-7-79 as required by law; shall make report to the state treasurer at the end of the fiscal year; and shall make a detailed account of the operation of Sections 7-7-67 to 7-7-79 to the governor once each year, and to the legislature at each regular session. 1970, 542.

7-7-201. Department of audit created. The department of audit is established under the supervision of the state auditor. He shall exercise such powers and perform such duties as are set forth in Sections 7-7-201 to 7-7-223 and other pertinent provisions of law. 1952, 176; 1986, 488. (Also see: §§21-35-31, 37-37-3, *et seq.*)

7-7-202. Establishment of offices and seal. The state auditor shall keep the office of the department at the seat of the government and shall keep it open Monday through Friday of each week for at least eight (8) hours each day. The state auditor may establish satellite offices at other locations in the state. The state auditor is authorized to prepare and use an official seal. 1986, 488.

7-7-203. Organization of the department. The state auditor shall appoint a director for the department of audit, who shall be a certified public accountant of recognized executive ability and thoroughly familiar with the laws of the state in relation to the financial administration of the public offices thereof. It is the duty of the director, with the concurrence of the state auditor, to select all administrative, technical, and professional assistants, necessary to carry out the duties of the office, etc. 1952, 176.

7-7-205. Surety bonds required. The director, assistant director, and all accountants and auditors of the department of audit shall execute surety bonds in such amounts as the state auditor may deem sufficient to ensure faithful performance of duties and financial accountability, provided the sum of the bond of the director shall not be less than \$25,000.00. 1952, 176.

7-7-207. Compensation of director. The director of the department of audit shall receive compensation as set by the state auditor which shall not exceed the salary of the state auditor as fixed by law. 1979, 512.

Cross references--

For salary of director of department of audit, see §25-3-33.

7-7-209. Travel and other expenses. All officers and employees of the department of audit required to travel in the performance of their duties shall be reimbursed for actual subsistence and transportation expenses incurred by them while traveling away from home. The department shall be furnished with all necessary supplies, stationery, printing, furniture and equipment. All salaries and expenses shall be paid out of the department of audit fund. 1952, 176.

**7-7-211. Powers and duties.** 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 as promulgated by nationally recognized professional organizations and to consult with the state fiscal management board in the board's 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 as promulgated by nationally recognized professional organizations; to assist such subdivisions in need of such 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 subsection, 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 (1) the offices, boards and commissions of county governments and any departments and institutions thereof and therein, (2) public school districts, and (3) 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: 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 (\$300.00) per man hour for the services of each staff person engaged in performing the audit or other service, which sum shall be paid by the county, 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;
- (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 upon the person or persons liable for such amounts and upon the surety on official bond thereof. Such demand shall be premised on competent evidence, which shall include at least one of the following: (1) sworn statements, (2) written documentation, (3) physical evidence, or (4) reports and findings of government or other law enforcement agencies. Other provisions notwithstanding, a demand letter issued pursuant to this subsection 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 or 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 term time 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 her 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 subsections (d), (e) and (f) 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 subsections (d), (e) and (f). Such audits should 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). 1994, 332; 1995, 336; 1997, 609; 2003, 316; 2004,461, 562; 2008,558.

Cross references--

For duties of county auditor, see §§19-17-1, *et seq.*

Duty to design and prescribe form and systems for central purchasing by counties, see §31-7-113.

As to funding of audits and services authorized by subsection (j) of this section, see §7-7-213.

**7-7-213. Payment of costs of audits and other services.** 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(j) which shall be funded by appropriations made by the legislature from such funds as it deems appropriate, shall be paid from a special fund hereby 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 shall be the actual cost not to exceed Thirty Dollars (\$30.00) per man hour. 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 management board, and upon a determination that the charges are substantially correct, the state fiscal management board shall notify the defaulting unit of its determination. If payment is not made within thirty (30) days after such notification, the state fiscal management board 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.

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 from such officer or employee and/or surety on official bond thereof in the same manner and under the same terms, when necessary, as provided the department for recovering public funds in Section 7-7-211.

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. 1989, 532; 2008,558.

7-7-214. Single audits. This section shall apply only to single audits of federal and state funds of governmental entities conducted by the department pursuant to the Single Audit Act of 1984. Notwithstanding any provision of Section 7-7-213 to the contrary, the state auditor is authorized to charge governmental entities the entire audit cost for which such entities may receive reimbursement from the federal government for the cost of that portion of the single audit that covers the audit requirements associated with federal funds. The costs collected by the department under this section shall be deposited into the state department of audit special fund. 1986, 488.

7-7-215. Reports. Upon the completion of each audit or investigation aforesaid, the department shall prepare a report which shall set forth the facts of such audit or investigation in the most comprehensive form, and the original copy of such report shall be filed in the office to which it pertains, as a permanent record; one copy thereof shall be filed in the office of the department, subject to public inspection, and one copy shall be preserved for use by the governor and/or the legislature. Other provisions notwithstanding, all workpapers associated with an audit shall be confidential until the audit fieldwork has been completed and the chief executive officer of the entity being audited has been notified of any findings or exceptions. The director shall require such financial reports from every public officer and taxing body as he may deem necessary and for such period as he may designate, and at the end of each fiscal year the state auditor and director shall prepare and publish a report of comparative financial statistics covering all public offices of the state over which the department has accounting and auditing supervision. The governor may direct the state auditor and/or the director of the department to make any special report on any subject under their jurisdiction and make any special audit or investigation he may desire, such directives to be issued in writing.

All audits conducted by the department shall be in accordance with generally accepted auditing standards, as promulgated by nationally recognized professional organizations. Audit and investigative reports, workpapers and other evidence and related supportive material shall be retained and filed according to an agreement between the state auditor and the department of archives and history. In conducting audits pursuant to this article, the department shall have access to all records, documents, books, papers and other evidence relating to the financial transactions of any governmental entity subject to audit by the department. 1986, 488.

7-7-216. Independent audit of office of State Auditor. 1986, 499.

7-7-217. Record of exceptions taken as result of audits. There shall be maintained in the department of audit a continuing record of exceptions taken as a result of audits made by the department, which record shall contain pertinent information relative to such exceptions, the immediate steps taken to effect correction or restitution, the subsequent actions taken or recommended to be taken, and the final disposition of such exceptions when such disposition occurs. 1970, 462. (Also see: §7-7-219.)

7-7-218. Auditor to make report if officer fails.

(1) If any officer or employee of the state or subdivision shall refuse or fail to make any report to the department, the State Auditor shall proceed to make the report or cause the report to be made. The expense for such report shall be personally borne by said officer or employee, and he or she shall be responsible for the payment of the expense incurred.

(2) If any officer or employee of a state agency or political subdivision refuses or fails to correct any audit finding of substantial noncompliance that has existed for three (3) consecutive years, the State Auditor shall proceed to cause the finding to be made in compliance and publish the findings and action. The expense for such correction and publication of a finding of substantial noncompliance shall be borne by the state agency or political subdivision involved. 1986, 488; 2002, 317.

7-7-219. Report of exceptions to legislative committee. A report of exceptions taken by the auditor shall be made to any standing committee of the legislature that may request such reports, and any legislator who may request the same. Such report shall list all exceptions taken within the fiscal year just ended and exceptions previously taken in which no final disposition has been made and shall summarize each exception listed and provide information appearing on the record referred to in Section 7-7-217. 1970, 462.

7-7-221. Publication of synopsis of county audit report.

(1) As soon as possible after an annual audit of the fiscal and financial affairs of a county by the State Auditor, as the head of the State Department of Audit, has been made and a copy of such report of audit or examination has been filed with the board of supervisors of such county and the clerk thereof, as required in Section 7-7-215, the clerk of the board of supervisors shall publish a synopsis of such report in a form prescribed by the State Auditor.

(2) The clerk of the board of supervisors shall deliver a copy of the aforesaid synopsis to some newspaper published in the county, and, if no newspaper is published in the county, then to a newspaper having a general circulation therein, to be published.

(3) The cost of publishing the aforesaid synopsis by some newspaper in a county or by some newspaper having a general circulation therein, as hereinbefore provided, shall be paid for out of the general fund of the county upon a detailed itemized statement thereof being furnished to the clerk of the board of supervisors of such county by the publisher of the newspaper, accompanied by one (1) copy of the proof of publication thereof. The cost of such publication shall be based on the rate now fixed by law for publishing legal notices, and it shall be mandatory upon the board of supervisors of the county and the clerk thereof to pay such costs out of the county general fund.

(4) The clerk shall forward a copy of the published synopsis to the State Auditor within sixty (60) days of its publication. If the synopsis does not substantially satisfy the requirements of this section, the State Auditor is authorized to prepare the synopsis and have it published in accordance with this section at cost to the county. 1996, 366.

## **CHAPTER 11. SECRETARY OF STATE**

7-11-4. "State land commissioner," "land commissioner," "state land office," and "land office" to mean secretary of state. As of 1/1/83, all references to the "state land commissioner," "land commissioner," "state land office," and "land office" shall mean the secretary of state. 1978, 458.

## **TITLE 9. COURTS**

### **CHAPTER 1. PROVISIONS COMMON TO COURTS**

9-1-27. Officers pro tempore to be appointed in certain cases. Whenever a vacancy shall exist in the office of clerk of any court, sheriff, or coroner and the vacancy shall not have been filled on or before the commencement of the term of any court which the clerk, sheriff, or coroner is required to attend, or if the clerk, sheriff, or coroner shall be absent, deceased, become unable, or refuse to discharge his duties, or be on trial therein, the court, or the judge or judges thereof, shall have power to appoint a suitable person to discharge the duties of clerk, sheriff, or coroner duties and receive

emoluments of the office to which he is appointed, until the proper incumbent shall be duly qualified or return to his duties. 1942, 1663.

Cross references--

Appointment of a temporary coroner, see §9-1-27.

Appointment of a coroner pro tempore, see §41-61-57.

9-1-29. Court to control clerk's office. 1991, 573.

9-1-33. Minutes of supreme, circuit, chancery, county courts. The minutes of the proceedings of the supreme, circuit, chancery and county courts shall be entered by the clerk of each, respectively, in the minute book of the court, against the next sitting of the court, if practicable, when the same shall be read in open court; and when corrected shall be signed - the minutes of the Supreme Court by the Chief Justice or presiding judge, of the Court of Appeals by the Chief Judge or presiding judge, of the circuit court by the circuit judge, of the chancery court by the chancellor, and of the county court by the county judge; and on the last day of the term, or within ten (10) days thereafter, the minutes shall be drawn up, read and signed.

Whenever by inadvertence said minutes and proceedings may remain unsigned or the judge of said court dies before signing the minutes, the succeeding judge or judges of said court may, in their discretion, examine into said unsigned minutes and ascertain as to the correctness thereof, and after same shall have been read in open court, and if the court is of the opinion that same are true and correct, then the said minutes may be signed and adopted by said judge or judges. 1980, 393; 1993, 518.

Cross references--

Maintenance of the minute book, see Miss. Rule Civil Proc. 79(b).

9-1-35. Seal of court. The clerk of the Supreme Court and of the Court of Appeals, at the expense of the state, and the clerk of every circuit and chancery court, at the expense of the county, shall keep a seal, with the style of the court around the margin and the image of an eagle in the center. 1942, 1667; 1993, 518.

9-1-36. Office allowance for circuit judges and chancellors; title to tangible property.

9-1-37. Allowance for stationery. The circuit, chancery, and county courts shall make allowance to the clerks thereof all needful sums for supplying the offices and courtrooms with necessary stationery, furniture, books, presses, seals, and other things necessary for the same, and for the safekeeping of the books, records, and papers belonging thereto; and such allowance shall be certified to the board of supervisors. Provided, however, that no court shall be allowed to purchase furniture in excess of \$500.00 for any one year without first securing the approval of the board of supervisors of the county. 1936, 252.

9-1-38. Certain judicial records exempt from public access requirements. Records in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, which are developed among judges and among judges and their aides, shall be exempt from the provisions of the Mississippi Public Records Act of 1983. 1983, 424.

Cross references--

As to exemption from Mississippi Public Records Act of 1983 of those records judicially determined to be exempt, see §25-61-11.

9-1-39. Clerks of circuit, chancery and county courts in separate judicial districts in Harrison County. 1962, 257.

9-1-43. Limit on compensation of chancery clerks and circuit clerks and their related employees; liability on bonds; chancery court clerk clearing accounts; circuit court clerk clearing accounts; journals and receipts; punishment for failure to deposit funds. This is a lengthy section dealing with placing a cap on fees earned by the chancery clerk and the circuit clerk at \$75,600.00. Starting January 1, 2000, the cap is increased to \$83,160.00, and effective October 1, 2004 the cap is further increased to \$90,000.00. Provisions are included regarding family members, bank accounts to be used, fees subject to the limitation, allowable expenditures, receipting requirements, and two judicial district counties. The State Auditor's Office is required to prescribe an accounting system for all fees. The code should be referenced for a complete reading of the requirements. 1993, 481; 1997, 570; 1998, 369; 1999, 422; 2004,505.

9-1-45. Filing of annual reports by chancery and circuit clerks. (1) Each chancery and circuit clerk shall file, not later than April 15 of each year, with the State Auditor of Public Accounts a true and correct annual report on a form to be designed and supplied to each clerk by the State Auditor of Public Accounts immediately after January 1 of each year. The form shall include the following information: (a) revenues subject to the salary cap, including fees; (b) revenues not subject to the salary cap; and (c) expenses of office, including any salary paid to a clerk's spouse or children. Each chancery and circuit clerk shall provide any additional information requested by the Public Employees' Retirement System for the purpose of retirement calculations.

(2) In any county having two (2) judicial districts, a separate report may be filed by the chancery clerk and circuit clerk for each judicial district. Whenever the chancery clerk serves as deputy to the circuit clerk in one (1) judicial district and the circuit clerk serves as deputy to the chancery clerk in the other judicial district, each clerk may file, for the judicial district in which he serves, one (1) report for the revenues and expenses of his office in his capacity as chancery or circuit clerk and a separate report for reporting the revenues collected and expenses incurred in his capacity as deputy circuit or deputy chancery clerk.

(3) If the Chancery or Circuit Clerk fails to provide the reports required in this section, then the State Auditor shall give by United States certified mail, return receipt requested, written notification to the chancery or circuit clerk of noncompliance. If within thirty (30) days after the receipt of the notice, the chancery or circuit clerk, in the opinion of the State Auditor, remains in non compliance, the State Auditor may institute civil proceedings in a court of the county in which the clerk serves. The court, upon a hearing, shall decide the issue and if it determines that the clerk is not in substantial compliance, shall order the clerk to immediately and thereafter comply. Violations of any order of the court shall be punishable as for contempt. In addition, the court in its discretion may impose a civil penalty in an amount not to exceed Five Thousand Dollars (\$5,000.00) upon the clerk, for which he shall be liable in his individual capacity, for any such noncompliance that the court determines as intentional or willful. 1996, 535 §4; 1998, 370; 2004, 318.

9-1-51 through 9-1-57. Electronic filing and storage of court documents. 1987, 490; 1991, 573; 1995, 506; 1997, 507.

9-1-101 through 9-1-107. Appointment to judicial office. These sections deal with appointments to judicial offices when vacancies occur. 1989, 587; 1991, 373; 1993, 518; 2001, 348.

9-1-103. Vacancy in office. Whenever a vacancy shall occur in any judicial office by reason of death of an incumbent, resignation or retirement of an incumbent, removal of an incumbent from office,

or creation of a new judicial office in which there has not heretofore been an incumbent, the Governor shall have the authority to appoint a qualified person to fill such vacancy to serve for the unexpired term or until such vacancy is filled by election as provided in Section 23-15-849, Mississippi Code of 1972. When a vacancy shall occur for any of the reasons enumerated in this section, the clerk of the court shall notify the Governor of such vacancy immediately. 1989, 587.

Cross references--

Appointment of special judges to serve on emergency basis, see §9-1-105.

Recall of retired supreme court justices, see §9-3-6.

Services of retired Supreme Court Judges, see §9-3-12.

## **CHAPTER 5. CHANCERY COURTS JURISDICTION, POWERS AND AUTHORITY**

9-5-81. Jurisdiction of the chancery court, in general. The chancery court, in addition to all the matters and cases expressly conferred upon it by the constitution, shall have jurisdiction of all cases transferred to it by the circuit court or remanded to it by the supreme court; and such further jurisdiction "as is, in this chapter or elsewhere, provided by law." 1942, 1262.

### **CHANCERY CLERKS**

9-5-131. Bond of clerk. The clerk of the chancery court, before he enters upon the duties of the office, shall take the oath of office and give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to five percent (5%) of the sum of all the state and county taxes shown by the assessment rolls and the levies to have been collectible in the county for the year immediately preceding the commencement of the term of office for such clerk; however, such bond shall not exceed the amount of \$100,000.00. Such clerk may be required by the court, or the chancellor in vacation, to give additional bond in any particular case, which shall be a cumulative security, and shall not in any manner affect the liability on his official bond for any matter covered by it. His official bond shall be held to cover all his official acts, and all moneys which may come into his hands according to law or by order of the court or chancellor. 1984, 474; 1986, 458; 1991, 604.

Cross references--

Constitutional authority for office of clerk of the chancery court, see Miss. Const. §168.

Office hours and site of office of chancery clerk, see §25-1-99.

Fees of chancery court clerks, see §§25-7-9, 25-7-13.

Duties of chancery clerk with respect to county depositories, see §27-105-315.

9-5-132. Required Training for Chancery Clerks. 1995, 337.

9-5-133. How clerk of chancery court may appoint deputies. The clerk of the chancery court shall have power, with the approbation of the court, or of the judge in vacation, to appoint one or more deputies, who shall take the oath of office, and who thereupon shall have power to do and perform all the acts and duties which their principal may lawfully do; such approval, when given by the judge in vacation, shall be in writing, and shall be entered on the minutes of the court at the next term. 1942, 1662.

9-5-135. Clerk to attend court and keep minutes. 1942, 1236; 1994, 521.

9-5-137. Other duties of the clerk. 1942, 1237; 1994, 521.

9-5-141. Acts clerk may perform at any time. 1974, 449; 1991, 573.

9-5-165. Removal and return of court files and documents in clerk's office. No paper filed in the office of the clerk may be removed therefrom except by leave of the chancellor, and then only by the clerk retaining a copy to be made at the cost of the party obtaining the leave. However, any duly licensed and practicing attorney ... may remove court files and related legal papers other than youth court and adoption court files and related papers from the clerk's office by signing therefor himself ... and said attorney shall be personally liable for their safekeeping and return. Failure to return such papers shall constitute contempt of court. 1964, 308.

Cross references--

Duties of supervisors as to indexing and filing of chancery causes finally disposed of, see §19-15-7.

9-5-167. Newspaper subscribed for and preserved. The clerk of the chancery court shall subscribe to at least one and not more than two of the newspapers published in his county as the court or chancellor shall direct ... and shall carefully file the original or a microfilm copy thereof in his office. The expense of the subscription, etc., shall be paid out of the county treasury. 1972, 382; 1994, 521.

9-5-169. All records and papers subject to inspection. All the records and papers of the office of the chancery clerk shall ... be subject to the inspection and examination of all citizens, and the clerk shall allow access thereto. 1942, 1261.

9-5-171. Destruction of old records.

(1) The chancery clerk of each of the counties of the State of Mississippi, with the approval of the board of supervisors of such county, after an inventory has been made and checked by the board and an order spread on its minutes listing the reference, is authorized to dispose of records pursuant to a records control schedule approved by the Local Government Records Committee as provided in Section 25-60-1.

(2) No records which are in the process of being audited by the State Department of Audit or which are the basis of litigation shall be destroyed until at least twelve (12) months after final completion of the audits and litigation.

(3) Records may be filed and retained by electronic means as provided in Sections 9-1-51 through 9-1-57, whether the record is to be destroyed or not; provided, however, that destruction of records shall be carried out in accordance with Sections 25-59-21 and 25-59-27. 1942, 1261.5; 1952, 208; 1966, 337; 1987, 420; 1994, 521; 1996, 537; 1998, 439; 2006, 495.

Cross references--

As to destruction of old records by circuit clerk, see §9-7-128.

Permission from Archives and History required to destroy any public record, see §25-59-21.

## **CHAPTER 7. CIRCUIT COURTS JURISDICTION, POWERS AND AUTHORITY**

9-7-81. Jurisdiction--general enumeration of subjects. The circuit court shall have original jurisdiction in all actions when the principal of the amount in controversy exceeds \$200.00 and of



all other actions and causes, matters and things, arising under the constitution and laws of this state which are not exclusively cognizable in some other court, and such appellate jurisdiction as prescribed by law. Such court shall have power to hear and determine all prosecutions in the name of the state for treason, felonies, crimes, and misdemeanors, except such as may be exclusively cognizable before some other court; and said court shall have all the powers belonging to a court of oyer and terminer (hearing and determination--Ed.) and general jail delivery, and may ... perform all other acts properly pertaining to a circuit court of law. 1942, 1428.

Cross references--

As to jurisdiction of county court, see §9-9-21.

As to jurisdiction of chancery court in general, see §9-5-81.

As to suits by and against state or its political subdivisions, see Chapter 45 of Title 11.

## **CIRCUIT CLERKS**

9-7-121. Clerk oath of office and bond. The clerk of the circuit court, before he enters upon the duties of the office, shall take the oath of office, and give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to three percent (3%) of the sum of all the state and county taxes shown by the assessment rolls and the levies to have been collectible in the county for the year immediately preceding the commencement of the term of office for such clerk.

However, such bond shall not exceed the amount of one hundred thousand dollars (\$100,000.00). And he may be required to give additional bond from time to time, for the faithful application of all moneys coming into his hands by law or order of the court; but such additional bonds shall be cumulative security, and the original bond shall likewise cover all moneys coming into the hands of the clerk by law or order of the court. 1992, 386.

Cross references--

As to approval and filing of oaths and bonds of public officials, see §§25-1-9, *et seq.*

For fees of clerk, see §25-7-13.

As to location and hours of office of circuit clerk, see §25-1-99.

9-7-122. Training and continuing education requirements; filing of certificate of compliance; penalty for failure to file; courses; expenses. 1995, 375.

9-7-123. How the clerk may appoint deputies.

(1) The circuit clerk shall have the power, with the approbation of the circuit judge, to appoint one or more deputies, who shall take the oath of office and may give bond, and who thereupon shall have power to do and perform all the acts and duties which their principal may lawfully do; such approval, when given by the judge in vacation, shall be in writing, and shall be entered on the minutes of the court at the next term.

(2) Each deputy clerk of the circuit court, before he enters upon the duties of the appointment, shall take the oath of office, and may give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to three percent (3%) of the sum of all the state and county taxes shown by the assessment rolls and the levies to have been collectible in the county for the year immediately preceding the commencement of the term of office for the circuit clerk. However, such bond shall not exceed the amount of One Hundred Thousand Dollars (\$100,000.00). The bond shall

cover all monies coming into the hands of the deputy clerk by law or order of the court. The board of supervisors, in its discretion, may pay the bond on behalf of the deputy clerk. 1942, 1662; 1999, 380.

9-7-124. Appointment of temporary deputies to assist circuit clerk of county.

(1) The board of supervisors of any county, in its discretion, may authorize the circuit clerk of the county to appoint one or more temporary full-time or temporary part-time deputies for the purpose of assisting the circuit clerk in the performance of duties relating to certification of signatures on initiative petitions as provided by Section 23-17-21.

(2) The salary of any temporary deputy clerk appointed under the provisions of subsection (1) of this section shall be established by the board of supervisors and paid out of any available funds in the county general fund.

1997, 323.

9-7-125. Deputy circuit clerks--appointment and payment in certain counties.

Stone County (by description) ...board authorized to pay circuit clerk not to exceed \$300.00 per month for deputy hire. 1972, 387.

9-7-126. Deputy circuit clerks--appointment and payment in certain counties.

(1) There shall be allowed out of the county treasury from the general county funds or any other available funds, payable monthly by the board of supervisors, not less than the following amounts for the purpose of defraying the salaries of deputy circuit clerks: Class 1 and 2 counties not less than \$450.00 per month; Class 3 and 4 counties not less than \$350.00 per month; Class 5, 6, 7 and 8 counties not less than \$250.00 per month. Said allowances shall be for the purpose of defraying the salaries of deputy circuit clerks, provided such allowance, upon written request of the circuit clerk, shall be paid directly to the deputy circuit clerk designated by him. In the absence of such request, said allowance shall be paid monthly to the circuit clerk. Deputy circuit clerks employed under authority of this section shall be deemed to be employees of the county. The clerk shall select and supervise their public duties.

(2) This section shall not apply to any county having a county court. In Coahoma, Bolivar, DeSoto, Lamar, Lowndes, Tunica, Washington, and Yazoo counties (by description) the provisions of this section shall be discretionary with the board of supervisors. 1972, 467; 1975, 424; 1986, 402, 1994, 499; 1999, 496; 2009

9-7-128. Disposal and destruction of certain case files and loose records.

(1) Where there is no requirement for a permanent record to be made, the clerk, upon order of the court, may dispose of and destroy all case files of the circuit or county court which have been in existence for 10 years or which have been reduced to judgment and that judgment satisfied and cancelled. The clerk may also dispose of and destroy any loose records not required by law to be kept as permanent records after a period of 10 years. No records, however, may be destroyed without the approval of the Director of the Department of Archives and History.

(2) The files, records and other documents described herein may, upon order of the court in accordance with the provisions of this section, be electronically stored for convenience and efficiency in storage. The electronic storage of documents, for purposes of this act, shall have the same meaning as set forth in Section 9-1-51. In those counties electing to store files, records and documents by means of electronic storage, the following described case files shall be electronically stored after the time periods described below have elapsed:

- (a) Cases in county criminal or civil court which have been dismissed or in which a judgment has been entered at least three years prior to the date upon which they are electronically stored; and
- (b) Cases in circuit criminal or civil court which have been dismissed or in which a judgment has been entered at least five years prior to the date upon which they are electronically stored.

(3) Nothing in this section shall serve as authority to destroy any docket book, minute book, issue docket, subpoena docket, witness docket book, execution docket book, voter registration book, marriage record book, trial order, abstract of judgment, judgment roll, criminal file where an indictment was returned and the defendant convicted if the file is not at least 20 years old, habeas corpus docket, preliminary hearing docket, or supreme court appeals docket. 1981, 501; 1987, 470; 1993, 518.

Cross references--

As to destruction of old records by chancery clerk, see §9-5-171.

9-7-129. List of allowances against county treasury. Within 10 days after each term of circuit court, the circuit clerk shall deliver to the clerk of the board of supervisors a certified list of allowances made by the court at such term, payable out of the county treasury, specifying the amount, to whom allowed, and on what account. For any failure to deliver such list, the circuit clerk may be punished by the court as for a contempt. 1942, 1424.

9-7-131. Jury fee book. The circuit clerk shall keep a book to be called the "jury book," in which he shall enter the time of issuing all certificates of jurors, the amount thereof, and to whom issued. Such book may be kept by means of electronic filing or storage or both as provided in Sections 9-1-51 through 9-1-57, or otherwise, as the clerk may elect. Within 10 days after each term of the court, he shall file in the office of the clerk of the board of supervisors a certified copy of such entries, for the information of the board. For any failure in this respect, the circuit clerk may be fined and imprisoned by the court as for a contempt. 1942, 1425; 1994, 521.

9-7-133. Jury tax imposed and how collected. A jury tax of \$3.00 is imposed on each original suit in the circuit court in which a plea is filed, and on every issue therein tried separately by a jury, and a tax of \$2.00 on each case transferred or appealed thereto, to constitute a fund for the payment of jurors, and to be collected by the clerk or sheriff as costs. The clerk shall be liable on his official bond for any failure to charge, receive, or issue execution for the jury tax; and the sheriff shall likewise be liable for a failure to collect or to pay the same to the county treasurer; and they may be fined as for a contempt therefor not more than \$100.00. 1942, 1426.

9-7-135. Clerk to report list of cases subject to jury tax. Within 10 days after the end of any term of the court, the clerk shall furnish to the clerk of the board of supervisors a list of all judgments rendered and suits disposed of at such term, or in the preceding vacation, on which a jury tax is imposed, and shall pay over all sums received by him for jury tax during the term and since the last term, and for any failure shall be liable as provided by Section 9-7-133. And if any clerk shall fail to furnish the said list, he shall be fined by the court in the sum of \$100.00, on motion of the clerk of the board of supervisors or the district attorney. 1942, 1427.

## **CHAPTER 9. COUNTY COURTS**

### 9-9-1. Continuation and establishment of county courts in certain counties.

Affects only Pike, Pearl River, Madison, Copiah, DeSoto, Lamar and Alcorn counties (by description) in addition to "each county of the state wherein a county court is now in existence." Excludes Lowndes County. 1974, 477; 1979, 457; 1985, 502; 2002, 356; 2007, 318.

9-9-3. Establishment by agreement between two or more counties--expenses of operating court to be prorated. Any two or more counties in the discretion of their respective boards of supervisors may contract and agree between themselves to support and maintain one county court. The expenses of the operation of such court shall be prorated between the counties involved and such

expenses shall be paid from the general county fund of each county or from any special tax which may be levied therefor, or from any available federal law enforcement assistance funds. 1970, 335; 1974, 338.

9-9-5. County judge--qualifications, election, term of office, and filling of vacancies. The county judge shall possess all of the qualifications of a circuit judge as prescribed in the state constitution, etc. Special provisions are prescribed for Tunica County (by description). 1975, 399; 1982, 476.

9-9-9. County judge--general restriction on practice of law. The county judge shall not practice law in any of the courts of the county wherein he holds court ... but he may bring to a conclusion cases actually pending when he was appointed or elected. 1970, 402.

9-9-11. County judge--compensation and further restrictions.

(1) Except as otherwise provided in subsections (2), (3) and (4), the county court judge shall receive an annual salary payable monthly out of the county treasury in an amount not to exceed One Thousand Dollars (\$1,000.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of this state, in the discretion of the board of supervisors of said county; provided, however, that the salary of such judge shall not be reduced during his term of office. Provided further, that the office of county court judge in any county receiving an annual salary of Thirty-six Thousand Dollars (\$36,000.00) or more shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law.

(2) In the event of the establishment of a county court by agreement between two (2) or more counties as provided in Section 9-9-3, the county judge of the court so established shall be paid a salary equal to one and one-half (1-1/2) times that salary that he would be paid if he were the judge of the smallest of such two (2) or more counties, such salary to be paid in monthly installments as provided by law; provided that such salary shall not exceed One Thousand Dollars (\$1,000.00) less than the salary of the circuit and chancery judges of this state.

(3) The county court judge shall receive an annual salary payable monthly out of the county treasury as follows:

(a) In any county having a population of seventy thousand (70,000) or more according to the 1980 federal census, the county judge shall receive an annual salary of One Thousand Dollars (\$1,000.00) less than that paid to a circuit court judge. The office of county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law. (Harrison, Hinds, Jackson, Lauderdale, Washington)

(b) In any county having a population of sixty thousand (60,000) or more but less than seventy thousand (70,000) according to the 1980 federal census, the county judge shall receive an annual salary of Forty Thousand Dollars (\$40,000.00). The office of county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law. The county judge shall not be eligible for any additional salary except as may be authorized in subsection (4). (Forrest, Jones, Rankin)

(c) In any county having a population of twenty-seven thousand (27,000) or more but less than sixty thousand (60,000) according to the 1980 federal census, the county judge shall receive an annual salary of not less than Twelve Thousand Dollars (\$12,000.00) but not more than Forty Thousand Dollars (\$40,000.00), in the discretion of the board of supervisors of said county. The county judge shall not be eligible for any additional salary except as may be authorized in subsection (4). In the event that the board of supervisors of said county elects to pay such county judge an annual salary of Thirty Thousand Dollars (\$30,000.00) or more, the office of county judge shall be a full-time position, and the holder

thereof shall not otherwise engage in the practice of law. (Adams, Alcorn, Bolivar, Coahoma, DeSoto, Lafayette, Lee, Leflore, Lincoln, Lowndes, Madison, Marshall, Monroe, Oktibbeha, Panola, Pearl River, Pike, Sunflower, Warren, Yazoo)

(d) In any county having a population of less than twenty-seven thousand (27,000) according to the 1980 federal census, the county judge shall receive an annual salary of not less than Four Thousand Two Hundred Dollars (\$4,200.00) and not more than Eight Thousand Five Hundred Dollars (\$8,500.00), in the discretion of the board of supervisors of said county. The county judge shall not be eligible for any additional salary except as may be authorized in subsection (4). (Amite, Attala, Benton, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Copiah, Covington, Franklin, George, Greene, Grenada, Hancock, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Kemper, Lamar, Lawrence, Leake, Marion, Montgomery, Neshoba, Newton, Noxubee, Perry, Pontotoc, Prentiss, Quitman, Scott, Sharkey, Simpson, Smith, Stone, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Walthall, Wayne, Webster, Wilkinson, Winston, Yalobusha)

(4) The county judge of any county described in this subsection shall be paid the compensation, and he shall be subject to any restrictions, set forth in the following paragraphs:

(a) The county judge of any such Class 1 county with population according to the latest federal decennial census of forty-five thousand (45,000) or more and lying wholly within a levee district and having two (2) judicial districts shall, in the discretion of the board of supervisors of such county, receive an annual salary not exceeding Forty Thousand Dollars (\$40,000.00), or a sum which is One Thousand Dollars (\$1,000.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of the state, whichever is greater. (Washington)

(b) The county judge of any Class 1 county having an area in excess of nine hundred twenty-five (925) square miles shall receive an annual salary of not less than Thirty Thousand Dollars (\$30,000.00) but, in the discretion of the board of supervisors of such county, such salary may be not more than Five Hundred Dollars (\$500.00) less than the annual salary of a circuit judge, payable monthly out of the county treasury, and the county judge shall not practice law. (Jones)

(c) The office of county judge in any such Class 1 county with a population according to the 1970 federal decennial census of greater than thirty-nine thousand (39,000), and where U.S. Highway 61 and Mississippi Highway 6 intersect, shall receive an annual salary to be paid in monthly installments of not less than an amount equal to ninety percent (90%) of the annual salary which is now or shall hereafter be provided for circuit and chancery judges of the state, as follows: The salary of the county judge shall be increased by ten percent (10%) annually above the base salary of the preceding year until such time as the judge's salary is equal to the amount that is provided by this subsection. The office of county judge shall be a full-time position and the holder thereof shall not otherwise engage in the practice of law. (Coahoma)

(d) In any Class 1 county bordering on the Mississippi River and which has situated therein a national military park and national military cemetery, the office of county judge shall be a full-time position and the holder thereof shall not otherwise engage in the practice of law. The salary for the county judge in said county shall be fixed at a sum which is One Thousand Dollars (\$1,000.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of this state. (Warren)

(e) The county judge in any county having a population of at least forty-two thousand one hundred eleven (42,111), according to the 1970 census, and where U.S. Highway 49E and U.S. Highway 82 intersect, shall receive an annual salary to be paid in monthly installments of not less than Thirty Thousand Dollars (\$30,000.00) but not more than Two Thousand Five Hundred Dollars (\$2,500.00) less than the annual salary of the circuit judge, in the discretion of the board of supervisors of said county. (Leflore)

(f) The county judge in any Class 1 county bordering on the Mississippi River and having an area of less than four hundred fifty (450) square miles wherein U.S. Highways 84 and 61 intersect shall receive an annual salary of Four Thousand Dollars (\$4,000.00) less than the annual salary of a circuit judge, and such county judge shall not practice law in any manner. The county judge in such county shall not be eligible to receive any additional salary authorized by this section or from any other source other than that set out and authorized by this paragraph. (Adams)

(g) The county judge of any Class 1 county bordering on the Mississippi River on the west and the State of Tennessee on the north, and traversed north to south by Interstate Highway 55, shall receive an annual salary of ninety percent (90%) of the salary which is now or shall hereafter be provided for chancery and circuit judges of this state, but in any event not less than Sixty Thousand Two Hundred Dollars (\$60,200.00). (DeSoto)

(h) The county judge of any Class 1 county with a population of greater than sixty-nine thousand (69,000) according to the 1980 federal decennial census, and wherein U.S. Highway 80 and Mississippi Highway 43 intersect, shall receive an annual salary in an amount not greater than the sum of Five Hundred Dollars (\$500.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of this state, in the discretion of the board of supervisors of said county. (Rankin)

(i) The county judge of any county having a population in excess of sixty-six thousand (66,000) according to the 1980 federal decennial census, wherein is located a state-supported university and in which U.S. Highways 49 and 11 intersect, shall receive an annual salary of One Thousand Dollars (\$1,000.00) less than that paid to a circuit court judge. The office of such county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law. (Forrest)

(j) The county judge of any county having two (2) judicial districts, having a population in excess of sixty-one thousand nine hundred (61,900) according to the 1980 federal decennial census, in which U.S. Interstate Highway 59 intersects with U.S. Highway 84, shall receive an annual salary of One Thousand Dollars (\$1,000.00) less than the salary which is now or hereafter authorized to be paid circuit and chancery court judges of this state. The office of such county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law. (Jones)

(k) The office of county judge of any Class I county wherein U.S. Highway 51 and U.S. Highway 98 intersect shall be a full-time position and the holder thereof shall not otherwise engage in the practice of law. The annual salary for the office of county judge in said county may be fixed, in the discretion of the board of supervisors of said county, at a sum not to exceed Two Thousand Dollars (\$2,000.00) less than the salary which is now or shall hereafter be provided for circuit and chancery judges of this state. (Pike)

(l) The county judge of any county having a population of more than forty-one thousand six hundred (41,600) but less than forty-one thousand six hundred fifty (41,650) according to the 1980 federal census, and wherein U.S. Highway 49 intersects with Mississippi Highway 22, shall receive an annual salary payable monthly out of the county treasury of One Thousand Dollars (\$1,000.00) less than the salary provided now or hereafter for circuit and chancery judges of this state. (Madison)

(m) The county judge of any county having a population of more than fifty-seven thousand (57,000) but less than fifty-seven thousand one hundred (57,100) according to the 1980 federal census, wherein U.S. Highway 45 intersects with Mississippi Highway 6, shall receive an annual salary in an amount established by the board of supervisors, but in no event to exceed the salary provided now or hereafter for circuit and chancery judges of this state. (Lee)

(n) The county judge of any county having a population of more than fifty-seven thousand three hundred (57,300) according to the 1980 federal decennial census, wherein is located a state-supported university and wherein U.S. Highways 82 and 45 intersect, shall receive an annual salary in an amount

established by the board of supervisors, but in no event to exceed the salary provided now or hereafter for circuit and chancery judges of this state. (Lowndes)

(5) The salary of a county court judge or justice court judge shall not be reduced during his term of office as a result of a population decrease based upon the 1990 federal decennial census.

(6) The salary of a sheriff shall not be reduced during his term of office as a result of a population decrease based upon the 1990 federal decennial census.

(7) Notwithstanding any provision of this section to the contrary, the board of supervisors of any county, in its discretion, may pay its county court judge an annual salary of One Thousand Dollars (\$1,000.00) less than that paid to a circuit court judge. The office of county judge shall be a full-time position, and the holder thereof shall not otherwise engage in the practice of law.

This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or October 1, 2006, whichever occurs later.

1973, 486; 1975, 461; 1978, 504; 1979, 457; 1985, 526; 1986, 463; 1988, 508; 1989, 323; 1991, 559; 1993, 550; 2004, 334; 2006, 376.

9-9-13. Municipalities may supplement salaries of county judicial officers surrendering right to practice law. (Applies to Jackson County only.) 1964, 503.

9-9-14 through 9-9-18.5. Additional judges for Harrison, Hinds, Washington, DeSoto and Jackson counties. 1972, 348; 1975, 485; 1975, 491; 1975, 464; 1985, 536; 1986, 400; 1999, 432; 2008,395.

9-9-21. Jurisdiction.

(1) The jurisdiction of the county court shall be as follows: It shall have jurisdiction concurrent with the justice court in all matters, civil and criminal of which the justice court has jurisdiction; and it shall have jurisdiction concurrent with the circuit and chancery courts in all matters of law and equity wherein the amount of value of the thing in controversy shall not exceed, exclusive of costs and interest, the sum of Two Hundred Thousand Dollars (\$200,000.00) and the jurisdiction of the county court shall not be affected by any setoff, counterclaim or cross-bill in such actions where the amount sought to be recovered in such setoff, counterclaim or cross-bill exceeds Two Hundred Thousand Dollars (\$200,000.00). Provided, however, the party filing such setoff, counterclaim or cross-bill which exceeds Two Hundred Thousand Dollars (\$200,000.00) shall give notice to the opposite party or parties as provided in Section 13-3-83, and on motion of all parties filed within twenty (20) days after the filing of such setoff, counterclaim or cross-bill, the county court shall transfer the case to the circuit or chancery court wherein the county court is situated and which would otherwise have jurisdiction. It shall have exclusively the jurisdiction heretofore exercised by the justice court in the following matters and causes; namely, eminent domain, the partition of personal property, and actions of unlawful entry and detainer, provided that the actions of eminent domain and unlawful entry and detainer may be returnable and triable before the judge of said court in vacation.

(2) In the event of the establishment of a county court by an agreement between two (2) or more counties as provided in Section 9-9-3, it shall be lawful for such court sitting in one county to act upon any and all matters of which it has jurisdiction as provided by law arising in the other county under the jurisdiction of said court. 1974, 477; 1984, 348; 1991, 311; 1998, 427; 2003, 429.

9-9-23. Powers of county judge. 1926, 131.

9-9-29. Court of record; duties of circuit clerk and sheriff; fees. The county court shall be a court of record and the clerk of the circuit court shall be the clerk of the county court, and he or his deputy shall attend all the sessions of the county court, and have present at all sessions all books, records, files, and papers pertaining to the term then in session. The dockets, minutes, and records of the county court shall be kept, so far as is practicable, in the same manner as are those of the circuit court as provided by statute and the Mississippi Rules of Civil Procedure. The sheriff shall be the executive officer of the court; he shall by himself, or deputy, attend all its sessions, and he shall serve all process and execute all writs issued therefrom in the manner as such process and writs would be served and executed when issued by the justice courts, or by the circuit or chancery courts according as appertains to the value of the cause or matter in hand. The clerk and sheriff shall receive the same fees for attendance, and for other services, as are allowed by law to the clerk and to the sheriffs of like duties in the circuit and chancery courts; provided however, that in all cases where the justice courts have concurrent jurisdiction with the county court, the clerk shall be allowed to receive only such fees as are allowed to justice courts, and the sheriff shall be allowed only such fees as the constable in said justice court would be entitled to under the law for similar services. 1991, 573.

9-9-35. Circuit judges authorized to assign cases and other court duties to county judges where dockets overcrowded. This section details assignment of cases to county court by circuit judges. No compensation for services under this section shall be allowed to the county judge, neither is the county judge compelled to accept any assignment. 1989, 486. ....

9-9-36. Chancellors authorized to assign cases and other court duties to county judges where dockets overcrowded. This section details assignment of cases to the county court by chancellors. No compensation for services under this section shall be allowed the county judge, neither is the county judge compelled to accept any assignment. 1989, 486.

9-9-37. Certain counties may establish or abolish court--special election--salaries. From and after July 1, 1985, in any county not brought within the provisions of this chapter by the terms of Sections 9-9-1 and 9-9-3 thereof, and in which a county court is not in existence, on a petition of 10% of the qualified electors of such county, addressed to the board of supervisors, an election shall be called by the said board and conducted in such a way and manner now provided by law for a special election for the purpose of determining whether or not said court shall be established in such county; and, if a majority vote at such election in favor of a county court, then the election commission shall so certify to the secretary of state and the governor shall then issue a proclamation establishing the county court in such county; and thereafter at the next succeeding meeting of the board of supervisors the board shall call an election for the election of a county judge, and such election shall be conducted in the way and manner now provided by law for holding a special election.

Any county which has or may come under the provisions of this chapter by an election as provided above may thereafter come from under this chapter in the manner hereinafter provided. On petition of 10% of the qualified electors of such county, addressed to the board of supervisors of such county, an election shall be called by such board of supervisors and conducted in the way and manner now provided by law for a special election for the purpose of determining whether or not such county court shall be abolished in said county; and, if the majority vote at such election in favor of abolishing the county court; then the election commission shall so certify to the secretary of state. The governor shall then issue a proclamation declaring that the county court in said county be abolished on the first day of the month next succeeding such election.

In the event the county court is established or in the event the county court is abolished under the provisions of this section, then an election shall not be called on such subject within less than two years thereafter.



The salary of the county judge in all counties which may come under the provisions of this chapter by an election as provided in this section shall be fixed at such amount as provided for in Section 9-9-11. 1971, 495; 1985, 502.

## **CHAPTER 11. JUSTICE COURT JUDGES (JUSTICES OF THE PEACE)**

### **9-11-2. Additional justice.**

(1) From and after January 1, 1984, ... the number of justice court judges for counties will be determined as follows:

<u>Population</u>	<u>No. of Judges</u>
35,000 and less	2
35,001 - 69,999	3
70,000 - 149,999	4
150,000 and more	5

(2) The board of supervisors shall establish single member districts in the counties for the election of each of the justice court judges ...

(3) Nothing in this section shall ... authorize ... more than 5 justice court judges in any one county ...

(4) ... in any county whose justice court districts drawn pursuant to subsection (2) of this section are, on November 8, 1993, being controverted in a court action or being reviewed ... by the Voting Rights Act of 1965, ... those justice court judges ... shall continue to hold office until:

(a) A final adjudication ...; and

(b) The election and qualification of successors. ... 1983 Ex §7.

### **9-11-3. Completion of courses of training and continuing education conducted by Mississippi Judicial College required.**

(1) ... no justice court judge elected for a full term ... on or after January 1, 2012, shall exercise the judicial functions of his office or be eligible to take the oath of office until he has filed in the office of the chancery clerk the following two certifications: (a) a certificate of completion of a course of training and education conducted by the Mississippi Judicial College ... ; and (b) a certificate of successful completion of a minimum competency examination administered by the Mississippi Judicial College ... within six (6) months of the beginning of the term ... but shall be subject to the continuing education requirements.

(2) ... each justice court judge shall be required to file annually in the office of the chancery clerk a certificate of completion of a course of continuing education ...

(3) ... each of the certificates in subsections (1) and (2) of this section shall be provided in §9-11-4.

(4) ... failure of any justice court judge to file ... the certificates of completion as provided for in subsections (1) and (2) ... shall, in addition to any other fines or punishment ... not be entitled to compensation for the period of time during which such certificates remain unfiled. If a justice court judge has not filed the required certifications within eight (8) months of the inception of the term, that justice court judge shall forfeit his office, his position shall be declared vacant, and the resulting vacancy shall be filled as provided by Section 23-15-839. 1991, 321; 2008,319.

**9-11-4. Basic and continuing education courses for justice court judges; costs and expenses.** The Mississippi Judicial College of the University of Mississippi Law Center shall prepare and conduct courses of training for basic and continuing education for justice court judges ... shall be known as the "Justice Court Judge Training Course" and shall consist of at least 80 hours of training ... shall be known as the "Continuing Education Course for Justice Court Judges," and shall consist of at least 24 hours of training. The Mississippi Judicial College shall prepare and administer a

minimum competency exam upon completion of the basic course. If an elected justice court judge fails or fails to complete the exam, there shall be a remedial 24-hour course followed by a second opportunity for the judge to pass the exam. Costs are to be paid out of any funds which are made available to the judicial college upon authorization and appropriation by the legislature. 1982, 423; 2008, 319.

Cross references--

Provisions of this section governing issuance of certificates of completion of justice court judges training and education courses, required to be filed by justice court judges, see §9-11-3 (3).

9-11-5. Office; where trials to be held; collectability of compensation; insurance coverage.

(1) The justice court judges shall be provided courtrooms by the county and all trials shall be held therein. Such courtrooms shall be in the county courthouse, county office building or any other building within the county deemed appropriate by the board of supervisors.

(2) The county shall provide office space and furnish each justice court office and provide necessary office supplies.

(3) The board of supervisors of each county may secure insurance coverage to protect the office of the justice court clerk against losses due to theft or robbery. 1982, 423; 1986, 367; 2008, 553.

9-11-7. Oath of office and bond. Every person elected a justice court judge shall, before he enters upon the duties of the office, take the oath of office prescribed by Section 155 of the Constitution, and give bond ... in the penalty of \$10,000.00. ... 1989, 342.

9-11-9. Civil jurisdiction; pecuniary interest in outcome of action. Justice court judges have jurisdiction in all matters wherein the amount of the demand does not exceed \$2,500. The judges shall have no pecuniary interest in the outcome of any action once suit has been filed. 1981, 471; 1986, 365; 1995, 573.

9-11-10. Civil jurisdiction; prepayment of costs as prerequisite; penalties. No justice of the peace court shall have jurisdiction over any civil suit attempted to be filed therein unless and until all legally required court costs are deposited with the court. The justice of the peace shall not file, docket, issue process, or otherwise assume jurisdiction until such costs shall have been paid. Penalties range from \$100.00 to \$250.00 1974, 329.

9-11-11. Uniform case record; certified copies of papers to parties. It shall be the duty of the justice court to keep a uniform case record developed by the attorney general on each case, civil and criminal, brought before it. Upon disposition, each record shall be signed by the justice court judge. It shall be the duty of a justice court, when required, to furnish to either party a certified copy of all proceedings, and of all papers and process relating thereto, in any action before it. Closed civil and criminal files may be destroyed after seven and one-half (7 ½) years with written approval from the Director of the Department of Archives and History. 1981, 471; 1982, 423; 1985, 440; 1998, 439.

Cross references--

Entry on justice court docket of clerks appointed by justice court judge, see §9-11-27.

9-11-15. Regular terms of court; nonresident defendant; trial at reasonable time; court of record; power to punish for contempt. Justice court judges shall hold regular terms of their courts, at such time as they may appoint, not exceeding two and not less than one every month, at the appropriate justice court courtroom established by the board of supervisors; and they may continue to hold their courts from day to day so long as business may require; and all process shall be returnable,

and all trials shall take place at such regular terms, except where it is otherwise provided; but where the defendant is a nonresident or transient person, and it shall be shown by the oath of either party that a delay of the trial until the regular term will be of material injury to him, it shall be lawful for the judge to have the parties brought before him at any reasonable time and hear the evidence and give judgment or where the defendant is a nonresident or transient person and the judge and all parties agree, it shall be lawful for the judge to have the parties brought before him on the day and citation is made and hear the evidence and give judgment. Such court shall be a court of record, including power to fine to the amount fine and length of imprisonment as is authorized for a municipal court in Section 21-23-7(11) for contempt of court [not more than \$1,000.00 or 6 months' imprisonment, or both]. 1981, 471; 1982, 423; 1990, 349; 1993, 344.

Cross references--

As to location of courtrooms of justice court judges, see §9-11-5.

9-11-18. Justice court clerk clearing account.

(1) There is hereby created in the county depository of each county a clearing account to be designated as the "Justice Court Clerk Clearing Account," in which shall be deposited (a) all such monies as the clerk of justice court shall receive from any person complying with any writ of garnishment, attachment, execution or other like process authorized by law for the enforcement of a judgment; (b) all such monies as are received in criminal cases in the justice court pursuant to any order requiring payment as restitution to the victims of criminal offenses; (c) all cash bonds as shall be deposited with the court; (d) any portion of any fees required by law to be collected in civil cases which are to pay for the service of process or wits in another county as provided by Section 9-11-20; and (e) any other money as shall be deposited with the court, except fees paid for the services of a constable, which by its nature is not at the time of deposit public monies, but which is to be held by the court in a trust or custodial capacity in a case or proceeding before the court. The clerk of the justice court shall account for all monies deposited in and disbursed from such account and shall be authorized and empowered to draw and issue checks on such account at such times, in such amounts and to such persons as shall be proper and in accordance with law; provided, however, such monies as are forfeited in criminal cases shall be paid by the clerk of the justice court to the clerk of the board of supervisors for deposit in the general fund of the county in the same manner as provided in Section 9-11-19 for fees, costs, fines and penalties charged and collected in the justice court. 1984, 502; 1991, 414.

9-11-19. Collection and report of fines and penalties.

(1) It shall be the duty of every clerk of the justice court to receive and account for all fees, costs, fines and penalties charged and collected in the justice court, and, monthly to report in writing under oath, to the clerk of the board of supervisors all such fees, costs, fines and penalties received, including cash bonds and other moneys which have been forfeited in criminal cases and at least semiannually any delinquent fines and penalties, giving the date, amount, and names of persons from whom such monies were received and to pay so much thereof as shall have been received to the clerk of the board of supervisors for deposit into the general fund of the county. Any clerk of the justice court who shall fail to make such report or to pay the money so received shall, in addition to any other fine or punishment provided by law for such conduct, not be entitled to compensation for the period of time during which such report or money is outstanding.

(2) The provisions of this section shall not, except as to cash bonds and other monies which have been forfeited in criminal cases, apply to monies required to be deposited in the justice court clerk clearing account as provided in Section 9-11-18. 1981, 471; 1982, 423; 1984, 502; 1993, 406.

9-11-21. Receipt itemizing costs, fees and other payments made to clerk of justice court. The clerk of the justice court is required in all cases to give to any person paying him any fees, costs or other money a uniform receipt, the form of which is to be prepared by the attorney general.

Such receipt shall contain the particulars of such fees, costs or other money and such other information as the attorney general shall deem necessary. The county shall have printed such receipts at county expense and distribute them to the clerk of the justice court of the county. Provided, however, that where the party filing the complaint is an entity of government, the clerk shall not be required to receive a prepayment of costs nor issue a receipt, but the clerk shall enter a notation on the docket wherein said complaint is recorded indicating that the party is exempt from payment of costs. 1984, 502.

Cross references--

For fees of justices of the peace, see §25-7-25.

**9-11-23. Remedy for money collected.** When any clerk of the justice court shall have collected in his official capacity any money, fines or penalties, and shall fail to pay or account for the same to the person or official entitled to receive the same, he shall be liable to be proceeded against on his official bond in a summary way by motion in any court having jurisdiction of the amount collected and withheld, of which motion five days notice shall be served on the clerk of the justice court and the sureties on his bond, or such of them as may be found; and judgment for the amount illegally withheld by the clerk of the justice court and 10% thereon, and all costs, shall be rendered against the clerk of the justice court and his sureties, or such of them as have been served with notice. 1942, 1842; 1985, 440.

**9-11-25. Books and records of justice court judge going out of office or dying to be delivered to circuit court clerk; penalty for failure to deliver; transfer to successor; sue by other justice court judges.** Every justice court judge whose term of office expires, or who resigns, removes from the county, or otherwise goes out of office, and the legal representative and next of kin of every justice court judge who dies, shall, within ten (10) days thereafter, deliver his case record, with all process and papers and books of statutes relating to his office, to the clerk of the justice court of the county. 1981, 471; 1982, 423, 1991, 594.

**9-11-27. Appointment of clerk, designation of powers.** The board of supervisors of each county shall, at its own expense, appoint one person to serve as clerk of the justice court system of the county, and may appoint such other employees for the justice court system of the county as it deems necessary, including a person or persons to serve as deputy clerk or deputy clerks. The board of supervisors of each county with two (2) judicial districts may, at its own expense, appoint two (2) persons to serve as clerks of the justice court system of the county, one (1) for each judicial district, and may appoint such other employees for the justice court system of the county as it deems necessary including persons to serve as deputy clerks. The clerk and deputy clerks shall be empowered to file and record actions and pleading, to receive and receipt for moneys, to acknowledge affidavits, to issue warrants in criminal cases upon direction by a justice court judge in the county, to approve the sufficiency of bonds in civil and criminal cases, to certify and issue copies of all records, documents and pleading filed in the justice court and to issue all process necessary for the operation of the justice court. All orders from the justice court judge to the clerk of the justice court shall be written. All cases, civil and criminal, shall be assigned by the clerk to the justice court judges of the county in the manner provided in subsection (3) of Section 11-9-105 and Section 99-33-2. A deputy clerk who works in an office separate from the clerk and who is the head deputy clerk of the separate office may be designated to be trained as a clerk as provided in Section 9-11-29. 1979, 409; 1981, 471; 1982, 423; 1985, SB 2627; 1994, 341; 2001, 462.

**9-11-29. Clerk's certificate of completion of course of education; bond entered by clerk.** Every person appointed justice court clerk, or deputy designated pursuant to Section 9-11-27, shall complete within 90 days of appointment a course of training at the Mississippi Judicial College of the University of Mississippi Law Center. All persons so appointed shall enter into bond in the penalty of

\$50,000. The cost of such bond shall be paid by the county. 1981, 471; 1982, 423; 1986, 352; 1989, 341; 2001, 462.

Cross references--

For similar requirements of continuing education courses by justice court judges, see §9-11-3.

## **CHAPTER 13. COURT REPORTERS AND COURT REPORTING**

9-13-1 through 9-13-7. Appointment of court reporter in circuit and chancery courts; oath of office; nature and term of office; appointment and qualifications certified to other counties. Code 1942, §§1624, 1625, 1626, 1627.

9-13-9. Bond. The judge or chancellor shall require the court reporter to give bond in a penalty of not less than \$2,000.00 to be approved by the court ... and such bond shall be filed in the office of the clerk of the court of any county in the district ... a certified copy of which shall be filed with the clerk of said court in each of the other counties of the district. 1942, 1628.

9-13-11. Removal from office; resignation or vacation from office. 1942, 1629, 1630.

9-13-15. Court reporter pro tempore--effect of appointment upon compensation of regular reporter. If the court reporter be absent during the session of the court, the judge or chancellor may ... appoint a court reporter pro tempore ... who shall perform all the duties and be liable to all the penalties and punishments described for or incident to the office of court reporter. The court reporter pro tempore shall be paid for his services by the Administrative Office of Courts, out of the salary of the regular court reporter and at the same rate as the regular court reporter for the time that the court reporter pro tempore shall act. The court which is being served by the court reporter pro tempore shall authorize his compensation by auditing and reporting the time served by the court reporter pro tempore to the Administrative Office of Courts. However, if the appointment of a court reporter pro tempore is made because of illness of the regular court reporter, the court may authorize compensation of said court reporter pro tempore from the Administrative Office of Courts within diminution of the salary of the regular court reporter, for a period not to exceed forty-five (45) days in any one (1) calendar year. The salary of the court report pro tempore shall be paid as provided in Section 9-13-19. All acts of the court reporter pro tempore shall be as valid and effectual as if done by the regular court reporter; and such acts as are required to be certified and signed by the court reporter shall be certified and signed by him as court reporter pro tempore. 1993, 518.

9-13-17. Additional court reporters--compensation of regular reporter when assistant reporter alone is serving. The circuit judge, chancellor, family court judge or county judge may, by an order spread upon the minutes and made a part of the records of the court, appoint an additional court reporter for a term or part of a term, whose duties, qualifications and compensation shall be the same as is now provided by law for official court reporters. The additional court reporter shall be subject to the control of the judge or chancellor, as is now provided by law for official court reporters, and the judge or chancellor shall have the additional power to terminate the appointment of such additional court reporter, whenever in his opinion the necessity for such an additional court reporter ceases to exist, by placing upon the minutes of the court an order to that effect. The regular court reporter shall not draw any compensation while the assistant court reporter alone is serving; however, in the event the assistant court reporter is serving because of the illness of the regular court reporter, the court may authorize payment of said assistant ... from the Administrative Office of Courts without diminution of the salary of

the regular court reporter, for a period not to exceed forty-five (45) days in any one (1) calendar year. However, in any circuit, chancery, county or family court district within the State of Mississippi, if the judge or chancellor shall determine that in order to relieve the continuously crowded docket in such district, or for other good cause shown, the appointment of an additional court reporter is necessary for the proper administration of justice, he may, with the advice and consent of the board of supervisors if the court district is composed of a single county and with the advice and consent of at least one-half (½) of the boards of supervisors if the court district is composed of more than one (1) county, by an order spread upon the minutes and made a part of the records of the court, appoint an additional court reporter. The additional court reporter shall serve at the will and pleasure of the judge or chancellor, may be a resident of any county of the state, and shall be paid a salary designated by the judge or chancellor not to exceed the salary authorized by Section 9-13-19. The salary of the additional court reporter shall be paid by the Administrative Office of Courts, as provided in Section 9-13-19; and mileage shall be paid to the additional court reporter by the county as provided in the same section. The office of such additional court reporter appointed under this section shall not be abolished or compensation reduced during the term of office of the appointing judge or chancellor without the consent and approval of the appointing judge or chancellor. 1993, 518.

### 9-13-19. Salary.

(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...

(2) The amount to be paid by each county shall be determined by the number of weeks in which court is held in each county in proportion to the total number of weeks court is held in the district ... For example, if there are thirty-eight (38) scheduled court weeks in a district, a county in which court is scheduled five (5) weeks out of the year would pay five-thirty-eighths (5/38) of the total annual compensation.

(3) The salary and any additional compensation for the performance of court administrator duties shall be paid in 12 installments on the last working day of each month after it has been duly authorized by the appointing judge or chancellor ... The county shall transfer to the Administrative Office of Courts one-twelfth (1/12) of the amount required in subsection (2) by the twentieth day of each month for the salary that is to be paid on the last working day of the month ... Any county may pay ... by the twentieth day of January ... the amount due for a full twelve months.

(4) From and after October 1, 1996, 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 by the county in which the duties were performed 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. 1973, 484; 1977, 449; 1980, 478; 1985, SB 2535; 1988, 2335; 1993, 518; 1996, 414; 1997, 570; 2004, 505.

9-13-21. Court reporter's tax fee. 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 \$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. 1978, 427.

9-13-23. Stationery furnished. The board of supervisors ... shall provide the court reporter with all necessary stationery used by him in the performance of his official duties in the county. 1926, 156.

9-13-25. Duties. The duties of the court reporter are covered in this section. Of those duties the following are deemed germane to this subject matter: If a party demand the writing out of the court reporter's notes for any other than the bona fide purpose of perfecting an appeal, he shall pay the reporter in advance twenty-five cents per 100 words. ... The court is authorized to purchase recording machines for the use of the court reporter, the cost of which shall be allocated to each county in the district according to the weeks of court in each county. ... 1971, 423, 1991, 573.

9-13-27 through 9-13-45. Fees of court reporter. ... Such party or witness shall pay all fees authorized by law for making such copy and such certificate; the clerk shall be required to make the copy and certificate upon the payment of such fees. ... In all such cases in which the trial is noted by the court reporter, any person desiring to appeal the case shall notify the court reporter who shall furnish the proper transcript. The reporter shall receive \$2.00 per page for the same, which shall be taxed as costs, and the court reporter shall file with the clerk the original and one carbon copy of his notes so transcribed ... for which carbon copy no charge shall be made. The original of such transcript shall be used by the clerk in making up the record for the supreme court ... and no other fee shall be allowed for this part of the record. Provided, however, that in criminal cases where appeals are taken and no appeal bond is filed the transcript fee herein provided shall be paid to the court reporter out of the county treasury at the rate of \$2.00 per page. ... If the court reporter willfully neglects to perform any duty required of him by law ... he shall be deemed guilty of a misdemeanor ... may be fined not to exceed \$500.00, or imprisoned not more than six months and, moreover, he shall be liable to a deduction from his salary at the rate of \$10.00 a day for each day that he shall be in such default ... and shall be liable on his bond to the party injured... 1930, 16; 1910, 111; 1971, 442; 1926, 156; 1920, 145; 1950, 350; 1958, 280; 1975, 354; 1993, 518.

9-13-61. Official county and family court reporter. There shall be an official court reporter for each county and family court judge in the State of Mississippi, to be appointed by such judge, for the purpose of performing the necessary and required stenographic work of the court or division thereof...Except as hereinafter provided, the reporters of said courts shall receive an annual salary of not less than \$24,000.00 and may, at the discretion of the board of supervisors, receive a monthly salary equal to that of the circuit court reporter in the district wherein the county lies. to be paid monthly by the county out of its general fund. In any Class 1 county having a population of more than 56,000 (and also in Warren and Adams counties) the reporter shall receive a monthly salary equal to that of the reporter of the circuit court district wherein the county or family court lies, the same to be payable from the general county fund. Such court reporters shall be paid the same compensation for transcript of the record on appeals as are paid circuit court reporters for like or similar work. 1977, 447; 1985, 510; 1997, 432.

9-13-63. County court reporter fees as items of cost. In all cases filed in the county court, a court reporter's fee shall be charged as an item of cost as follows: In all cases which, if there were no county court, would have been filed in the justice of the peace court \$1.00; in all cases appealed to the county court \$2.00; in all cases which, if there were no county court, would be filed in the circuit or chancery courts \$3.00. All of such fees are to be paid into the general county 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. 1970, 395.

Cross references--

As to tax fees of circuit and chancery court reporters, see §9-13-21.

## **CHAPTER 21. ADMINISTRATIVE OFFICE OF COURTS**

9-21-1. Administrative Office of Courts established; purpose; "court" defined. The Administrative Office of Courts is hereby created. The purpose of the Administrative Office of Courts shall be to assist in the efficient administration of the nonjudicial business of the courts of the state and in improving the administration of justice in Mississippi by performing the duties and exercising the powers as provided in this chapter.

As used in this chapter, unless the context clearly indicates otherwise, the term "court" means any tribunal recognized as a part of the judicial branch of government, but not including county boards of supervisors. 1993, 610.

### 9-21-3. Duties of Administrative Office of Courts.

(1) The Administrative Office of courts shall be specifically charged with the duty of assisting the Chief Justice of the Supreme Court of Mississippi with his duties as the chief administrative office of all courts of this state, including without limitation the task of insuring that the business of the courts of the state is attended with proper dispatch, that the dockets of such courts are not permitted to become congested and that trials and appeals of cases, civil and criminal, are not delayed unreasonably.

(2) The office shall also perform the following duties:

- (a) To work with the clerks of all youth courts and civil and criminal trial courts in the state to collect, obtain, compile, digest and publish information and statistics concerning the administration of justice in the state.
- (b) To serve as an agency to apply for and receive any grants or other assistance and to coordinate and conduct studies and projects to improve the administration of justice by the courts of the state, and it may conduct such studies with or without the assistance of consultants.
- (c) To supply such support to the Judicial Advisory Study Committee necessary to accomplish the purposes of this chapter, including without limitation, research and clerical assistance.
- (d) To promulgate standards, rules and regulations for computer and/or electronic filing and storage of all court records and court-related records maintained throughout the state in courts and in offices of circuit and chancery clerks.
- (e) It shall perform such other duties relating to the improvement of the administration of justice as may be assigned by the Supreme Court of Mississippi.

1993, 610; 1995, 547; 1997, 507.

9-21-5. Administrative Director. The Administrative Director shall be appointed by and shall serve at the pleasure of the Supreme Court of Mississippi as the Director of the Administrative Office of courts. The Administrative Director shall devote full time to the duties of the office to the exclusion of engagement in any other business or profession for profit. 1993, 610; 1996, 492.

9-21-7. Director authorized to hire assistants and employees. The Administrative Director, with the approval of the Supreme Court, is authorized to employ and set the compensation of



such assistants and other employees as are necessary to enable him to perform his duties, subject to approval of the State Personnel Board. 1993, 610.

9-21-9. Duties and authority of Director. The Administrative Director of Courts shall have the following duties and authority with respect to all courts in addition to any other duties and responsibilities as may be properly assigned by the Supreme Court.

- (a) To require the filing of reports, the collection and compilation of statistical data and other information on the judicial and financial operation of the courts and on the operation of other offices directly related to and serving the courts;
- (b) To determine the state of the dockets and evaluate the practices and procedures of the courts and make recommendations concerning the number of judges and other personnel required for the efficient administration of justice;
- (c) To prescribe uniform administration and business methods, systems, forms and records to be used in the offices of the clerks of court;
- (d) To devise, promulgate and require the use of a uniform youth court case tracking system, including a youth court case filing form for filing with each individual youth court matter, to be utilized by the Administrative Office of Courts and the youth courts in order that the number of youthful offenders, abused, neglected, truant and dependent children, as well as children in need of special care and children in need of supervision, may be tracked with specificity through the youth court and adult justice systems.
- (e) To develop, promulgate and require the use of a statewide docket numbering system to be utilized by the youth courts, which youth court docket numbers shall standardize and unify the numbering system by which youth court docket numbers are assigned, such that each docket number would, among other things, identify the county and year in which a particular youth court action was commenced;
- (f) To develop, promulgate and require the use of uniform youth court orders and forms in all youth courts and youth court proceedings;
- (g) To prepare and submit budget recommendations for state appropriations necessary for the maintenance and operation of the judicial system and to authorize expenditures from funds appropriated for these purposes as permitted or authorized by law;
- (h) To develop and implement personnel policies for nonjudicial personnel employed by the courts;
- (i) To investigate, make recommendations concerning and assist in the securing of adequate physical accommodations for the judicial system;
- (j) To procure, distribute, exchange, transfer and assign such equipment, books forms and supplies as are acquired with state funds or grant funds or otherwise for the judicial system;
- (k) To make recommendations for the improvement of the operations of the judicial system;
- (l) To prepare and submit an annual report on the work of the judicial system to the Supreme Court;
- (m) To take necessary steps in the collection of unpaid court costs, fines and forfeitures;
- (n) To perform such additional administrative duties relating to the improvement of the administration of justice as may be assigned by the Supreme Court; and
- (o) To promulgate standards, rules and regulations for computer and/or electronic filing and storage of all court records and court-related records maintained throughout the state in courts and in offices of circuit and chancery clerks. ....1993, 610; 1995, 547; 1997, 507.

9-21-11 through 9-21-19. These statutes address the Director's additional authority and duties.

9-21-21 through 9-21-41. Creation, authority and duties of Judicial Advisory Study Committee.

## **TITLE 11. CIVIL PRACTICE AND PROCEDURE**

### **CHAPTER 1. PRACTICE AND PROCEDURE PROVISIONS COMMON TO COURTS**

11-1-1. Before whom oaths may be taken. A judge of any court of record, clerk of such court, court reporter of such court, master, member of the board of supervisors, justice court judge, notary public, mayor, or police justice of a city, town, or village, clerk of a municipality and any officer of any other state, or of the United States, authorized by the law thereof to administer oaths, the judge of any court of record, or the mayor or chief magistrate of any city, borough or corporation of a foreign country, may administer oaths and take and certify affidavits whenever the same may be necessary or proper in a proceeding in any court or under any law of this state, or for the purpose of taking deposition of any party of interest, or witnesses of any suit pending before any such court, or for the perpetuation of testimony, as provided in Section 13-1-57 of the Mississippi Code of 1972. [Note: 13-1-57 is repealed. See instead 13-1-227.] 1962, 306; 1988, 347; 1991, 573.

11-1-27. Bonds payable to the state in certain cases. Any bond required to be given in any matter, where it is not prescribed to whom it shall be made payable, may be made payable to the state. 1942, 1647.

#### Cross references--

Requirement that official bonds be made payable to state, §25-1-17.

Requirement that bail bonds be made payable to state, §99-5-5.

### **CHAPTER 7. PRACTICE AND PROCEDURE IN CIRCUIT COURTS**

11-7-217. Collection of fines, penalties, and list reported. The clerk of the circuit court shall, immediately after the adjournment of every term issue execution according to the nature of the case, for all fines, penalties and forfeitures assessed by the court, or which shall have accrued to the state or to the county, and remaining due and unpaid. Said clerk shall, within 30 days after such adjournment, transmit a list of said executions to the clerk of the board of supervisors of the county, noting the names of the defendants, the amounts, and the sheriff or other officer to whom the same was delivered; and, at the same time, he shall transmit to said clerk a statement of the returns made by the sheriff or other officer on execution for fines, penalties, and forfeitures returnable to the last term of court. Any circuit court clerk who shall fail to issue such executions, or to transmit the lists thereof as required, shall forfeit and pay the sum of \$200.00 for every such offense, to be recovered by the state or county, on motion against him and his sureties by the district attorney, before the circuit court. The clerk of the board of supervisors shall notify the district attorney of such default. 1942, 1562.

#### Cross references--

As to duty of justice of the peace to collect and report fines, see §9-11-19.

As to duty of clerk of the board of supervisors, see §19-3-27.

As to duty of district attorney as to fines and penalties, see §25-31-23.

11-7-219. Remedy against officer, in reference to fines. If any sheriff or other officer shall return on any writ of execution, that he hath levied the fine, penalty, or forfeiture therein mentioned,

or any part thereof; or, that he hath taken the body of the defendant, and shall have suffered such defendant to escape; or if any person be committed to the custody of such sheriff or other officer until the fine, penalty, or forfeiture for which he was committed shall be paid, and such sheriff or officer shall permit such defendant to escape; or, if such sheriff or officer shall have received such fine, penalty, or forfeiture, or any part thereof, and shall not immediately account to the clerk of the board of supervisors and pay the same into the treasury of the county, then, in either of the cases above specified, it shall be the duty of said clerk to notify the district attorney of such default, who shall thereupon, on motion at the next term of the circuit court, demand judgment against such sheriff, or other officer, and his sureties, for the fines, penalties, and forfeitures mentioned in such writs, or for so much thereof as he shall have received on such execution or commitment, or the whole amount thereof in case he shall have suffered such defendant or defendants to escape; and the court shall give judgment accordingly, and award execution thereon. 1942, 1563.

Cross references--

As to liability of sheriff for mishandling money collected, see §§19-25-39, *et seq.*

As to duty and liability of public officer depositing and distributing public funds, see §§25-1-69 to 25-1-73.

As to duty of legal representative to promptly pay moneys of deceased officer, see §25-1-67.

As to liability of justice of the peace for money collected, see §9-11-23.

As to actions against officers for money collected or property taken, see §§9-7-89, 11-23-3.

11-7-221. Liability of officers for default as to fines. Clerks, sheriffs, and other officers shall be liable to the same proceedings for any neglect of duty, in respect to executions for fines, penalties, and forfeitures, as in case of executions in civil cases. 1942, 1564.

## **CHAPTER 9. PRACTICE AND PROCEDURE IN COUNTY COURTS AND BEFORE JUSTICES OF THE PEACE**

### **JUSTICES OF THE PEACE**

#### 11-9-101. Where suits to be brought.

(1) The jurisdiction of the justice court shall be coextensive with its county, and any process may be issued in matters within its jurisdiction, to be executed in any part of the county. Every defendant may be sued only in the county in which he resides or where the cause of action arose and if a defendant does not reside in the State of Mississippi or has no fixed place of residence, he shall be sued in the county where the cause of action arose. Whenever by reason of interest, relationship to one of the parties, or other like cause, any justice court judge shall be disqualified to preside in any case before him, the same shall be transferred to a justice court judge in the county, free from such objection, who shall hear and determine the same. Nothing herein contained shall be construed as authorizing or empowering the clerk of the justice court of any justice court judge to perform any official act outside of the territorial boundaries of their county.

(2) The provisions of this section shall not apply to any cause of action commenced before Jan. 1, 1984; and any such action shall be concluded in accordance with state law as it was constituted before that date. 1992, 389.

11-9-107. Service of process by sheriff or constable. When any process has not been returned by a constable within ten (10) working days after issuance by the clerk of the justice court, the clerk shall direct the sheriff of his county and his deputies to execute any such process of the justice

court; and the sheriff and his deputies shall execute any process so directed to him by any clerk of the justice court. 1981, 471; 1982, 423; 1995, 464.

Cross references--

Payment to chancery clerk of fees collected for serving process or writ issued in different county, §9-11-20.

11-9-109. Person appointed to execute process. In cases of emergency, and where a constable or sheriff or deputy sheriff cannot be had in time, the clerk of the justice court may appoint some reputable person to execute any process, the clerk to be liable on his bond for all damage which may result to a party to the cause or other person from his appointment of an insolvent or incompetent person. 1981, 471; 1982, 423.

Cross references--

Payment to chancery clerk of fees collected for serving process or writ issued in different county, §9-11-20.

## CHAPTER 13. INJUNCTIONS

11-13-9. Bond not required of state, county, municipality. Neither the state, nor any county or municipality, nor any state officer of the state suing out an injunction in his official character, shall be required to give bond to obtain an injunction. 1908, 158.

Cross references--

Injunctions, see Miss. Rule Civil Proc. 65.

11-13-11 through 11-13-19. Collection of taxes under injunctions; restraint of, 1942, 1340; Bond to enjoin, 1942, 1341; 1991, 573; Proceedings on, 1942, 1342; 1991, 573; Partial dissolution on; general powers, 1942, 1343; 1991, 573; Restoration of personal property, 1942, 1344; 1991, 573.

## CHAPTER 27. EMINENT DOMAIN

11-27-1 through 11-27-91. Matters of eminent domain, generally.

## CHAPTER 35. GARNISHMENT

11-35-11. Garnishment upon judgments against public officer or employee; service of writs. Services of writs of garnishment upon judgments against any officer or employee of the state, a county, a municipality, any state institution, board, commission or authority shall be effected as follows:

(1) Against an employee of a state department, agency, board, commission, institution or other authority (see code).

(2) In case of a garnishment against any person who is now or may hereafter be a salaried officer or employee of a county, the writ shall be served upon the clerk of the chancery court of the county, except that in case of garnishment upon a judgment against such clerk the writ shall be served upon the sheriff of the county.

(3) In case of a garnishment against any person who is now or may hereafter be a salaried officer or employee of a county school district or a municipal separate school district, the writ shall be served upon the superintendent of the respective school district, except in the event the garnishment be

against such superintendent the writ shall be served upon the president of the board of education or the board of trustees.

(4) In case of a garnishment against an officer or employee of a municipality, the writ shall be served upon the city, town or village clerk. 1973, 422.

Cross reference—

As to limitation of amount of garnishment, see §85-3-4.

11-35-23. All payments made pursuant to a garnishment issued out of a Justice Court shall be made directly to the plaintiff. .....(6) All payments made pursuant to a

garnishment issued out of the justice court shall be made directly to the plaintiff or plaintiff's attorney as indicated by the plaintiff in his or her suggestion for writ of garnishment. The employer shall notify the court and the plaintiff or the plaintiff's attorney when a judgment is satisfied or when the employee is no longer employed by the employer. 1848, 62; 1857, 61; 1871, 875; 1880, 1784; 1892, 2136; 1906, 2343; 1917, 1938; 1930, 1844; 1942,2796; 1981, 469; 1997, 533; 2000, 497; 2004, 475; 2007, 606.

## **CHAPTER 45. SUITS BY AND AGAINST THE STATE OR ITS POLITICAL SUBDIVISIONS**

11-45-1 through 11-45-13. When the state may be sued. And legal provisions in connection therewith. 1942, §§4387-4394.

11-45-15. County to have like remedies. 1978, 509.

11-45-17. County may sue and be sued. Any county may sue and be sued by its name, and suits against the county shall be instituted in any court having jurisdiction of the amount sitting at the county site; but suit shall not be brought by the county without the authority of the board of supervisors, except as otherwise provided by law. 1942, 2955.

## **CHAPTER 46. IMMUNITY OF STATE AND POLITICAL SUBDIVISIONS FROM LIABILITY AND SUIT FOR TORTS AND TORTS OF EMPLOYEES**

11-46-1 through 11-46-21. Definitions; Declaration of legislative intent; waiver of immunity; exclusiveness of remedy; exemptions; limitations of liability; tort claims fund; liability insurance; etc. 1985, 474; 1992, 491; 1987, 483; 1988, 479; 1993, 476; 1994, 334; 1995, 568; 1996, 377, 538; 1997, 512; 1998, 496; 1999, 469, 518; 2000, 315; 2002, 380; 2003, 560; 2006, 567; 2007, 582.

## **CHAPTER 47. LIS PENDENS**

11-47-1. Record to be kept by chancery clerk. The clerk of the chancery court shall keep in his office, as a public record, a suitable book, to be called the "Lis Pendens Record." 1942, 754.

11-47-3. Notice of suit affecting real estate recorded. When any person shall begin a suit in any court, whether by declaration or bill, or by cross-complaint, to enforce a lien upon, right to, or interest in, any real estate, unless the claim be founded upon an instrument which is recorded, or upon a

judgment duly enrolled, in the county in which the real estate is situated, such person shall file with the clerk of the chancery court of each county where the real estate, or any part thereof, is situated, a notice containing the names of all the parties to the suit, a description of the real estate, and a brief statement of the nature of the lien, right, or interest sought to be enforced. The clerk shall immediately file and record the notice in the lis pendens record, and note on it, and in the record, the hour and day of filing and recording. 1942, 755.

Cross references--

As to lien of laborers, materialmen, architects, engineers, etc. see §§85-7-131, *et seq.*

As to filing lis pendens notice in eminent domain proceedings, see §11-27-7.

As to filing of evidence of claim by laborers, materialmen, or architects, see §85-7-197.

## CHAPTER 51. APPEALS

11-51-75. Appeal to circuit court from board of supervisors. Any person aggrieved by a judgment or decision of the board of supervisors, or municipal authorities of a city, town, or village, may appeal within 10 days from the date of adjournment at which session the board of supervisors or municipal authorities rendered such judgment or decision, and may embody the facts, judgment and decision in a bill of exceptions which shall be signed by the person acting as president of the board of supervisors or of the municipal authorities. The clerk thereof shall transmit the bill of exceptions to the circuit court at once, and the court shall either in term time or in vacation hear and determine the same on the case as presented by the bill of exceptions as an appellate court, and shall affirm or reverse the judgment. If the judgment be reversed, the circuit court shall render such judgment as the board or municipal authorities ought to have rendered and certify the same to the board of supervisors or municipal authorities. Costs shall be awarded as in other cases. The board of supervisors or municipal authorities may employ counsel to defend such appeals to be paid out of the county or municipal treasury. Any such appeal may be heard and determined in vacation in the discretion of the court on motion of either party and written notice for ten (10) days to the other party or parties or the attorney of record and the hearing of same shall be held in the county where the suit is pending unless the judge in his order shall otherwise direct.

Provided, however, that no appeal to the circuit court shall be taken from any order of the board of supervisors or municipal authorities which authorizes the issuance or sale of bonds, but all objections to any matters relating to the issuance and sale of bonds shall be adjudicated and determined by the chancery court, in accordance with the provisions of section 31-13-5 to 31-13-11, both inclusive, of the Mississippi Code of 1972. And all rights of the parties shall be preserved and not foreclosed, for the hearing before the chancery court, or the chancellor in vacation. Provided, further, nothing in this section shall affect pending litigation. 1962, 240.

11-51-77. Appeal from assessment of taxes--attorney general, district attorney, county attorney may appeal. Any person aggrieved by a decision of the board of supervisors ... as to the assessment of taxes, may, within ten days after the adjournment of the meeting at which such decision is made, appeal to the circuit court. ... If the matter be decided in favor of the person who appealed, judgment in his favor shall be certified to the board of supervisors ... which shall conform thereto, and shall pay the costs. ... 1918, 120.

Cross references--

As to appeals by state tax commission, see §27-3-33.

As to appeal from order of state tax commission in sales tax proceedings, see §§27-65-47, 27-65-49.

As to appeal from order of board of supervisors approving assessment for former years, see §27-35-157.

As to appeals of equalizations as final assessments of real and personal property, see §21-33-39.

11-51-79 through 11-51-85 - Appeals from county court; appeals to county court; appeals from unlawful entry; appeals from justice of the peace. 1966, 348; 1926, 131; Hemingway's 1942, §1197; 1912, 203; 1973, 474; 1981, 471; 1982, 423; 2001, 423.

11-51-101. State, county, municipality, and other public officers may appeal without bond; prepayment of costs in lower court; costs of record of trial court. .....

(1) The state, and any county, town or village thereof, and the officials representing (them), who is a party to any suit or action in his official character, in which suit or action the state, county, city, town, or village is beneficially interested ... shall be entitled to appeal from a judgment, decree, decision, or order of any court or judge, from which an appeal may be taken, without prepayment of costs in the lower court, provided, however, that the cost of the preparation of the record of the proceedings in the trial court shall be prepaid. In any such case, if a supersedeas is allowed and desired, a bond for supersedeas shall not be required.

(2) Any person who is a party to a suit or action in his individual capacity which suit arises from allegedly tortious actions and deeds committed by him during the time he was a member, trustee, director, superintendent, official or employee, as the case may be, of the Mississippi Penitentiary Board, the State Penitentiary or the state insane hospitals and which allegedly tortious acts and deeds were committed by the person in the performance of his duties or employment, shall be entitled to appeal from a judgment, decree, decision or order of any court or judge, from which an appeal may be taken, without prepayment of costs in the lower court, including the costs of the preparation of the record of the proceedings in the trial court. In such cases, if a supersedeas shall not be required. The provision of this section shall not apply to any such judgment, decree, decision or order in favor of the State of Mississippi. 1990, 454.

## CHAPTER 53. COSTS

11-53-65. Bill of costs made and filed. When a cause shall be determined, the clerk of the court, and the justice of the peace in cases before him, shall tax the costs of the case and make out a bill therefor, specifying therein each section of the law, and each paragraph or subdivision of section, if any, by virtue of which each fee or item of costs therein is charged or taxed, and he shall file the same with the papers in the cause. 1942, 1596.

### Cross references--

As to preparation by clerk of supreme court of fee-bill of fees adjudged against state, see §25-7-7.

As to duty of circuit court clerk to deliver to clerk of the board of supervisors certified list of allowances made by court, payable out of county treasury, see §9-7-129.

As to duty of district attorney to pass on all accounts of public nature before they are allowed by circuit court, see §25-31-15.

As to duty of justice of the peace to give itemized receipt to any person paying costs or fees, see §9-11-21.

As to admissibility of copies from taxed bill of costs, see §13-1-93.

## TITLE 13. EVIDENCE, PROCESS AND JURIES

### CHAPTER 1. EVIDENCE

13-1-77. State custodian of books authorized to certify copies; admissibility of copies. All public officers in this state having the charge or custody of any public books, records, papers, or writings, are authorized to certify copies of the same. 1991, 573.

Cross references--

Admissibility of bank's copy of customer's financial records, see §13-1-245.

Rule providing for the authentication of official documents, see Miss. Rule of Civil Proc. 44.

Authentication and identification of evidence generally, see Rules 901-903, Miss. Rules of Evidence.

Evidence of contents of writings, recordings, and photographs generally, see Rules 1001-1008, Miss.

Rules of Evidence.

### CHAPTER 3. PROCESS, NOTICE AND PUBLICATION

13-3-31. Publication--in what newspaper. Whenever it is required by law that any summons, order, citation, advertisement or other legal notice shall be published in a newspaper in this state, it shall mean, in addition to any other requirements imposed by law, publication in some newspaper which: (A lengthy and detailed list and explanation of requirements is included in the code). 1976, 479; 1984, 400; 2004,453.

13-3-111. Time when executions shall be issued. The clerks of all courts of law or equity, after the adjournment of the court for the term shall, at the request and cost of the owner of the judgment or decree or his attorney, issue execution of all judgments and decrees rendered therein, and place the same in the hands of the sheriff of the county. The sheriff shall effectuate any execution on a judgment. If requested by such owner, they shall issue executions directed to the sheriff of any other county, and shall deliver the same to the owner or his attorney. 1990, 408.

### CHAPTER 5. JURIES

13-5-2. Public policy stated. It is the policy of this state that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all qualified citizens have the opportunity in accordance with this chapter to be considered for jury service in this state and an obligation to serve as jurors when summoned for that purpose. A citizen shall not be excluded from jury service in this state on account of race, color, religion, sex, national origin, or economic status. 1974, 378.

13-5-6. Jury commission--number, appointment, terms, qualifications, and compensation of members.

(1) A jury commission shall be established in each county to manage the jury selection process under the supervision and control of the court. The jury commission shall be composed of three members who will serve for a four-year term beginning on January 1, 1975. One member shall be appointed by the circuit judge, one member shall be appointed by the chancery judge, and one member



shall be appointed by the board of supervisors. If there is more than one chancery or circuit judge in a judicial district, then the senior circuit or chancery judge, as the case may be, shall make the said appointment for each county in his district. Any unexpired term shall be filled by the appropriate appointing authority who is in office at the time the vacancy occurs.

(2) A jury commissioner shall have the following qualifications:

- (a) He shall be a duly qualified elector at the time of his appointment;
- (b) He shall be a resident citizen of the county in which he is to serve; and
- (c) He shall not be an attorney or an elected public official.

(3) Each jury commissioner shall receive compensation at a per diem rate as provided in Section 25-3-69. 1974, 378; 1989, 395.

13-5-8. Master list to be compiled and maintained. In April of each year the jury commission shall compile and maintain a master list consisting of the voter registration lists of the county. The circuit clerk and the registrar of voters shall have the duty to certify to the commission during the month of January of each year the voter registration list for the county. 1974, 378.

13-5-10. Jury wheel--selection and deposit of names or identifying numbers of prospective jurors--number required--refilling. The jury commission for each county shall maintain a jury wheel into which the commission shall place the names or identifying numbers of prospective jurors taken from the master list. If the total number of prospective jurors on the master list is one thousand (1,000) or less, the names or identifying numbers of all of them shall be placed in the jury wheel. In all other cases, the number of prospective jurors to be placed in the jury wheel shall be one thousand (1,000) plus not less than one percent (1%) of the total number of names on the master list. From time to time a larger or additional number may be determined by the jury commission or ordered by the court to be placed in the jury wheel. In April of each year, beginning in 1976, the wheel shall be emptied and refilled as prescribed in this chapter. 1974, 378.

13-5-14. List of names placed in jury wheel to be delivered to senior circuit judge--minute entry. At any time the jury commission places names in the jury wheel, the jury commission shall also deliver to the senior circuit judge a list of all names placed on or in the jury wheel, and said circuit judge shall spread upon the minutes of the circuit court all of the names so placed in the jury wheel. 1974, 378.

13-5-16. Random drawing of names or identifying numbers of prospective jurors; alphabetical list; prohibition against disclosure of names drawn; use of computer or electronic device for random selection.

(1) Except as otherwise provided by subsection (2) of this section, from time to time and in a manner prescribed by the court, a private citizen who does not have an interest in a case pending trial and who is not a practicing attorney publicly shall draw at random from the jury wheel the names or identifying numbers of as many prospective jurors as the court by order requires. The clerk shall prepare an alphabetical list of the names drawn. Neither the names drawn nor the list shall be disclosed to any person other than pursuant to this chapter or specific order of the court.

(2) The court may order that the drawing of names or identifying numbers pursuant to subsection (1) of this section may be performed by random selection of a computer or electronic device pursuant to such rules and regulations as may be prescribed by the court. 1986, 312.

13-5-21. Jury list in counties with two circuit court districts. In counties where there are two (2) circuit court districts, the jury commission shall make a list of jurors for each district in the manner directed for a county, and the same shall be treated in all respects as for an entire county. In such counties a juror shall not be required to serve out of his district, except should the court, in its

discretion, otherwise direct, and except when drawn on a special venire. In either of such excepted cases, the jury shall be drawn from the two (2) jury boxes if the court so direct, one (1) name for each alternately. 1974, 378.

13-5-23. Exemptions; length of service of tales and grand jurors.

**[Until January 1, 2008, this section shall read as follows]**

All qualified persons shall be liable to serve as jurors, unless excused by the court for one (1) of the following causes:

- (a) When the juror is ill, or when on account of serious illness in the juror's family, the presence of the juror is required at home,
- (b) When the juror's attendance would cause a serious financial loss to the juror or to the juror's business,
- (c) When the juror is under an emergency, fairly equivalent to those mentioned in the foregoing paragraphs (a) and (b), or,
- (d) When the potential juror is a breast-feeding mother.

An excuse of illness under paragraph (a) may be made to the clerk of court outside of open court by providing the clerk with either a certificate of a licensed physician or an affidavit of the juror, stating that the juror is ill or that there is a serious illness in the juror's family. The test of an excuse under paragraph (b) shall be whether, if the juror were incapacitated by illness or otherwise for a week, some other persons would be available or could reasonably be procured to carry on the business for the week, and the test of an excuse under paragraph (c) shall be such as to be the fair equivalent, under the circumstances of that prescribed under paragraph (b). In cases under paragraphs (b), (c) and (d) the excuse must be made by the juror, in open court, under oath.

It shall be unlawful for any employer or other person to persuade or attempt to persuade any juror to avoid jury service, or to intimidate or to threaten any juror in that respect. So to do shall be deemed an interference with the administration of justice and a contempt of court and punishable as such.

But a tales juror, save when drawn and retained for the week, shall not be compelled to serve two (2) days successively unless the case in which the juror is impaneled continues longer than one (1) day. Grand jurors shall serve until discharged by the court.

**[From and after January 1, 2008, this section shall read as follows]**

(1) All qualified persons shall be liable to serve as jurors, unless excused by the court for one (1) of the following causes:

- (a) When the juror is ill and, on account of the illness, is incapable of performing jury service;
- (b) When the juror's attendance would cause undue or extreme physical or financial hardship to the prospective juror or a person under his or her care or supervision; or
- (c) When the potential juror is a breast-feeding mother.

(2) An excuse of illness under subsection (1)(a) of this section may be made to the clerk of court outside of open court by providing the clerk with a certificate of a licensed physician, stating that the juror is ill and is unfit for jury service, in which case the clerk may excuse the juror. If the excuse of illness is not supported by a physician's certificate, a judge of the court for which the individual was called to jury service shall decide whether to excuse an individual under subsection (1)(a) of this section.

(3)(a) The test of an excuse under subsection (1)(b) of this section for undue or extreme physical or financial hardship shall be whether the individual would either:

- (i) Be required to abandon a person under his or her personal care or supervision due to the impossibility of obtaining an appropriate substitute caregiver during the period of participation in the jury pool or on the jury; or
  - (ii) Incur costs that would have a substantial adverse impact on the payment of the individual's necessary daily living expenses or on those for whom he or she provides the principal means of support; or
  - (iii) Suffer physical hardship that would result in illness or disease.
- (b) "Undue or extreme physical or financial hardship" does not exist solely based on the fact that a prospective juror will be required to be absent from his or her place of employment or business.
- (c) A judge of the court for which the individual was called to jury service shall decide whether to excuse an individual under subsection (1)(b) of this section.
- (d) A person asking to be excused based on a finding of undue or extreme physical or financial hardship must take all actions necessary to have obtained a ruling on that request by no later than the date on which the individual is scheduled to appear for jury duty.
- (e) A person asking a judge to grant an excuse under subsection (1)(b) of this section may be required to provide the judge with documentation such as, but not limited to, federal and state income tax returns, medical statements from licensed physicians, proof of dependency or guardianship and similar documents, which the judge finds to clearly support the request to be excused. Failure to provide satisfactory documentation may result in a denial of the request to be excused.
- (f) In cases under subsection (1)(c) of this section, the excuse must be made by the juror in open court under oath.
- (4) A person is excused from jury service permanently only when the deciding judge determines that the underlying grounds for being excused are of a permanent nature. A person who has been summoned for jury duty who meets the age threshold for exemption from jury service shall have the option to be permanently excused from jury service due to age by filing with the circuit clerk a notarized request to be permanently excused.
- (5) Grand jurors shall serve until discharged by the court. Laws 1938, Ch. 302, § 1; Laws 1944, Ch. 197, § 2; Laws 1976, Ch. 464, § 1; Laws 1988, Ch. 438, § 1; Laws 1990, Ch. 360, § 1, eff. July 1, 1990; Laws 2004, 1st Ex. Sess., Ch. 1, § 8, eff. January 1, 2007; 2006, 437, 520; 2007, 433.

### 13-5-25. Who is exempt as a personal privilege

#### **[Until January 1, 2008, this section shall read as follows:]**

Every citizen over sixty-five (65) years of age, and everyone who has served on the regular panel as a juror in the actual trial of one or more litigated cases within two (2) years, shall be exempt from service if the juror claims the privilege; but the latter class shall serve as talesman, and on special venire, and on the regular panel, if there be a deficiency of jurors. No qualified juror shall be excluded because of any such reasons, but the same shall be a personal privilege to be claimed by any person selected for jury duty. Any citizen over sixty-five (65) years of age may claim this personal privilege outside of open court by providing the clerk of court with information that allows the clerk to determine the validity of the claim.

Provided, however, that no person who has served on the regular panel as a juror or in the actual trial of one or more litigated cases in one (1) court may claim the exemption in any other court where he may be called to serve.

#### **[From and after January 1, 2008, this section shall read as follows:]**

Every citizen over sixty-five (65) years of age, and everyone who has served as a grand juror or as a petit juror in the trial of a litigated case within two (2) years, shall be exempt from service if the juror claims the privilege. No qualified juror shall be excluded because of any such reasons, but the same shall be a personal privilege to be claimed by any person selected for jury duty. Any citizen over sixty-five (65) years of age may claim this personal privilege outside of open court by providing the clerk of court with information that allows the clerk to determine the validity of the claim.

Provided, however, that no person who has served as a grand juror or as a petit juror in a trial of a litigated case in one (1) court may claim the exemption in any other court where the juror may be called to serve. Laws 1958, Ch. 287, § 1; Laws 1960, Ch. 236, § 1; Laws 1966, Ch. 353, § 1; Laws 1976, Ch. 464, § 2; Laws 1990, Ch. 360, § 2, eff. July 1, 1990; Laws 2004, 1st Ex. Sess., Ch. 1, § 9, eff. January 1, 2007; 2006, 437; 2007, 443.

13-5-26. Jury box--deposit of names drawn from jury wheel--drawing and assignment of jurors. 1974, 378; 1986, 312.

13-5-28. Summoning of person drawn for jury duty. 1974, 378; 2006, 437; 2007, 443.

13-5-30. Summoning of jurors where there is shortage of petit jurors drawn from jury box. 1974, 378.

13-5-32. Names of jurors drawn from jury box to be made public; exception. 1974, 378.

13-5-34. Punishment for failure to appear or to complete jury service.

**[Until January 1, 2008, this section shall read as follows:]**

A person summoned for jury service who fails to appear or to complete jury service as directed shall be ordered by the court to appear forthwith and show cause for his failure to comply with the summons. If he fails to show good cause for noncompliance with the summons he is guilty of criminal contempt and upon conviction may be fined not more than one hundred dollars (\$100.00) or imprisoned not more than three (3) days, or both.

**[From and after January 1, 2008, this section shall read as follows:]**

(1) A person summoned for jury service who fails to appear or to complete jury service as directed, and who has failed to obtain a postponement in compliance with the provisions for requesting a postponement, or who fails to appear on the date set pursuant to [Section 13-5-33](#), may be ordered by the court to appear and show cause for failure to comply with the summons. If the juror fails to show good cause for noncompliance with the summons, the juror may be held in civil contempt of court and may be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than three (3) days, or both. The prospective juror may be excused from paying sanctions for good cause shown or in the interest of justice.

(2) In addition to, or in lieu of, the fine or imprisonment provided in subsection (1) of this section, the court may order that the prospective juror complete a period of community service for a period no less than if the prospective juror would have completed jury service, and provide proof of completion of this community service to the court. Laws 1974, Ch. 378, § 6(6), eff. January 1, 1975; Laws 2004, 1st Ex. Sess., Ch. 1, § 11, eff. January 1, 2007; 2006, 437; 2007, 433.

13-5-36. Preservation of records and papers in connection with selection and service of jurors. All records and papers compiled and maintained by the jury commission or the clerk in connection with selection and service of jurors shall be preserved by the clerk for four (4) years after the jury wheel used in their selection is emptied and refilled, and for any longer period ordered by the court. 1974, 368.

13-5-38. Payment of cost of implementation of law. In counties where the implementation of the new jury law (being Sections 13-5-2 through 13-5-16, 13-5-21, 13-5-26 through 13-5-38, and 13-5-41) requires additional clerical or other personnel, the board of supervisors, in its discretion, may pay for such services out of the general county fund. 1974, 378.

13-5-41. Number of grand jurors. The number of grand jurors shall not be less than 15 nor more than 20, in the discretion of the court. 1974, 378.

13-5-53. Adjournment of a grand jury to a day; pay in such cases. The court or judge, in their discretion, may adjourn the grand jury to a subsequent day in term time or vacation, and the jurors shall receive pay only for the number of days they shall be actually engaged in the performance of their duties. 1983, 499.

13-5-55. Grand jury to inspect jail; sheriff punishable. Each grand jury which is impaneled, shall make a personal inspection of the county jail, its condition, sufficiency for the safekeeping of prisoners, and their accommodation and health, and make reports thereof to the court. For any violation of neglect of duty as to the jail, the sheriff may be punished as for a misdemeanor, or may be fined as for a contempt, such not to exceed \$50.00. 1983, 499.

Cross references--

As to examination of jail by board of supervisors, see §19-5-1.

As to furnishing of medical and surgical aid to prisoners, see §47-1-57.

As to duty of sheriff to furnish prisoners proper necessities, see §19-25-71.

13-5-57. Grand jury may examine all county offices. The grand jury shall have free access at all proper hours to the papers, records, accounts and books of all county officers, for all examinations which, in its discretion, it may see fit to make, and may make report to the court in relation thereto. 1942, 1788.

13-5-59. Grand jury to examine tax collector's books. It shall be the duty of each grand jury which is impaneled to examine the tax collector's books and his reports and settlements, and make report thereon. 1983, 499.

Cross references--

As to duty of clerk of board of supervisors to examine accounts, dockets and records of county officers

and to report to grand jury, see §19-17-17.

As to monthly report of county tax collector of all taxes collected by him during previous month, see

§27-29-11.

As to report and settlement of county tax collector at end of fiscal year, see §27-29-13.

13-5-97. Certain jury records exempt from public access requirements. Records in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, which are developed among juries concerning judicial decisions, shall be exempt from the provisions of the Mississippi Public Records Act of 1983. 1983, 424.

**CHAPTER 7. STATE GRAND JURY ACT  
[Repealed Effective July 1, 2005]**

13-7-5. State grand jury system established; number of jurors; meeting location; quorum. There is established a state grand jury system. Each state grand jury shall consist of twenty (20) persons who may be impaneled and who may meet at any suitable location within the state as designated by the impaneling judge. Fifteen (15) members of a state grand jury constitute a quorum. 1993, 553; 1998, 382; 1999, 480; 2002, 471.

13-7-7. Jurisdiction of state grand jury; petition to impanel state grand jury; impaneling state grand jury; powers and duties of impaneling judge.

(1) The jurisdiction of a state grand jury impaneled under this chapter extends throughout the state. The subject matter jurisdiction of a state grand jury in all cases is limited to offenses involving any and all conduct made unlawful by the Mississippi Uniform Controlled Substances Law or any other provision of law involving narcotics, dangerous drugs or controlled substances, or any crime arising out of or in connection with a crime involving narcotics, dangerous drugs or controlled substances, and crimes involving any attempt, aiding, abetting, solicitation or conspiracy to commit any of the aforementioned crimes if the crimes occur within more than one circuit court district or have transpired or are transpiring or have significance in more than one circuit court district of this state.

(2) Whenever the Attorney General considers it necessary, and normal investigative or prosecutorial procedures are not adequate, the Attorney General may petition in writing to the senior circuit court judge of any circuit court district in this state for an order impaneling a state grand jury. For the purposes of this chapter, such judge shall be referred to as the impaneling judge. The petition must allege the following:

- (a) The type of offenses to be inquired into;
- (b) That the state grand jury has jurisdiction to consider such matters;
- (c) That the offenses to be inquired into have occurred within more than one circuit court district or have transpired or are transpiring or have significance in more than one circuit court district of this state;
- (d) That the Attorney General has conferred with the Commissioner of Public Safety and the Director of the Mississippi Bureau of Narcotics and that each of such officials join in the petition; and
- (e) That the Attorney General has conferred with the appropriate district attorney for each jurisdiction in which the crime or crimes are alleged to have occurred.

(3) The impaneling judge, after due consideration of the petition, may order the impanelment of a state grand jury in accordance with the petition for a term of twelve (12) calendar months. Upon petition by the Attorney General, the impaneling judge, by order, may extend the term of that state grand jury for a period of six (6) months, but the term of that state grand jury, including any extension thereof, shall not exceed two (2) years.

(4) The impaneling judge shall preside over the state grand jury until discharge.

(5) The impaneling judge may discharge a state grand jury prior to the end of its original term or any extensions thereof, upon a determination that its business has been completed, or upon the request of the Attorney General.

(6) If, at any time within the original term of any state grand jury or any extension thereof, the impaneling judge determines that the state grand jury is not conducting investigative activity within its jurisdiction or proper investigative activity, the impaneling judge may limit the investigations so that the investigation conforms with the jurisdiction of the state grand jury and existing law or he may discharge the state grand jury. An order issued pursuant to this subsection or under subsection (5) of this section shall not become effective less than ten (10) days after the date on which it is issued and actual notice given to the Attorney General and the foreman of the state grand jury, and may be appealed by the Attorney General to the Supreme Court. If an appeal from the order is made, the state grand jury, except

as otherwise ordered by the Supreme Court, shall continue to exercise its powers pending disposition of the appeal. 1993, 553; 1998, 382; 1999, 480; 2002, 471.

Cross references--

Use of procedures specified in this section to amend petition and order, see §13-1-23.  
Mississippi Uniform Controlled Substances Law, see §§41-29-101, *et seq.*

13-7-9 through 13-7-49. These statutes address procedural and administrative regulations regarding grand juries. 1993, 553; 1995, 327; 1998, 382; 1999, 480; 2002, 471.

## **TITLE 15. LIMITATIONS OF ACTIONS AND PREVENTION OF FRAUDS**

### **CHAPTER 1. LIMITATIONS OF ACTIONS**

15-1-51. Limitations of suits by and against the state, counties and municipal corporations. Statutes and limitation in civil cases shall not run against the state, or any subdivision or municipal corporation thereof, except that any judgment or decree rendered in favor of the state, or any subdivision or municipal corporation thereof, shall not be a lien on the property of the defendant therein for a longer prior than seven (7) years from the date of filing notice of the lien, unless an action is brought before the expiration of such time or unless the state or such subdivision or municipal corporation refiles notice of the lien. There shall be no limit upon the number of times that the state, or any subdivision or municipal corporation thereof, may refile such notices of lien.

The statutes of limitation shall run in favor of the state, the counties, and municipal corporations beginning at the time when the plaintiff first had the right to demand payment of the officer or board authorized to allow or disallow the claim sued upon. The provisions of this section shall apply to all pending and subsequently filed notices of liens. 1991, 503.

Cross references--

As to suits by and against the county, see §11-45-17.  
Immunity of state and its political subdivisions from liability and suit for torts and torts of employees, see §11-46-1, *et seq.*

15-1-57. Statute of limitations not to run when person prohibited to sue. When any person shall be prohibited by law, or restrained or enjoined by the order, decree, or process of any court in this state from commencing or prosecuting any action or remedy, the time during which such person shall be so prohibited, enjoined or restrained, shall not be computed as any part of the period of time limited by this chapter (Chapter 1 of Title 15) for the commencement of such action. 1942, 737.

### **CHAPTER 3. PREVENTION OF FRAUDS**

15-3-13. Chapter is not applicable to official sales. Nothing in this chapter shall apply to official sales by sheriffs, constables, executors, administrators, guardians, receivers, commissioners, trustees in bankruptcy, or any public officer. 1908, 100.

Cross references--

As to sales under decrees of chancery courts, see §§11-5-93, *et seq.*  
As to sales under execution, see §§13-3-161, *et seq.*

## **TITLE 17. LOCAL GOVERNMENT--PROVISIONS COMMON TO**

## COUNTIES AND MUNICIPALITIES

### CHAPTER 1. ZONING AND PLANNING

17-1-3. General powers--supervisors shall regulate zoning and planning. Except as provided... in Section 57-36-1, for the purpose of promoting health, safety, morals, or the general welfare of the community ... the board of supervisors ... may regulate zoning and planning ... may create playgrounds and public parks, and for these purposes, each of the boards shall possess the power of eminent domain and the right to apply public money thereto, and may issue bonds therefor as otherwise permitted by law. 1960, 402; 1994, 647; 1998, 553; 2006, 340.

#### Cross references--

As to conditions when local regulations govern, see §17-1-21.

As to county acting with municipalities located within it, see §17-1-5.

As to authority and powers of regional planning commission, see §17-1-35.

As to association of local communities and counties to solve common problems, see §§17-11-1, *et seq.*

As to eminent domain by municipalities, see §21-37-47.

As to board of supervisors' approval before recording any subdivision plat, see §17-1-23.

As to counties issuing bonds generally, see §§19-9-1, *et seq.*

As to municipalities issuing bonds generally, see §§21-33-301, *et seq.*

#### 17-1-11. Official plan; local planning commission.

(1) (a) The governing authority of each municipality and county may provide for the preparation, adoption, amendment, extension and carrying out of a comprehensive plan for the purpose of bringing about coordinated physical development in accordance with present and future needs and may create, independently or jointly, a local planning commission with authority to prepare and propose (a) a comprehensive plan of physical development of the municipality or county; (b) a proposed zoning ordinance and map; (c) regulations governing subdivisions of land; (d) building or set back lines on streets, roads and highways; and (e) recommendations to the governing authorities of each municipality or county with regard to the enforcement of and amendments to the comprehensive plan, zoning ordinance, subdivision regulations and capital improvements program. The governing authority of each municipality and county may, in its discretion, pay to each member of a planning commission a per diem in an amount as determined by such governing authority for each day, or portion thereof, spent in the performance of his duties; however, no member of a planning commission may be paid more than One Hundred Twenty (\$120.00) in the aggregate per month.

(b) The definition of "comprehensive plan" set forth in paragraph (c) of Section 17-1-1 shall not be construed to affect, or to require the amendment of, any plan adopted by a county or municipality prior to July 1, 1988, which plan does not specifically conform to the minimum elements of a comprehensive plan required in such definition.

(2) The governing authority of each municipality and county may adopt, amend and enforce the comprehensive plan, zoning ordinance, subdivision regulations and capital improvements program as recommended by the local planning commission after a public hearing thereon as provided by Section 17-1-15.

(3) In the performance of its duties, the local planning commission may cooperate with, contract with, or accept funds from federal, state or local agencies or private individuals or corporations and may expend such funds and carry out such cooperative undertakings and contracts.

(4) Any comprehensive plan established under this section shall not contain any provision which conflicts with Article VII of the Chickasaw Trail Economic Development compact described in Section 57-36-1. 1990, 331; 1998, 489, 553.



17-1-29. Regional planning commission--supervisors may appropriate moneys.

Any two or more counties and municipalities are authorized and empowered to create and establish a regional planning commission ... and to appropriate moneys from their respective public funds for the purposes of carrying out the duties of such commission, etc. 1964, 501.

17-1-37. Tax levies--expenditures.

(1) The governing authorities of each municipality and county may set aside, appropriate and expend moneys from the general fund to finance the provisions of Sections 17-1-1 through 17-1-27, inclusive.

(2) The governing authorities of each municipality and county may set aside, appropriate and expend moneys from the general fund to finance the provisions of Section 17-1-31 through 17-1-35, inclusive. 1986, 400.

## **CHAPTER 2. BUILDING CODES**

17-2-5. Adoption of minimum codes by county board of supervisors...

(1) Any county board of supervisors or municipal governing authority that adopts building codes after July 1, 2008, shall adopt as minimum codes any codes established and promulgated by the Mississippi Building Codes Council.

(2) Any county board of supervisors or municipal governing authority that has adopted construction codes published before January 1, 2000, shall, no later than July 1, 2010, adopt as minimum codes any codes established and promulgated by the Mississippi Building Codes Council... 2008;412.

## **CHAPTER 3. PROMOTION OF TRADE, CONVENTIONS AND TOURISM**

17-3-1. Counties and municipalities may advertise resources. The board of supervisors of any county in Mississippi and the board of aldermen of any municipality thereof, may appropriate and expend moneys, not to exceed one mill of their respective valuation and assessment, for the purpose of advertising and bringing into favorable notice the opportunities and resources of such municipality or county. 1926, 267.

Cross references--

As to expenditures for advertising resources of counties in levee districts, see §19-9-103.

As to jurisdiction and general powers of boards of supervisors, see §19-3-41.

17-3-3. Advertising, kind included. Advertising pursuant to Section 17-3-1 shall include newspaper and magazine advertising and literature, publicity, expositions, public entertainment or other form of advertising or publicity, which in the judgment of such board of boards will be helpful toward advancing the moral, financial and other interests of such ... county. 1926, 267.

17-3-5. Boards may cooperate with statewide movement. In the expenditure of funds as provided in Section 17-3-1 the said board or boards may cooperate with any statewide movement, etc. 1926, 267.

17-3-7. Counties authorized to make appropriations in aid of fairs. Not exceeding \$2,500.00 annually, to aid in payment of premiums, etc., for fairs held and operated in the county. 1926, 270.

17-3-9 through 17-3-19. Convention centers--acquisition of land--issuance of bonds--receipt and disbursement of funds. Applicable, by description, to Hancock, Harrison, Jackson, Lauderdale and, apparently, Hinds and Panola counties. 1970, 464.

17-3-21 through 17-3-33. Convention bureaus--authorization to establish--boards--bonds of members meetings--powers--special tax levy. Applicable only to Hancock, Harrison and Jackson counties. 1974, 493, 2005, 339.

## **CHAPTER 5. JAILS, WATERWORKS AND OTHER IMPROVEMENTS**

17-5-1. Joint construction, maintenance and use of jail. The board of supervisors of any county, and the governing authorities of the largest municipality within any such county may enter into a contract for the joint construction, maintenance and equipping of a jail in such municipality, or within one mile of the corporate limits thereof, any may issue bonds of both the county and such municipality ... for such purposes, provided that in no event shall the municipality bear over 50% of the cost thereof, etc. 1974, 350.

17-5-3 through 17-5-11. Certain counties and municipalities therein, authorized to construct waterworks and sewage disposal systems--bonds authorized. This section applies to Forrest County (by description) and to the municipalities within it. 1942, 195; 1994, 537.

17-5-13. Power of county or municipality to apply for, receive and expend funds from federal government for railroad crossing improvements. The board of supervisors of any county and the governing authority of any municipality shall have the power and authority to apply for, receive and expend grants, loans or other funds from the federal government or any department or agency thereof for use in connection with the relocation or grade separation or railroad lines to eliminate grade level railroad crossings. 1979, 494.

17-5-15 Power of county or municipality to lend or lease equipment. The governing authorities of any county and the governing authorities of any municipality, are each authorized, in their discretion, upon order duly adopted and entered upon their official minutes, to lend or to enter into leases with other counties or municipalities for the use of county-owned or municipally owned equipment and operators of such equipment. Such equipment and operators may be lent or leased for such amount and in accordance with such terms and conditions as the governing authorities may prescribe; however, such equipment and operators may be used only in the performance of public projects of a county or municipality. The lending or lease agreements also may include an equipment operator's fee equal to the average hourly salary that is paid to all operators of such county-owned or municipally owned equipment by the county or municipality that lends or leases the equipment. Proceeds from the lending or leasing of such equipment shall be deposited into the road and bridge fund of the county or the municipal general fund, as the case may be. 1997, 331.

## **CHAPTER 7. REMOVAL OF LOCAL GOVERNMENTS IN EMERGENCIES**

17-7-1. Emergency situations; government relocation

(1) Whenever, due to an emergency resulting from a natural disaster, the effects of enemy attack, or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexpedient or impossible to conduct the affairs of municipal and county governments or any subdivisions thereof at the regular or usual place or places thereof, the governing body of each political subdivision of this state may meet at any place within or without the territorial limits of such political subdivision on the call of the presiding officer or any two (2) members of such governing body, and shall proceed to establish and designate by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary location, or locations, of government where all, or any part, of the public business may be transacted and conducted during the emergency situation. Such sites or places may be within or without the territorial limits of such political subdivision and may be within or without this state.

(2) For the purposes of this chapter, "natural disaster" means a natural disaster as declared by the Governor.

Laws 1960, Ch. 187, § 1, eff. from and after passage (approved May 11, 1960); Laws 2005, 5th Ex.Sess., Ch. 4, § 1, eff. August 29, 2005.

## **CHAPTER 9. LEASE OF MINERAL LANDS OTHER THAN SIXTEENTH SECTION OR LIEU LANDS**

17-9-1 through 17-9-9. Powers of governing authorities in leasing. The boards of supervisors of each county ... are authorized and empowered to lease, in the name of the county ... any or all lands or minerals owned by the county ... for oil, gas and mineral exploration and development, under terms by them deemed proper and advisable.

No lease ... shall be made: (a) For an original bonus consideration of less than \$1.00 per acre; (b) For a delay drilling rental of less than \$1.00 per acre per annum; (c) For a primary term of more than six years and as long thereafter as oil, gas or other mineral is being produced from the leased premises, or as long thereafter as lessee shall conduct drilling, mining, producing or other operations, etc.; (d) For royalties of less than: (1) On oil, one eighth of that produced and saved from the leased premises; (2) On gas, including casinghead gas or other gaseous substances ... the market value at the well of one-eighth of the amount realized from such sale; (3) On sulphur mined and marketed, fifty cents per long ton; (4) On all other minerals one tenth either in kind or value at the well or mine at lessee's election. Permissible terms are provided for such leases. The bonus consideration, delay drilling rentals, and royalties accruing under any lease hereunder shall be paid by the lessee to a county depository to the credit of the county...said depository to be selected and designated in the order authorizing said lease...and all of said funds so accruing shall go into the general fund of the county...This chapter does not apply to 16th section lands. 1946, 185.

## **CHAPTER 11. GULF REGIONAL DISTRICT LAW**

17-11-1 through 17-11-61. Gulf regional district, generally. This entire chapter deals with the organization, maintenance and operation of the Gulf Coast Regional District, the purpose of said district, as an agency of the state, being the encouragement of the voluntary association of local communities and political entities of the state within the region, and for the further purpose of acting as a unified coordinating unit structured to solve common area wide problems by mutual cooperation within the framework of local governmental control. The region is composed of such of the counties bordering on the Gulf of Mexico or contiguous to any county bordering on the Gulf of Mexico as shall elect to become members. The presidents of boards of supervisors are members of the governing body. ... An election is involved in any county becoming a member or withdrawing as a member. The funds for the administrative support of the district shall be apportioned equally on an annual basis of not more than fifty cents per capita of the population of each associated member of the district. ... Such amount may be

paid from the general or surplus funds of the county. The compensation of members of the governing body, except elective officers who are members, shall be \$22.50 per day and such travel expense as is allowed by law for state employees. Each county within the region associated as a member thereof may expend its public funds for the purposes and may issue revenue bonds, notes, or other revenue obligations to carry out the purposes of the statute. Sections 17-11-37, *et seq.*, specifically set out how bonds may be issued, as well as details concerning general obligation bonds. 1971, 517; 1986, 400.

## **CHAPTER 13. INTERLOCAL COOPERATION OF GOVERNMENTAL UNITS**

17-13-1 through 17-13-17. Interlocal cooperation of governmental units; agreements, etc. It is the purpose of this chapter to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate and to contract with other local governmental units on a basis of mutual advantage and thereby provide services and facilities in a manner pursuant to forms of governmental organizations that will accord best with geographic, economic, population and other factors influencing the needs and development of local communities. Specifications of joint agreements are set forth which provide, among other things, that the manner of financing, staffing and supplying the undertaking and providing a budget therefor, shall be included there in and provided that the treasurer and/or disbursing officer of one of the local governmental units shall be designated to receive, disburse and account for all funds of the joint undertaking.

Prior to its being in force any agreement covered by these laws shall be filed with the chancery clerk of each of the participating counties and with the secretary of state. A copy of any agreement made pursuant to these laws shall be filed with the state department of audit for audit purposes no later than 60 days after said agreement shall be in force.

The governing authority of any local governmental unit entering into an agreement pursuant to this chapter may appropriate funds in the manner prescribed by law; and may sell, lease, grant, or otherwise supply goods and services to the administrative body or legal entity created to operate the joint undertaking.

All laws in regard to purchases, auditing, depositories and expenditures in general which limit the authority of the agreeing local governing units shall also apply to any joint body created by the agreement.

Any joint administrative body created by the agreement herein mentioned shall not have the power to levy taxes or incur debt. Such entity may not exercise any power, authority or responsibility except those powers, authorities and responsibilities specifically delegated to such body by the terms of the agreement made pursuant to the provisions of this chapter. 1974, 498; 1985, 514; 1986, 333; 1989, 354; 1992, 379; 1995, 406; 2002, 499; 2009

### 17-13-7. Joint exercise of powers and responsibilities; agreements generally.

(1) Any power, authority or responsibility exercised or capable of being exercised by a local governmental unit of this state may be exercised and carried out jointly with any other local governmental unit of this state, any state board, agency or commission and any public agency of the United States, to the extent that the laws of the United States permit such joint exercise or enjoyment.

(2) No such power, authority and responsibility may be exercised under the provisions of this chapter which will have the effect of abolishing any office which is held by a person elected by the citizenry, without first an election being called to decide the question of the abolition of any such elected office.

(3) No agreement made hereunder shall be entered into by any local governmental unit without the approval by resolution on the minutes of the governing authority of that local governmental unit.

(4) Any two or more local governmental units may enter into written contractual agreements with one another for joint or cooperative action to provide services and facilities pursuant to the provisions of this chapter. Appropriate action by ordinance, resolution or otherwise pursuant to the law controlling

the participating local governmental units or agencies shall be necessary before any such agreement shall be in force.

(5) No such power, authority and responsibility may be exercised under the provisions of this chapter by a local governmental unit which it would not have authority to exercise otherwise pursuant to the law controlling the local governmental unit. 1974, 498; 1976, 421; 1979, 494; 1981, 505; 1986, 333.

## **CHAPTER 15. HUMAN RESOURCE AGENCIES**

17-15-1. Creation--declaration of intent. The boards of supervisors and the municipal governing boards of the various counties and cities ... may ... create human resource agencies which may be comprised of one or more counties, cities, or any combination thereof. "It is the express intention of this chapter that agencies created hereunder shall be operated under local governmental control and shall be responsible for administration of programs heretofore conducted by community action agencies, limited purpose agencies and related programs authorized by federal law." 1974, 506.

17-15-3. Governing boards. There shall be a governing board for each human resource agency so created, which shall be appointed by the board of supervisors or municipal governing authority of the county or city involved. Terms of board members shall not exceed five years. Membership to be broadly based and equitably distributed between providers and consumers of human resource services. 1974, 506; 1976, 332.

17-15-5. Powers of governing board in general--appointment of executive director. The powers of the governing board of every human resource agency shall include the power to adopt bylaws, to appoint persons to senior staff positions including the appointment of an executive director, to determine major personnel, physical and program policy and approve overall program plans and priorities and to assure compliance with conditions of and approve proposals for financial assistance over this chapter. The executive director shall hold office at the will and pleasure of the board and his salary shall be set by the board. The executive director shall give bond in a penalty equal to \$50,000.00, the premiums on same to be paid by the governing board from funds provided herein for administrative expenses. 1974, 506; 1986, 458.

17-15-7. General authority of human resource agency. (May) own and dispose of property, both real and personal, and receive and administer funds under this chapter, funds and contributions from private or local public sources which may be used in support of a human resource program, and funds under any federal or state assistance program pursuant to which such an agency ... could serve as grantee, contractor, or sponsor of projects appropriate for inclusion in a human resource program. 1974, 506.

17-15-9. Audits. Each governing board shall prepare an annual audit report of its activities through September 30 of each year and shall submit a copy thereof to each board of supervisors and municipal governing authority comprising the human resource agency. In addition, the financial records of each board shall be subject to audit by said board of supervisors ... and by the state auditor of public accounts. 1974, 506.

17-15-11. Expenditure of funds--levy of tax for administrative expense. The board of supervisors ... and the municipal governing authority ... comprising a human resource agency may, in their discretion, expend funds from the general fund or federal revenue sharing funds, to defray the administrative expenses incurred in the operation of such human resource agency. 1974, 506; 1986, 400.

## CHAPTER 17. SOLID WASTES DISPOSAL

17-17-2. Administration and enforcement transferred to Commission on Environmental Quality and Department of Environmental Quality. The administration and enforcement of the Solid Wastes Disposal law of 1974 (Title 17, Chapter 17, Mississippi Code of 1972) are hereby transferred from the State Board of Health to the Mississippi Commission on Environmental Quality and the Mississippi Department of Environmental Quality. All personnel, records, property, equipment and funds allocated to the State Board of Health exclusively for the administration and enforcement of the Solid Wastes Disposal law of 1974, as amended, are hereby transferred to and placed under the supervision and control of the Mississippi Department of Environmental Quality. 1991, 494.

### 17-17-3. Definitions.

17-17-5. Local governing bodies to provide for collection and disposal of garbage and rubbish; contracts; regulation of sanitary landfills.

(1) After December 31, 1992, the board of supervisors and/or municipal governing body shall provide for the collection and disposal of garbage and the disposal of rubbish. The board of supervisors and/or municipal governing body may provide such collection or disposal services by contract with private or other controlling agencies, and the service may include house-to-house service or the placement of regularly serviced and controlled bulk refuse receptacles within reasonable distance from the farthest affected household, and the wastes disposed of in a manner acceptable to the department and within the meaning of this chapter. The board of supervisors and/or municipal governing body shall have the power to and are hereby authorized to enter into contracts related in any manner to the collection and transportation of solid wastes for a term of up to six (6) years and to enter into contracts related in any manner to the generation and sale of energy generated from solid wastes, and contracts for treatment, processing, distribution, recycling, elimination or disposal of solid wastes for a term of up to thirty (30) years. The municipal governing body of any municipality is authorized to regulate the disposal of garbage and rubbish in sanitary landfills, as provided in Section 21-19-1, Mississippi Code of 1972.

(2) In the event an unincorporated area which is annexed by a municipality is being provided collection and disposal of garbage and rubbish under contract with private or other controlling agencies, the municipality shall annex the area subject to the contract for the remainder of the term of the contract, but not to exceed five (5) years.  
1992, 583; 2000, 392.

### Cross references--

As to health department supervision, of solid wastes disposal, see §17-17-27.

As to requirements of and limitations on contracts with counties, see §§19-13-9 to 19-13-15 and 31-7-49.

17-17-7 through 17-17-19. Garbage disposal, burning, hauling, etc. 1974, 573; 1981, 528; 1984, 399; 1989,496.

17-17-27. Enforcement of chapter; adoption of rules and regulations; revocation of permit; variances; renewals or extensions; public availability of information; application of Trade Secrets Act. Lengthy statute containing outline of rules and regulation requirements. 1990, 442.

17-17-29. Penalties; injunction; recovery of cost of remedial action; disposition of fines. 1991, 334; 1995, 627; 2001, 560; 2003, 301.

17-17-33. Participation in regional solid waste disposal and recovery systems authorized. Counties, municipal and private companies are authorized to participate in applicable approved regional solid waste disposal, recycling and recovery systems. 1976, 341; 2006, 587.

Cross references--

As to county rubbish and garbage disposal systems, generally, see §19-5-17.

As to water, sewer, garbage disposal and fire protection districts in counties, see §§19-5-151, *et seq.*

17-17-35. Entry and inspection of generating, treating, storage, transportation and disposal equipment, facilities, etc. Authorized employees or representatives of the department shall be authorized to enter and inspect generating, treating, storage, transportation and disposal equipment, facilities or sites to determine proper treatment, storage, transportation and/or disposal. Employees and/or representatives of the department shall be authorized to enter and inspect at any time vehicles transporting or disposing of wastes as outlined in this section. 1991, 494.

Cross references--

Enforcement of chapter generally, see §17-17-27.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see §49-17-25.

17-17-37. Property rights in solid wastes. The solid wastes involved shall become the lawful property of the local governments and/or commercial enterprises involved at the point of collection, etc. 1976, 341.

17-17-39. Construction or operation of authorized solid waste disposal systems or facilities unimpaired. Nothing in sections 17-17-33 to 17-17-41 shall be construed to prohibit local governments from the construction or operation of approved sanitary landfills, or of any other heretofore or hereafter approved solid wastes disposal system, it being the intent of sections 17-17-33 to 17-17-41 that their provisions shall be supplementary to, and not restrictive of, any previously authorized solid wastes disposal system, facility or operation, nor of any other such system, facility or operation which may be authorized in the future. 1976, 341.

17-17-41. Construction or operation of recycling plants or sale or gift of solid wastes not prohibited. Nothing in sections 17-17-33 to 17-17-41 shall be construed to prohibit private enterprise or other agencies from the construction or operation of recycling plants or to prohibit the sale or gift of solid wastes to private enterprise or other agencies by local governments. 1976, 341.

17-17-43. Procedures applicable to hearings before commission and permit board. The procedures whereby the commission or an employee thereof may obtain a hearing before the commission on a violation of any provision of Sections 17-17-1 through 17-17-41 and Section 17-17-47 or of a regulation or of any order of the commission or whereby any interested person may obtain a hearing on matters within the jurisdiction of the commission or a hearing on any order of the commission shall be as prescribed in Sections 49-17-31 through 49-17-41.

Further, all proceedings before the permit board of the bureau of pollution and control shall be conducted in the manner prescribed by Section 49-17-29. 1982, 411.

17-17-45. Appeal to chancery court. In addition to any other remedies that might now be available, any person or interested party aggrieved by an order of the commission or of the permit board of the bureau of pollution control shall have the right to perfect an appeal to the appropriate chancery court in the manner set forth in Sections 49-17-41 and 49-17-29. 1982, 411.

17-17-47. Exclusive authority of State Oil and Gas Board as to regulation of oil field waste products.

(1) Notwithstanding any other provisions contained in this chapter, the State Oil and Gas Board shall continue to exercise the exclusive authority to make rules and regulations and issue permits governing the noncommercial disposal of oil field wastes products and shall continue to exercise the exclusive authority to regulate Class II underground injection wells in accordance with the provisions of Section 53-1-17; provided, however, that to the extent that such oil field exploration and production wastes products may likewise constitute hazardous wastes under the provisions of this chapter, such rules and regulations shall be subject to the approval of the commission in order to insure that they are consistent with the requirements of this chapter and the Resource Conservation and Recovery Act of 1976 (Public law 94-580).

(2) The commission shall have the exclusive authority to regulate the commercial disposal of oil field exploration and production wastes products subject to limitations set out in subsection (1) of this section. 1991, 605.

Cross references--

As to procedures for obtaining hearing before the commission for violation under this section, see §17-17-43 and §§49-17-31 through 49-17-41.

Procedures for publication, adoption, amendment or repeal of rules and regulations necessary to implement this section, see §49-17-25.

Authority to regulate commercial disposal of waste products, see §53-1-17.

17-17-48. Legislative intent as to regulation or radioactive waste disposal facilities. It is the intent of this legislature that the Mississippi Energy and Transportation Board shall have jurisdiction over state nuclear waste policy, activities and siting, including the long-term or temporary storage and/or disposal of high-level radioactive and transuranic waste, in accordance with the provisions of Sections 17-17-48 through 17-17-51 and Chapter 49 of Title 57, Mississippi Code of 1972. 1980, 480; 1982, 474; 1983, 505.

Cross references--

As to use of salt domes or other geologic structures for disposal of radioactive waste, see §17-17-49.

17-17-49. Use of salt domes or other geologic structures for disposal of radioactive waste; penalties, enforcement, authorization. 1988, 518, §16.

17-17-51. Facilities licensed by the nuclear regulatory commission. Nothing in Sections 17-17-48 through 17-17-51 or in Chapter 49 of Title 57, Mississippi Code of 1972 prohibits or is intended to prohibit the shipment, receipt, use or on-site storage of nuclear fuel assemblies to a facility licensed by the nuclear regulatory commission, or the transportation from the facility of spent nuclear fuel assemblies to a licensed reprocessing plant or to a licensed away-from-reactor storage facility.

Provided further, that nothing in Section 17-17-48 through 17-17-51 or in Chapter 49 of Title 57, Mississippi Code of 1972 prohibits or is intended to prohibit the on-site storage of low-level radioactive waste that is generated at a facility licensed by the nuclear regulatory commission. 1980, 480; 1982, 474.



Cross references--

As to jurisdiction of Mississippi Energy and Transportation Board over state nuclear waste policy, activities and siting, see §17-17-48.

As to use of salt domes or other geologic structures for disposal of radioactive waste, see §17-17-49.

17-17-53. Commercial hazardous and nonhazardous waste facilities to file annual reports and pay disposal fees; fee calculation; disposition of proceeds. 1990, 536; 1994, 539; 1998, 458.

17-17-54 Uncontrolled site evaluation trust fund. 1996, 488.

17-17-55. Hazardous Waste Facility Site Revolving Fund; purpose of fund; rules and regulations. There is hereby created within the State Treasury a revolving fund to be known as the "Hazardous Waste Facility Site Revolving Loan Fund," which shall be administered by the Department of Economic and Community Development, for the purpose of making loans to municipalities or counties in which commercial hazardous waste facilities permitted pursuant to Section 49-17-28, *et seq.*, are located. Such loans shall be made for the purpose of constructing roads, railroads, utilities or the purchase and development of lands for industrial purposes. Any municipality or county within which such a facility is sited may make application for a loan from the Hazardous Waste Facility Site Revolving Loan Fund, and the Department of Economic and Community Development is hereby authorized and empowered to adopt and put into effect all reasonable rules and regulations that it may deem necessary to carry out the provisions of this section, which shall include, without limitation, the following:

- (a) Procedures for applying for the loans.
- (b) Selection criteria for evaluating if a proposed facility meets Mississippi's needs and for choosing between various loan applications.
- (c) Procedures for funding and retiring loans.
- (d) Procedures to be followed if default occurs in the repayment of loans.

In addition, the Department of Economic and Community Development is empowered to designate that any part or all of those funds to be disbursed pursuant to Section 17-17-53(2)(c) be paid directly against the principal balance of any loan outstanding hereunder. 1990, 506.

17-17-59. Moratorium on new or expanded nonhazardous solid waste facilities. 1992, 583.

17-17-63. Mississippi Nonhazardous Solid Waste Corrective Action Trust Fund. 1992, 583, 1994, 619; 1997, 596.

17-17-65. Local Governments Solid Waste Assistance Fund.

(1) There is created in the State Treasury a fund designated as the Local Governments solid Waste Assistance Fund, referred to in this section as "fund", to be administered by the executive director of the department.

(2) The fund shall be used to provide grants to counties, municipalities, regional solid waste management authorities or multi-county entities as provided in subsection (5) of this section for one or more of the following purposes:

- (a) Cleanup of existing and future unauthorized dumps on public or private property, subject to the limitation in subsection (4) of this section;
- (b) Establishment of a collection center or program for white goods, recyclables or other bulky rubbish waste not managed by local residential solid waste collection programs;

- (c) Provision of public notice and education related to the proper management of solid waste, including recycling;
- (d) Payment of a maximum of fifty percent (50%) of the cost of employing a local solid waste enforcement officer;
- (e) Distribution and use as grants to regional solid waste management authorities, counties and municipalities for implementation of household hazardous waste collection programs, in accordance with Sections 17-17-439 through 17-17-445. The grants shall not exceed seventy-five percent (75%) of eligible project costs as established by the commission; and
- (f) Development of other local solid waste management program activities associated with the prevention, enforcement or abatement of unauthorized dumps, as approved by the commission.

(3) The commission shall earmark ten percent (10%) of the amount deposited in the fund annually to be used to make grants to counties, municipalities, regional solid waste management authorities or multicounty entities to assist in defraying the cost of preparing solid waste management plans required by Section 17-17-227. The commission shall award these grants according to the merit of grant proposals received by the commission and the level of need and timeliness of the requirement for the county or regional solid waste management authority to update its solid waste management plan.

(4) If a person is found to be responsible for creating an unauthorized dump, the grantee shall make a reasonable effort to require that person to clean up the property before expending any monies from the fund to clean up the property. If the grantee is unable to locate the person responsible for creating the dump, or if the grantee determines that person is financially or otherwise incapable of cleaning up the property, the grantee may use the monies from the fund to clean up the property and shall make a reasonable effort to recover from the responsible person any funds expended.

(5)(a) Of monies annually deposited in the fund and any balance remaining in the fund, the commission

shall annually allocate monies as follows:

- (i) One-half ( $\frac{1}{2}$ ) of the deposited funds and remaining balance shall be allocated to each county based on the percentage of state aid road mileage as established by the Mississippi Department of Transportation State Aid road formula.
- (ii) One-half ( $\frac{1}{2}$ ) of the deposited funds and remaining balance shall be made available to counties or municipalities for grants on a competitive basis.

(b) The department shall notify the president of the board of supervisors of each county in writing of the amount allocated under paragraph (a)(i) of this subsection and that additional funds are available on a competitive basis as provided under paragraph (a)(ii) of this subsection.

(c) Upon receipt of a scope of work and cost proposal acceptable to the commission, the commission shall award a grant to a county up to the allocated amount for that county under paragraph (a)(i) of this subsection. The commission may award additional grant funds from monies available under paragraph (a)(ii) of this subsection based upon the acceptable scope of work and cost proposal.

(d) The commission may award grants to a regional solid waste management authority or other multi-county entity upon submission of a consolidated scope of work and cost proposal acceptable to the commission and authorized by the member counties. Upon submission of a scope of work and cost proposal, the commission may award grants to municipalities from monies available under paragraph (a)(ii) of this subsection.

(e) No grantee shall use more than three percent (3%) of funds provided under this section to defray the costs of administration of the grant.

(6) The department may use up to three percent (3%) of monies annually deposited in the fund and of any balance remaining in the fund to provide for the administration of this section.

(7) Expenditures may be made from the fund upon requisition by the executive director of the department.

(8) The fund shall be treated as a special trust fund. Interest earned on the principal in the fund shall be credited by the department to the fund.

(9) The fund may receive monies from any available public or private source, including, but not limited to, collection of fees, interest, grants, taxes, public and private donations, judicial actions and appropriated funds.

(10) Monies in the fund at the end of the fiscal year shall be retained in the fund for use in the succeeding fiscal year.

(11) The commission may consolidate any grant provided under this section with any grant provided under the waste tire management program or the right-way-to-throw-away program. Funds provided through any consolidated grant shall be used in accordance with the program under which the funds are provided.

(12) Funds provided under this section shall not be used to pay any costs of the establishment or operation of a landfill, rubbish disposal site or other type solid waste disposal facility, for the routine collection of garbage or to collect any fees assessed under Section 19-5-21 or 21-19-2.

(13) The commission shall not provide any funds under this section to any grantee with an inadequate garbage or rubbish collection or disposal system as required under Section 19-5-17 or 21-19-1. 1997, 596; 2000, 395; 2002, 483.

17-17-101 through 17-17-153. Promotion of Projects for Treatment of Solid and Hazardous Wastes. 1981, 527; 1991, 561; 1997, 313; 2006, 587.

17-17-201. Short title. Sections 17-17-201 through 17-17-235 shall be known and may be cited as the "Nonhazardous Solid Waste Planning Act of 1991." 1991, 494.

Cross references--

Solid waste disposal generally, see §§17-17-1, *et seq.*

Promotion of projects for treatment of solid and hazardous wastes, see §17-17-101, *et seq.*

Hazardous waste facility siting, see §§17-18-1, *et seq.*

Powers of boards of supervisors to provide for disposal of garbage and rubbish, see §§19-5-17 and 19-5-19.

17-17-227. Local nonhazardous solid waste management plans by counties and municipalities; regional solid waste management authorities and plans; ratification of plans; review and approval of plans by commission; implementation and revision of plans; proceedings by commission against noncomplying counties or authorities; maintenance of copies of plans and orders relating thereto by executive director. 1991, 494; 1993, 600; 1998, 498; 2006, 587.

17-17-229. Issuance of permits, grants or loans for county or regional waste management facilities generally; contents of applications; adoption and enforcement of criteria and standards for location and permitting of facilities. 1991, 494; 1998, 498; 2006, 587.

17-17-301. Short title. Sections 17-17-301 through 17-17-349 shall be known and cited as the "Mississippi Regional Solid Waste Management Authority Act." 1991, 581.

17-17-307. Board of supervisors may create regional solid waste management authorities.

17-17-311. Prescribes the procedure for a member of a regional solid waste management authority to withdraw from the authority.

17-17-329. Board of supervisors may issue bonds for solid waste management facilities.

17-17-347. Board of supervisors shall determine full and complete costs for solid waste management.

17-17-348. Counties and municipalities to publish detailed report of revenues and costs incurred in operating garbage or rubbish collection or disposal systems. 1996, 536.

17-17-401 through 17-17-445. Disposal of waste tires and lead acid batteries; Right-Way-To-Throw-Away Program. 1991, 531; 1992, 583; 1995, 615; 1997, 544; 1998, 349; 1999, 402; 2001, 571.

17-17-501 through 17-17-507. Disclosure requirements of applicants for commercial hazardous or nonhazardous solid waste facility permits. 1991, 583; 1992, 583; 1994, 540.

## **CHAPTER 18. MISSISSIPPI HAZARDOUS WASTE FACILITY SITING ACT OF 1990**

17-18-1. Short Title. This chapter shall be known and may be cited as the "Mississippi Hazardous Waste Facility Siting Act of 1990."

Cross references--

Duties of department of finance and administration with respect to this chapter, see §7-104-103.

17-18-7 through 17-18-19. Hazardous Waste Facility Siting Authority's powers and duties. 1990, 506.

## **CHAPTER 19. APPROPRIATIONS TO PLANNING AND DEVELOPMENT DISTRICTS**

17-19-1. Appropriations to planning and development districts. The board of supervisors of each county and the governing authorities of each municipality in the state are authorized and empowered, in their discretion, to appropriate and pay such sums as they deem necessary and desirable, out of any available funds of the county or municipality which are not required for any other purpose, to the planning and development district in which the county or municipality is located. 1981, 349.

## **CHAPTER 21. FINANCE AND TAXATION**

17-21-1. Board of supervisors may grant tax exemptions for non-profit industrial or economic development organizations.

17-21-51 through 17-21-55. Uniform system for issuance of negotiable notes or certificates of indebtedness. 1985, 437; 1994, 559.

17-21-51. Board of supervisors are authorized to borrow money to accomplish any purpose otherwise authorized by law to issue bonds, notes or certificates of indebtedness.

(1) The board of supervisors of any county and the governing authorities of any municipality (both referred to in this article as "governing authority") are hereby authorized and empowered, in their discretion, to borrow money, pursuant to the provisions of this article, for the following purposes:

- (a) To accomplish any purpose for which such governing authorities are otherwise authorized by law to issue bonds, notes or certificates of indebtedness;
- (b) To pay costs incurred by governing authorities as a result of a natural disaster. Such costs shall include, but not be limited to, debris removal and disposal, overtime wages paid to public employees, and the repair or replacement of public streets, roads and bridges, storm drains, water and sewer facilities and other public buildings, facilities and equipment. Money borrowed pursuant to this paragraph (b) may also be utilized as matching funds for federal or state disaster relief assistance; and
- (c) To purchase motor vehicles for public safety.

(2) The total outstanding indebtedness incurred by a governing authority under this article at any one (1) time shall not exceed the greater of one percent (1%) of the assessed value of all taxable property located within the governing authority according to the last completed assessment for taxation or Two Hundred Fifty Thousand Dollars (\$250,000.00) and shall be included in computing the statutory limitation upon indebtedness which may be incurred by such governing authority. 1985, 437; 1994, 559; 2000, 373; 2008,485.

Cross references-

Uniform system for issuance of county bonds, see §19-9-1.

17-21-53. Procedures; rates of interest; full faith and credit of issuing entity.

(1) Before any money is borrowed under the provisions of this article, the governing authority shall adopt a resolution declaring the necessity for such borrowing and specifying the purpose for which the money borrowed is to be expended, the amount to be borrowed, the date or dates of the maturity thereof, and how such indebtedness is to be evidenced. The resolution shall be certified over the signature of the head of the governing authority.

(2) The borrowing shall be evidenced by negotiable notes or certificates of indebtedness of the governing authority which shall be signed by the head and clerk of such governing authority. All such notes or certificates of indebtedness shall be offered at public sale by the governing authority after not less than ten (10) days' advertising in a newspaper having general circulation within the governing authority. Each sale shall be made to the bidder offering the lowest rate of interest or whose bid represents the lowest net cost to the governing authority; however, the rate of interest shall not exceed that now or hereafter authorized in Section 75-17-101, Mississippi Code of 1972. No such notes or certificates of indebtedness shall be issued and sold for less than par and accrued interest. All notes or certificates of indebtedness shall mature in approximately equal installments of principal and interest over a period not to exceed five (5) years from the dates of the issuance thereof. Principal shall be payable annually, and interest shall be payable annually or semiannually; provided, however, that the first

payment of principal or interest may be for any period not exceeding one (1) year. Provided, however, if negotiable notes are outstanding from not more than one (1) previous issue authorized under the provisions of this article, then the schedule of payments for a new or supplementary issue may be so adjusted that the schedule of maturities of all notes or series of notes hereunder shall, when combined, mature in approximately equal installments of principal and interest over a period of five (5) years from the date of the new or supplementary issue, or if a lower interest rate will thereby be secured on notes previously issued and outstanding, a portion of the proceeds of any issue authorized hereunder may be used to refund the balance of the indebtedness previously issued under the authority of this article. Such notes or certificates of indebtedness shall be issued in such form and in such denominations as may be determined by the governing authority and may be made payable at the office of any bank or trust company selected by the governing authority. In such case, funds for the payment of principal and interest due thereon shall be provided in the same manner provided by law for the payment of the principal and interest due on bonds issued by the governing authority.

(3) For the prompt payment of notes or certificates of indebtedness at maturity, both principal and interest, the full faith, credit and resources of the issuing entity are pledged. If the issuing entity does not have available funds in an amount sufficient to provide for the payment of principal and interest according to the terms of such notes or certificates of indebtedness, then the governing authority shall annually levy a special tax upon all of its taxable property at a rate the avails of which will be sufficient to provide such payment. Funds derived from any such tax shall be paid into a sinking fund and used exclusively for the payment of principal of and interest on the notes or certificates of indebtedness. Until needed for expenditure, monies in the sinking fund may be invested in the same manner as the governing authority is elsewhere authorized by law to invest surplus funds. 1985, 437.

#### 17-21-55. Use of proceeds.

The proceeds of any notes or certificates of indebtedness issued under the provisions of this article shall be placed in a special fund and shall be expended only for the purpose or purposes for which they were issued as shown by the resolution authorizing the issuance thereof. If a balance shall remain of the proceeds of such notes or certificates of indebtedness after the purpose or purposes for which they were issued shall have been accomplished, such balance shall be used to pay such obligations at or before maturity and may be transferred to any sinking fund previously established for the payment thereof.

Proceeds from the sale of notes or certificates of indebtedness not immediately necessary for expenditure shall be invested in the same manner as surplus funds of the governing authority may be invested. 1985, 437.

### **CHAPTER 23 RURAL FIRE TRUCK ACQUISITION ASSISTANCE PROGRAM**

17-23-1. Establishment of fire truck acquisition assistance program. Rural Fire Truck Fund; eligibility of counties and municipalities for funds; applications for and expenditure of funds; duties of Department of Insurance with respect to program. 1995, 536; 1997, 555; 1999, 550; 2001, 463; 2004, 421; 2006, 399.

### **CHAPTER 25 TRANSACTION OF BUSINESS WITH LOCAL GOVERNMENTS**

17-25-1. County boards of Supervisors and municipal governing authorities authorized to allow payment of taxes, fees and other accounts receivable by credit card, charge card, debit card, etc. The board of supervisors of any county and the governing authorities of any municipality may allow the payment of various taxes, fees and other accounts receivable to the

county or municipality by credit cards, charge cards, debit cards and other forms of electronic payment, in accordance with policies established by the State Auditor. Any fees or charges associated with the use of such electronic payments shall be assessed to the user of the electronic payment as an additional charge for processing the electronic payment, so that the user will pay the full cost of using the electronic payment. 2001, 511; effective from and after passage (approved March 29, 2001).

17-25-3. Transfer of property to nonprofit health care clinic for benefit of uninsured residents

17-25-11. County Boards authorized to allow off-duty law enforcement officers to use public uniforms and weapons in performance of private employment

(1) The governing body of any county or municipality, in its discretion, may sell, lease or convey, with or without consideration and upon such terms and conditions as the parties may agree, any land, buildings, fixtures, equipment or other real or personal property belonging to the county or municipality that is determined by the governing body as no longer needed by the county or municipality for governmental purposes, to any nonprofit primary health care clinic, which is exempt from federal income taxation under [Section 501\(c\)\(3\) of the Internal Revenue Code](#) located or to be located in the county for the purpose of assisting any such clinic to provide primary health care services to residents who are employed or temporarily out of work and who do not have health insurance. If such property is sold, leased or conveyed without consideration, the governing body of the county or municipality shall state in its minutes the purpose for which the property shall be used, and such property shall revert to the county or municipality whenever it ceases to be used for that stated purpose.

(2) As used in this section, the term "governing body" means the board of supervisors of any county and the governing authorities of any municipality. Added by [Laws 2003, Ch. 483, § 1](#), eff. from and after passage (approved March 28, 2003). Amended by [Laws 2005, Ch. 477, § 1, eff. July 1, 2005](#)

(1) Certified law enforcement officers or certified part-time law enforcement officers, as defined in Section 45-6-3, who are employed by a county or municipality may wear the official uniform and may utilize the official firearm issued by the employing jurisdiction while in the performance of private security services in off-duty hours. The governing authority of a municipality must approve of such use of the uniform and official weapon by municipal law enforcement officers by act spread upon the minutes of such board and approved by the chief executive. The sheriff of a county must approve such use of the uniform and official weapon by deputy sheriffs. Approval shall be on an employee-by-employee basis and not by general order. Any proceedings regarding application or approval and the minutes regarding same shall be a public record.

(2) Each governing board and chief executive or sheriff shall determine before the use of the official uniform and weapon is approved that the proposed employment is not likely to bring disrepute to the employing jurisdiction or its law enforcement agency, the officer at issue, or law enforcement generally, and that the use of the official uniform and weapon in the discharge of the officer's private security endeavor promotes the public interest.

(3) Acts and omissions of an officer in discharge of private security employment shall be deemed to be the acts and omissions of the person or entity employing the officer for such private security services, and not the acts and omissions of the jurisdiction whose uniform and weapon are approved for such private security use. An employer employing the officer for private security services shall hold harmless the jurisdiction by which the officer is employed and fully indemnify the jurisdiction for any expense or loss, including attorney's fees, which results from any action taken against the jurisdiction arising out of the acts or omissions of the officer in discharge of private security services while wearing the official uniform or using the official weapon. Neither the state nor any subdivision thereof shall be liable for acts or omissions of an officer in the discharge of the private security employment duties.

(4) Certified police officers performing private jobs during their off-duty hours are required to notify the appropriate law enforcement agency of the place of employment, the hours to be worked, and the type of employment.

(5) The official uniform and weapon may be worn and utilized only at locations which are within the jurisdiction of the governmental entity whose uniform and weapon are involved. Effective upon passage. 2006, 568.

**17-25-13. Procedure to assist in collection of delinquent water sewer service bills by counties, municipalities and water sewer associations.**

(1) For purposes of this act:

(a) "Water sewer association" means any corporation, whether for profit or not for profit, that provides, distributes, transmits, treats, pumps, or stores raw or potable water to, or for the benefit of, members of the general public or commercial, industrial and other users; and

(b) "Water sewer system" means any entity that provides, distributes, transmits, treats, pumps or stores raw or potable water to or for the benefit of members of the general public and commercial, industrial, and other users, including, without limitation, the following entities that perform such activities:

(i) Municipalities;

(ii) Counties; and

(iii) Water sewer associations.

(2) (a) When a person is delinquent on the payment of an undisputed bill for water sewer service provided by a water sewer system within this state, moves into another area of this state, and applies for or receives water from another water sewer system, if the person's former water sewer system establishes that there is no dispute that the delinquent amount is properly due and owed by that particular individual in that amount, the new water sewer system shall refuse to provide water sewer service to the delinquent person until such person provides proof of curing the delinquency.

(b) This subsection shall not apply to a delinquency that has been disputed by the person in writing, unless the delinquency has been reduced to a final judgment of a court of competent jurisdiction.

(3) No provision of this act shall apply to a water sewer system that is regulated by the Mississippi Public Service Commission as a "public utility" as defined in Section 77-3-3. 2007, 312.

## **TITLE 19. COUNTIES AND COUNTY OFFICERS**

### **CHAPTER 1. COUNTY BOUNDARIES**

19-1-1 through 19-1-163. Metes and bounds descriptions of counties. These sections detail, be metes and bounds, the boundaries of the 82 counties of Mississippi, each section covering a different county, all arranged alphabetically.

### **CHAPTER 2. COUNTY GOVERNMENT REORGANIZATION ACT**



19-2-3. Creation of countywide system of road administration.

(1) Unless otherwise exempted under the provisions of Section 19-2-5, from and after October 1, 1989, each county in the State of Mississippi shall operate on a countywide system of road administration, there shall be no road districts, separate road districts or special road districts in any county, supervisors' districts shall not act as road districts, and the construction and maintenance of roads and bridges in each county shall be on a countywide basis so that (a) the distribution and use of all road and bridge funds available to the county or any district thereof, (b) the planning, construction and maintenance of county roads and bridges, (c) the purchase, ownership and use of all road and bridge equipment, materials and supplies, (d) the employment and use of the road and bridge labor force, and (e) the administration of the county road department shall be on the basis of the needs of the county as a whole, as determined by the board of supervisors without regard to any district boundaries.

(2) Any references in any statute to a road district, separate road district or special road district, separate road district or special road district, or to a supervisors district acting as a road district, shall, as to any county which is required to operate on a countywide system of road administration, be construed to mean the county as a whole, if such construction is possible within the context of the statute; otherwise, any such reference shall have no force or effect with regard to any such county. The State Auditor may, pursuant to a request from a board of supervisors in a resolution duly adopted by the board and spread upon its minutes, provide to the requesting board of supervisors his estimates of the cost to the county of implementing and complying with the County Government Reorganization Act of 1988. 1988 Ex Sess, 14, §2.

Cross references--

Requirement that boards of supervisors that operate on a countywide system of road administration adopt and maintain a system of countywide personnel administration for all county employees, see §19-2-9.

Employment, qualifications, general duties, terms of employment, compensation, duties and responsibilities of County Administrators, as affected by this section, see §19-4-1, *et seq.*

Application of this section to the acquisition of certain real property by boards of supervisors, see §19-7-1.

Application of this section to the authority of boards of supervisors to issue county bounds, see §19-9-3.

Application of this section to the preparation and publication of the annual county budget, see §19-11-7.

Application of this section to the purchase of road equipment by boards of supervisors, see §19-13-17.

Application of this section to the authority of the board of supervisors to construct or maintain certain state highways within or without any municipality or road districts, see §65-7-81.

Application of this section to the appropriation of nearby timber and gravel for use in bridge and road construction, see §65-7-101.

Application of this section to the necessity of plans and specifications for letting of bids for road and bridge construction, see §65-7-105.

Application of this section to the authority of board of supervisors, see §65-7-115.

Application of this section to the letting of contracts for rural road and bridge construction, see §65-11-51.

19-2-5. Adoption of countywide system of road administration by election; by resolution; subsequent elections; petition for election to adopt or discontinue system. 1992, 305.

19-2-9. Countywide personnel administration for county employees; exemption of certain employees. (1) The board of supervisors of each county which is required to operate on a countywide system of road administration as described in Section 19-2-3 shall adopt and maintain a

system of countywide personnel administration for all county employees other than those employees subject to subsection (2) of this section. The personnel system shall be implemented and administered by the county administrator. Such personnel system may include, but not be limited to, policies which address the following: hiring and termination of employees, appeal and grievance procedures, leave and holidays, compensation, job classification, training, performance evaluation and maintenance of records. All employees of the county shall be employees of the county as a whole and not of any particular supervisor district. However, any employee which the county administrator is authorized to employ may be terminated at the will and pleasure of the administrator without requiring approval by the board of supervisors.

The board of supervisors of each county shall spread upon its minutes all its actions on personnel matters relating to hiring or termination and such other personnel matters deemed appropriate by the board.

(2) The elected officials of any county described in subsection (1) of this section, other than members of the board of supervisors, who are authorized by law to employ shall adopt and maintain a system of personnel administration for their respective employees or shall adopt the system of personnel administration adopted by the board of supervisors. The personnel system adopted and any amendments thereto shall be filed with the board of supervisors. 1988 Ex Sess, Ch. 14.

19-2-11. State Auditor to determine whether counties have implemented countywide system of road administration, central purchasing system, inventory control system, and countywide personnel administration; notice to counties; certificate of noncompliance; penalties; appeals. 1988 Ex Sess, ch. 14.

19-2-12. Notice by State Auditor of supervisor's noncompliance with provisions of § 19-2-3; initiation of civil proceedings; penalties.

(1) If upon audit, examination or investigation, the State Auditor determines that an individual member of a county board of supervisors is not in substantial compliance with the provisions of law that require the county to operate on a countywide system of road administration, as described in Section 19-2-3, then the State Auditor shall give, by United States Certified Mail, return receipt requested, written notification to the supervisor of such noncompliance. If within thirty (30) days after receipt of the notice, such supervisor, in the opinion of the State Auditor, remains in noncompliance, the Auditor may institute civil proceedings in the chancery court of the county in which the supervisor serves. The court, upon hearing, shall decide the issue and, if it determines that such supervisor is not in substantial compliance, shall order the supervisor to immediately and thereafter comply. Violations of any order of the court shall be punishable as for contempt. In addition, the court, in its discretion, may impose a civil penalty in an amount not to exceed Five Thousand Dollars (\$5,000.00) upon the supervisor, for which he shall be liable in his individual capacity, for any such noncompliance that the court determines as intentional or willful.

(2) The provisions of this section shall not be construed to prevent the State Auditor, the Attorney General or any other public official, as otherwise authorized by law, from initiating or commencing civil actions or criminal proceedings by or on behalf of the state or any county or political subdivision for the misappropriation or the unlawful use, taking or conversion of public funds or public property. 1999, 355.

19-2-13. Inapplicability of certain code sections to countywide system of road administration. Sections 65-15-17, 65-17-3, 65-17-5, 65-17-7, 65-17-101, 65-17-103, 65-17-105, 65-17-107, 65-19-1, 65-19-5, 65-19-7, 65-19-9, 65-19-11, 65-19-13, 65-19-15, 65-19-17, 65-19-19, 65-19-21, 65-19-23, 65-19-25, 65-19-27, 65-19-29, 65-19-31, 65-19-33, 65-19-35, 65-19-37, 65-19-39, 65-19-41, 65-19-43, 65-19-45, 65-19-47, 65-19-49, 65-19-51, 65-19-53, 65-19-55, 65-19-57, 65-19-59, 65-19-61, 65-19-63, 65-19-65, 65-19-67, 65-19-69, 65-19-71, 65-19-73, 65-19-75, 65-19-77, 65-19-79, 65-19-81, 65-19-83, 65-19-85, 65-19-87, 65-21-19 and 65-21-21, Mississippi Code of 1972, which provide for

creation and procedures of road districts composed in whole or in part of one (1) or more than one (1) supervisors district, for the use of special or general road funds by the boards of supervisors, for defraying the expenses of constructing bridges connecting road districts, for the employment of county road accountants, and for compensation for road commissioners employed by certain counties, shall not be applicable to and shall be of no force or effect with regard to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3. 1988 Ex Sess, 14.

### **CHAPTER 3. BOARD OF SUPERVISORS**

19-3-1. Districts and boundaries--election of supervisors. Each county shall be divided into five districts, with due regard to equality of population and convenience of situation for the election of members of the boards of supervisors, but the districts as now existing shall continue until changed. The qualified electors of each district shall elect, at the next general election, and every four years thereafter, in their districts one member of the board of supervisors. The board, by a three-fifths vote of all members elected, may at any time, change or alter the districts, the boundaries to be entered at large in the minutes of the proceedings of the board. Provided, however, that such changed boundaries shall in as far as possible conform as to natural, visible artificial boundaries, such as streets, highways, railroads, rivers, lakes, bayous or other obvious lines of demarcation, except county lines and municipal corporate limits.

In the event the boundaries of the districts are changed or altered by order of the board of supervisors as hereinabove provided, the order so doing shall be published in a newspaper having general circulation in the county once each week for three consecutive weeks. 1980, 425.

19-3-3. Eligibility of supervisors. A person shall not be a member of the board of supervisors who is not a resident freeholder in the district for which he is chosen, and the owner of real estate of the value of \$1,500.00. 1968, 282.

Cross references--

As to salaries of member of board of supervisors, see §25-3-13.

19-3-5. Bond to be executed by supervisor. Each member of the board of supervisors, before entering upon the duties of his office, shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to five percent (5%) of the sum of all the state and county taxes shown by the assessment rolls and the levies to have been collectible in the county for the year immediately preceding the commencement of the term of office of said member; however, such bond shall not exceed the amount of One Hundred Thousand Dollars (\$100,000.00). Furthermore, any taxpayer of the county may sue on such bond for the use of the county, and such taxpayer shall be liable for all costs in case his suit shall fail. No member of the board shall be surety for any other member. 1991, 604.

Cross references--

As to when a member of the board of supervisors may make his official bond with personal sureties, see §25-1-31.

As to personal liability of member of board of supervisors for appropriating money to an object not authorized by law, see §19-13-37.

19-3-7. Organizational meeting. The members of the board of supervisors ... shall meet at the courthouse of their county, on the first Monday of January next succeeding their election, and shall

organize by electing one of their number to be president and one to be vice-president, and, being so organized and attended by the sheriff and clerk, may proceed to discharge its duties. 1958 ex, 22.

**19-3-11. Regular meetings in counties having only one court district.** In counties having only one (1) court district, the board of supervisors shall hold regular meetings at the courthouse or in the chancery clerk's office in those counties where the chancery clerk's office is in a building separate from the courthouse. However, the board of supervisors may meet in any other county-owned building if such building is located within one (1) mile of the courthouse and if, more than thirty (30) days prior to changing the meeting place, the board posts a conspicuous, permanent notice to that effect in the chancery clerk's office and in one (1) other place in the courthouse, publishes notice thereof in a newspaper published in the county, or if there be no newspaper published in the county, then in a newspaper having general circulation in the county, once each week, for at least three (3) consecutive weeks, and enters an order upon its minutes designating and describing in full the building and room to be used as the meeting room of the board of supervisors. The board of supervisors shall meet on the first Monday of each month. However, when such meeting date falls on a legal holiday, then the said meeting shall be held on the succeeding day. 1958, 215; 1980, 534.

**Cross References--**

Meetings, location, emergency, enemy attack, see § 17-7-1.  
Open and public meetings required, see § 25-41-1 et seq.  
Special and adjourned meetings, §19-3-19.

**19-3-13. Regular meetings in counties having two court districts.** In counties having two court districts, the board of supervisors shall hold regular meetings on the first Monday of each month; and in such counties the board shall hold its first meeting at the courthouse or in the chancery clerk's office, as the case may be, of the first district, on the first Monday of January, and its second meeting at the courthouse or in the chancery clerk's office, as the case may be, of the second district, on the first Monday of February, and shall alternate thereafter. In counties having two court districts, the board of supervisors may hold two regular meetings per month, and in such counties, the first meeting each month shall be held in the first district and the second meeting each month shall be held in the second district. Provisions are contained in this section covering the method of changing from one to two meetings per month. 1958, 215.

**Cross references--**

As to regular meetings when there is only one court district, see §19-3-11.  
As to special and adjourned meetings, see §19-3-19.  
As to requirement of open and public meetings, see §§25-41-1, et seq.

**19-3-15. Meetings of board in Harrison County.** In Harrison County ... the board of supervisors shall hold their meetings ... alternately at Gulfport and Biloxi ... holding their first meeting as to the second judicial district, at Gulfport and their jurisdiction shall extend over the entire county at all time, just as if it were not divided into two separate districts. 1962, 257.

**Cross references--**

As to requirement of open and public meetings, see §§25-41-1, et seq.

**19-3-17. Length of sessions; recesses.** At regular meetings the board of supervisors may sit for a period not longer than ten days in any one month. At meetings held for the transaction of business under the revenue laws, however, the board may continue in session as long as business may require. However in Bolivar, DeSoto, Forrest, Harrison, Hinds, Jackson, Jones, Lauderdale, Lee, Leflore, Lowndes, Madison, Rankin, Warren and Washington counties (by description) and in counties having two

court districts, the board may continue in session at any regular meeting other than revenue meetings for a period not longer than twelve days in any one month. The board may recess from time to time, to convene on a day fixed. ... 1950, 245.

19-3-19. Special and adjourned meetings. In addition to the provision for recessed meetings in Section 19-3-17, the board by order on its minutes at a regular meeting, and by public notice duly given, may adjourn to meet at any time it may determine upon. This section provides details concerning such special and adjourned meetings. 1959, ex ch. 22.

Cross references--

As to requirement of open and public meetings, see §§25-41-1, *et seq.*

19-3-21. Presiding officer. If both the president and vice-president of the board be absent or disabled, the board may elect another member to preside at meetings during such absence. 1959, ex ch. 22.

19-3-23. Quorum; fine for nonattendance. Three (3) members of the board of supervisors shall constitute a quorum, and in case that number should not attend on the first day of any regular, adjourned or special meeting, the sheriff may adjourn the meeting from day to day until a quorum is present. A member failing to attend any meeting having notice thereof, shall be fined Five Dollars (\$5.00) per day for each day he may be absent, for which the clerk shall enter judgment nisi, and unless a sufficient excuse be made at the next meeting of the board, execution shall issue for the fine, which shall be paid into the county treasury. No allowance shall be made and no warrants shall be issued to such member until the fine and all costs are paid. 1990, 419.

19-3-25. Sheriff to attend meetings. The sheriff of the county shall attend all meetings of the board of supervisors, either in person or by deputy, and shall execute all its process and orders. 1968, 361.

19-3-27. Duties of clerk of board of supervisors; signing of minutes. It shall be the duty of the clerk of the board of supervisors to keep and preserve a complete and correct record of all the proceedings and orders of the board. He shall enter on the minutes the names of the members who attend at each meeting, and the names of those who fail to attend. He shall safely keep and preserve all records, books, and papers pertaining to his office, and deliver them to his successor when required. The minutes of each day's proceedings shall either (a) be read and signed by the president or the vice president, if the president is absent or disabled so as to prevent his signing of the minutes, on or before the first Monday of the month following the day of adjournment of any term of the board of supervisors; or (b) be adopted and approved by the board of supervisors as the first order of business on the first day of the next monthly meeting of the board. 1989, 337.

Cross references--

As to clerk of chancery court being clerk of the board of supervisors, see Miss Const §170.

As to bond and duties of clerk acting as clerk of chancery court, see §§9-5-131, *et seq.*

As to power of board of supervisors to reestablish lost records, see §25-55-17.

As to duties of clerk under county budget law, see §§19-11-1, *et seq.*

As to homestead exemption duties, see §27-33-35.

19-3-29. Appointment of clerk pro tempore. In case the office of clerk shall be vacant, or the clerk and his deputies be absent, refuse, or fail to perform the duties required, the board may appoint

a clerk for the time, who, on taking the oath of office, shall be authorized to discharge the duties and receive the compensation, for the time being, of the clerk of the board. Code 1942, §2887.

19-3-31. Employment of office clerks in certain counties. The board of supervisors of Harrison, Hinds and Jones counties (by description in 1973) and of Wilkinson County (by description) is authorized to employ, in its discretion, an office clerk to maintain an office for said board. Compensation may be set at a figure deemed proper by the board and shall be paid from the road funds of the county. 1972, 334.

19-3-33. Publication of proceedings. The board of supervisors may have its proceedings published in some newspaper in the county, and cause same to be paid for out of the county treasury, but the costs of such publication shall not exceed the sum fixed by law for publishing legal notices. If there be more than one newspaper published in the county, the contract...shall be let to the lowest bidder among them. 1942, §2888.

Cross references--

As to publication of annual budget, see §19-11-7.

As to publication of proceedings by cumulative method, see §19-3-35.

19-3-35. Publication of proceedings--cumulative method. The board of supervisors shall, within 15 days of adjournment, publish a statement of allowances, list of contracts made, statement of all loans from sixteenth section funds, lieu land funds and other trust funds; a statement of all timber sales and leases upon such lands belonging to the county; and a recapitulation of all expenditures according to districts and also the county as a whole. The cost for publishing same shall be paid out of the general fund of the county. If any member of a board of supervisors or the chancery clerk shall fail, refuse or neglect to comply with provisions of this section, he shall, upon conviction, be guilty of a misdemeanor and shall be fined not more than \$500.00 for each offense. Additionally, he shall be liable to a penalty of \$500.00 recoverable on his official bond by suit filed by any county or district attorney or any interested citizen, upon his official bond. This section intends to provide a method of publishing the proceedings of the board of supervisors in addition to that provided by Section 19-3-33. 1980, 333.

Cross references--

As to publication of proceedings in more detail, see §19-3-33.

19-3-37. Privileges of supervisors. Each member of the board of supervisors shall, during his term of office, be exempt from working on the roads, from serving in the military, and from jury service. 1942, 2884.

19-3-39. Supervisors are conservators of the peace. The members of the board of supervisors are conservators (guardians, protectors) of the peace within their respective counties, and shall possess all the powers as such which belong to, or are conferred on, justices of the peace. 1942, 2885.

19-3-40. Power of board to adopt, modify, alter, or repeal orders, resolutions or ordinances not inconsistent with law.

(1) The board of supervisors of any county shall have the power to adopt any orders, resolutions or ordinances with respect to county affairs, property and finances, for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi; and any such board shall likewise have the power to alter, modify and repeal such orders, resolutions or ordinances. Except as otherwise provided in subsection (2) of this section, the powers granted to boards of supervisors in this

section are complete without the existence of or references to any specific authority granted in any other statute or law of the State of Mississippi.

Such orders, resolutions or ordinances shall apply countywide except when the governing authorities or any municipality situated within a county adopt any order, resolution or ordinance governing the same general subject matter. In such case the municipal order, resolution or ordinance shall govern within the corporate limits of the municipality.

(2) This section shall not authorize the board of supervisors of a county to (a) levy taxes other than those authorized by statute or increase the levy of any authorized tax beyond statutorily established limits, (b) issue bonds of any kind, (c) change the requirements, practices or procedures for county elections or establish any new elective office, (d) use any public funds, equipment, supplies or materials for any private purpose, (e) regulate common carrier railroads, (f) grant any donation, or (g) without prior legislative approval, regulate, directly or indirectly, the amount of rent charged for leasing private residential property in which the county does not have a property interest; unless such actions are specifically authorized by another statute or law of the State of Mississippi. 1988 ex. ch. 14; 1989, 526; 1990, 418.

#### 19-3-41. Jurisdiction and powers--general enumeration.

(1) The boards of supervisors shall have within their respective counties full jurisdiction over roads, ferries and bridges, except as otherwise provided by Section 170 of the Constitution, and all other matters of county police. They shall have jurisdiction over the subject of paupers. They shall have power to levy taxes as may be necessary to meet the demands of their respective counties, upon such persons and property as are subject to state taxes for the time being, not exceeding the limits that may be prescribed by law. They shall cause to be erected and kept in good repair, in their respective counties, a good and convenient courthouse and a jail. A courthouse shall be erected and kept in good repair in each judicial district and a jail may be erected in each judicial district. They may close a jail in either judicial district, at their discretion, where one jail will suffice. They shall have the power, in their discretion, to prohibit or regulate the sale and use of firecrackers, roman candles, torpedoes, skyrockets, and any and all explosives commonly known and referred to as fireworks, outside the confines of municipalities. They shall have and exercise such further powers as are or shall be conferred upon them by law. They shall have authority to negotiate with and contract with licensed real estate brokers for the purpose of advertising and showing and procuring prospective purchasers for county-owned real property offered for sale in accordance with the provisions of Section 19-7-3.

(2) The board of supervisors of any county, in its discretion, may contract with a private attorney or private collection agent or agency to collect any type of delinquent payment owed to the county including, but not limited to, past due fees and fines, delinquent ad valorem taxes on personal property and delinquent ad valorem taxes on mobile homes that are entered as personal property on the mobile home roles. Any such contract may provide for payment contingent upon successful collection efforts or payment based upon a percentage of the delinquent amount collected; however, the entire amount of all delinquent payments collected shall be remitted to the county and shall not be reduced by any collection costs or fees. There shall be due to the county from any person whose delinquent payment is collected pursuant to a contract executed under this subsection an amount, in addition to the delinquent payment, of not to exceed twenty-five percent (25%) of the delinquent payment for collections made within this state and not to exceed fifty percent (50%) of the delinquent payment for collections made outside of this state. However, in the case of delinquent fees owed to the county for garbage or rubbish collection or disposal, only the amount of the delinquent fees may be collected and no amount in addition to the delinquent fees may be collected if the board of supervisors of the county has notified the county tax collector under Section 19-5-22 for the purpose of prohibiting the issuance of a motor vehicle road and bridge privilege license tag to the person delinquent in the payment of such fees. Any private attorney or private collection agent or agency contracting with the county under the provisions of this subsection shall give bond or other surety payable to the county in such amount as the board of supervisors deems sufficient. Any private attorney with whom the county contracts under the provisions

of this subsection must be a member in good standing of the Mississippi Bar. Any private collection agent or agency with whom the county contracts under the provisions of this subsection must meet all licensing requirements for doing business in the State of Mississippi. Neither the county nor any officer or employee of the county shall be liable, civilly or criminally, for any wrongful or unlawful act or omission of any person or business with whom the county has contracted under the provisions of this subsection. The Mississippi Department of Audit shall establish rules and regulations for use by counties in contracting with persons or businesses under the provisions of this subsection.

(3) In addition to the authority granted under subsection (2) of this section, the board of supervisors of any county, in its discretion, may contract with one or more of the constables of the county to collect delinquent criminal fines imposed in the justice court of the county. Any such contract shall provide for payment contingent upon successful collection efforts and the amount paid to a constable may not exceed twenty-five percent (25%) of the amount which the constable collects. The entire amount of all delinquent criminal fines collected under such a contract shall be remitted by the constable to the clerk of the justice court for deposit into the county general fund as provided under Section 9-11-19. Any payments made to a constable pursuant to a contract executed under the provisions of this section may be paid only after presentation to and approval by the board of supervisors of the county.

(4) If a county uses its own employees to collect any type of delinquent payment owed to the county, then from and after July 1, 1999, the county may charge an additional fee for the collection of the delinquent payment provided the payment has been delinquent for ninety (90) days. The collection fee may not exceed fifteen percent (15%) of the delinquent payment if the collection is made within this state and may not exceed twenty-five percent (25%) of the delinquent payment if the collection is made outside this state. In conducting collection of delinquent payments, the county may utilize credit cards or electronic fund transfers. The county may pay any service fee for the use of such methods of collection from the collection fee, but not from the delinquent payment.

(5) In addition to such authority as is otherwise granted under this section, the board of supervisors of any county may expend funds necessary to maintain and repair, and to purchase liability insurance, tags and decals for, any personal property acquired under the Federal Excess Personal Program this is used by the local volunteer fire department.

(6) The board of supervisors of any county, in its discretion, may expend funds to provide for training and education of newly elected or appointed county officials before the beginning of the term of office or employment of such officials. Any expenses incurred for such purposes may be allowed only upon prior approval of the board of supervisors. Any payments or reimbursements made under the provisions of this subsection may be paid only after presentation to and approval by the board of supervisors.

(7) The board of supervisors of any county may expend funds to purchase, maintain and repair equipment for the electronic filing and storage of filings, files, instruments, documents and records using microfilm, microfiche, data processing, magnetic tape, optical discs, computers or other electronic process which correctly and legibly stores and reproduces or which forms a medium for storage, copying or reproducing documents, files and records for use by one (1), all or any combination of county offices, employees and officials, whether appointed or elected.

(8) In addition to the authority granted in this section, the board of supervisors of any county may expend funds as provided in Section 29-3-23(2).

(9) The board of supervisors of any county may perform and exercise any duty, responsibility or function, may enter into agreements and contracts, may provide and deliver any services or assistance, and may receive, expend and administer any grants, gifts, matching funds, loans or other monies, in accordance with and as may be authorized by federal law, rule or regulation creating, establishing, or providing for any program, activity or service. The provisions of this paragraph shall not be construed as authorizing any county, the board of supervisors of any county or any member of a board of supervisors to perform any function or activity that is specifically prohibited under the laws of this state or as granting any authority in addition to or in conflict with the provisions of any federal law, rule or regulation.



(10) The board of supervisors of any county may provide funds from any available source to assist in defraying the actual expenses to maintain an office as provided in Section 9-1-36. The authority provided in this subsection shall apply to any office regardless of ownership of such office or who may be making lease payments for such office. 1990, 532; 1993, 455; 1995, 550; 1998, 482; 1999, 369, 516; 2000, 515; 2004, 534.

Cross references--

As to jurisdiction conferred by Constitution, see Miss Const §170.

As to general supervision over public highways, see §65-7-115.

As to inspection of roads, bridges and ferries, see §65-7-117.

As to tax levy for road and bridge purposes, see §65-15-3.

As to creation of bridge commission, see §§65-25-43, *et seq.*

For authority to establish and license ferries, see §65-27-1.

As to power to provide homes, farms or asylums for the aged, infirm, or unfortunate, see Const §262.

As to paupers, generally, see §§43-31-1, *et seq.*

As to establishment and operation of nursing homes, see §§19-5-31, *et seq.*

As to power to levy ad valorem taxes, see §27-39-303.

For power to exempt certain property from taxation, see §27-31-101.

As to convicts, generally, see §§23-5-37, 47-1-19, *et seq.*

As to keeping county offenders in municipal jails, see §47-1-43.

As to zoning plans, see §§17-1-1, *et seq.*

For authority to provide patrol boats for sheriffs in certain counties, see §19-25-17.

As to jurisdiction over school lands and funds arising from disposition thereof, see §29-3-1.

For authority to create a health department, see §41-3-43.

As to county mosquito control commission, see §41-27-1.

As to authority to acquire lands for state parks, forests, etc., see §55-3-13.

For authority to appropriate money for use and benefit of port of entry, see §59-1-31.

As to membership in rivers and harbors commission, see §59-1-35.

As to acquiring and maintaining airport, see §61-5-75.

As to authority to appropriate money for suppression of intoxicating liquors or narcotics, see §99-27-37.

As to appropriations to aid in control and eradication of insect pests, rodents, fire ants and the like, see §69-25-33.

As to office allowance for circuit judges, chancellors and certain staff, see §9-1-36

19-3-42. Maintenance of private roads and driveways used for school bus turnarounds; public school grounds; driveways and parking lots of nonprofit organizations.

(1) The board of supervisors of any county is hereby authorized and empowered, in its discretion, to grade, gravel or shell, repair, and/or maintain private gravel or shell roads or driveways to private residences if such roads or driveways are used for school bus turnarounds.

(2) Prior to engaging in the work authorized in subsection (1) of this section, the board of supervisors shall spread upon the official minutes of the board:

- (a) The written request of the school board for such work;
- (b) The written approval of the board of supervisors for such work;
- (c) The specific location of the road or driveway to be worked; and
- (d) The name of the owner of the road or driveway to be worked.

(3) The written request of the school board, as required in subsection (2)(a) above, shall contain a current list of all active school bus turnarounds presently in use by the school district or contemplated for use by the school district or contemplated for use by the school district for the present

school year. The approval by the board of supervisors shall be valid and effective for the period of time that a turnaround is anticipated for use, but in no event for a period greater than one (1) year.

(4) In addition to the authority granted in subsection (1) of this section, from and after October, 1989, the board of supervisors of any county is further authorized, in its discretion, to maintain public school grounds of the county and to grade, gravel, shell or overlay, and/or to maintain gravel, shell, asphalt or concrete roads, driveways or parking lots of public schools of the county if, before engaging in such work, the board of supervisors shall spread upon its official minutes the written request of the school board for such work, the written approval of the board of supervisors for such work and the specific location of the school grounds or road, driveway or parking lot, to be worked.

(5) In addition to any other authority granted in this section, the board of supervisors of any county is hereby authorized, in its discretion, to repair and maintain driveways and parking lots of: (a) any nonprofit organization in the county which is tax exempt under Section 501(c) of the United States Internal Revenue Code and which has as one (1) of its primary purposes for organization to aid and assist in the rehabilitation of persons suffering from drug abuse or drug addiction; and (b) any private, nonprofit cemeteries in the county. The board of supervisors of any county shall not be authorized under the provisions of this subsection to repair or maintain driveways or parking lots located more than one hundred fifty (150) feet from the center of any highway, road or street under the jurisdiction of the county. 1990, 368.

**19-3-43. Board to provide and designate building for its meetings and sessions of court when courthouse unavailable.** When there shall not be a courthouse in any county, or the same is undergoing repairs, or is unfit for use, the board of supervisors may meet at a convenient place and shall provide and designate some suitable building for the holding of court and meetings of the board. The expense of providing said building and fitting the same shall be paid for out of the county treasury. If the board shall fail to so provide, the sheriff may do so. 1942, 2895.

**19-3-44. Alternate court facilities in counties containing two judicial districts.** The board of supervisors in any county in which there are two judicial districts may provide alternate facilities for the courts of one judicial district when the courthouse of such district is in a condition of disrepair due to damage or construction. Such alternate facilities may be located in another judicial district of the county and may be located in the courthouse thereof, but such location is not required. The several courts of the county may by order duly entered on the minutes remove the court to the alternate facility provided by the board of supervisors and no cause of action shall be defeated, delayed or otherwise impeded upon a challenge to the jurisdiction of the court or a question of venue which results from such transfer. This section shall be applicable only for such period as the court is prevented from sitting in the proper judicial district due to the physical condition of the proper courthouse. 1974, 332.

**19-3-47. Employment of counsel.**

(1) (a) The board of supervisors shall have the power, in its discretion, to employ counsel by the year at an annual salary at an amount that it deems proper, not to exceed the maximum annual amount authorized by law for payment to a member of the board.

(b) The board of supervisors shall have the power, in its discretion, to employ counsel in all civil cases in which the county is interested, including eminent domain proceedings, and 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. In no instance shall the attorney's fee for the services exceed the following amounts, to wit: One percent of the first five hundred thousand dollars (\$500,000.00) of any one bond issue; one-half percent of the amount of such issue in excess of five hundred thousand dollars (\$500,000.00) but not more than one million dollars (\$1,000,000.00); and one-fourth percent of the amount of the issue in excess of one million dollars (\$1,000,000.00). The limitations imposed in this paragraph shall not apply to any bond issue for which a declaration to issue the bonds has heretofore been adopted by proper resolution.

(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 hereinbefore conferred upon it in subsection one (1) of this section, may employ a firm of attorneys to represent it as its regular attorneys on the same terms, conditions and compensation as hereinbefore provided for employment of an attorney as its regular attorney. However, there shall not be both an attorney and a firm of attorneys employed at the same time as the regular attorney for such board.

(3) In any county having a 1980 federal census population in excess of one hundred eighteen thousand (118,000), and in which is located a major refinery for the production of petroleum products and a facility for the construction of ships for the United States Navy; in any county which is traversed by an interstate highway and having a 1980 federal census population in excess of sixty-six thousand (66,000), and in which is located a comprehensive university operated by the Board of Trustees of State Institutions of Higher Learning and a National Guard training base; in any county in which is located the State Capitol and the state's largest municipality; in any county which is traversed by Interstate Highway 55, United States Highway 51 and United States Highway 98; and in any county bordering the Gulf of Mexico, having a 1980 federal census population in excess of one hundred fifty-seven thousand (157,000), and in which is located a state-owned port; and in any county which is traversed by Interstate Highway 20, United States Highway 80, and in which is located the State Hospital and an international airport; all of which foregoing criteria the Legislature finds to be conducive to industrial development requiring the issuance of industrial revenue bonds and which counties would gain benefits by employment of counsel in the manner authorized by the subsection, the board of supervisors, as an alternative to the authority hereinbefore conferred upon it in subsection (1) and (2) of this section may employ annually 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 otherwise engage 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 not to exceed the maximum annual salary authorized by law to be paid to the county judge of that county; 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 (3) 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. 1995, 341.

#### 19-3-49. Employment of counsel where there is no elected county prosecuting attorney

(1) In all counties of this state wherein there is no elected county prosecuting attorney, the boards of supervisors shall have the power and authority to employ a competent attorney to appear and prosecute in cases requiring the services of the county prosecuting attorney. The compensation paid to the person so employed shall be paid from the general fund of such county and shall not exceed, during any calendar year, the amount authorized by law to be paid as salary to the county prosecuting attorney in such county. The employment of a county prosecuting attorney as authorized by this section shall be pursuant to a contract which shall provide that the salary of such county prosecuting attorney shall not be reduced, increased or terminated for the period of the contract. Such contract shall be for the period of the remainder of the term of office of the board of supervisors which employs the county prosecuting attorney; however, the contract shall provide expressly or by reference to this section that the contract shall be abrogated upon the creation and filling of the office of elected county prosecuting attorney.

(2) Notwithstanding any of the provisions of subsection (1) of this section to the contrary, the board of supervisors of Hancock County may pay the attorney hired to appear and prosecute cases requiring the services of a county prosecuting attorney an annual salary of Forty-five Thousand Dollars (\$45,000.00). The Legislature finds and declares that the annual salary authorized by this section is justified in Hancock County for the following reasons:

(a) The addition of a justice court judge in January 2004 created a total of three (3) judges in the county and requires the attorney hired to appear and prosecute cases requiring the services of a county prosecuting attorney to spend additional time in court; and

(b) The population of Hancock County increased from thirty-one thousand seven hundred sixty (31,760) in 1990, to forty-two thousand nine hundred sixty-seven (42,967) in 2000, which placed it in the top ten percent (10%) of the fastest growing counties in the state; and

(c) There was a significant increase in the number of cases filed in justice court and cases appealed to a higher court; and

(d) The attorney hired to appear and prosecute cases requiring the services of a county prosecuting attorney is responsible for handling a large number of drug, alcohol and mental commitment proceedings. This act shall take effect and be in force from and after July 1, 2006.

1978, 509; 2004, 447; 2006, 363.

Cross references--

As to election to abolish office of county prosecuting attorney, see §19-21-65.

19-3-51 through 19-3-53. Power of the board to subpoena witnesses and cite for contempt; collection of fines imposed by the board. The board of supervisors shall have power to subpoena witnesses in all matters coming under its jurisdiction and to fine and imprison any person for a contempt committed while they are in session, the fine not to exceed \$50.00, and the imprisonment not to extend beyond the continuance of the term. In addition, when a fine shall be imposed upon any person by the board, the board shall cause the person to appear at a succeeding meeting to show cause why the judgment for such fine should not be made final. If sufficient cause is not shown, the judgment shall be made final, with costs, and the clerk shall issue a *capias pro finem* (free translation: that you take for the fine) therefor, as in fines in circuit court. The board, for good cause, may set the fine aside, upon payment of costs. The clerk and the sheriff shall be entitled to like fees, for services, as upon similar matters in the circuit court. 1942, 2881, 2882.

19-3-55. Elections for county purposes may be ordered by petition of qualified electors. The board of supervisors shall, upon the filing of a petition touching any matter affecting the

entire county and over which it has jurisdiction, signed by 25% of the qualified electors of the county, either pass an order putting said proposition in force and effect immediately or submit the same to a vote of the qualified electors of the county. ... If the election results favorably, the board shall put the proposition into effect, but if the proposition is defeated no other election shall be held on the same subject within 12 months. This section does not apply to the creation of taxing districts. 1922, 290.

Cross references--

As to election to approve issuance of county bonds, see §§19-9-11, *et seq.*

19-3-59. Appropriation of county funds. The board of supervisors shall direct the appropriation of money that may come into the county treasury, but shall not appropriate the same to an object not authorized by law. 1942, 2941.

Cross references--

As to penalty for receiving unauthorized appropriations, see §19-13-35.

As to liability of supervisors for illegal appropriations, see §19-13-37.

As to preparation of county budget, generally, see §§19-11-1, *et seq.*

As to donations for certain patriotic and charitable uses, see §19-5-93.

As to appropriations from county advertising fund, see §19-9-103.

19-3-61. Employment of comptroller or bookkeeper. The board of supervisors may employ and compensate at least one qualified individual who shall serve as comptroller or bookkeeper for funds received, expended or handled by the board. The board may also employ and compensate such clerical assistance as the comptroller or bookkeeper may require to effectively discharge the duties imposed by this act, such compensation to be paid from the general fund, road funds or other available funds of such county. 1974, 502; 1986, 351.

19-3-63. Vacations and sick leave for county employees.

(1) The board of supervisors of each county by resolution adopted and placed on its minutes may establish a policy of sick leave and vacation time for employees of the county not inconsistent with the state laws regarding office hours and holidays.

(2) Notwithstanding the provisions of subsection (1) of this section, each elected official of the county, other than a member of the board of supervisors, who is authorized by law to employ, may, by written policy filed with the clerk of the board of supervisors, establish a policy of sick leave and vacation time for his employees which may be inconsistent with the policy established by the board of supervisors but which shall not be inconsistent with the state laws regarding office hours and holidays. If such elected official fails to adopt and file such a policy with the clerk of the board of supervisors, the policy adopted by the board of supervisors for sick leave and vacation time for county employees shall apply to employees for such elected official.

(3) The board of supervisors of any county and each elected official of the county who is authorized by law to employ shall enact leave policies to ensure that a public safety employee is paid or granted compensatory time for the same number of holidays for which any other county employee is paid. 1990, 313; 2007, 546.

Cross references--

As to legal holidays, see §3-3-7.

Sick leave and vacations for salaried state employees, see §§25-3-63, 25-3-65.

19-3-65. Membership in national and state organizations of governmental officials. Required fees and dues for membership may be paid from the general fund for membership in the National Association of County Officials and the Mississippi Association of Supervisors. 1976, 384.

**19-3-67. Traveling expenses of supervisors.**

(1) When any member of any board of supervisors shall be required to travel outside of his county but within the state of Mississippi in the performance of his official duties, such member shall receive as expenses of such travel the same mileage and actual and necessary expenses for food, lodging and travel by public carrier or private motor vehicles as is allowed state officers and employees pursuant to the provisions of Section 25-3-41, Mississippi Code of 1972. Provided, however, mileage shall not be authorized when such travel is done by a motor vehicle owned by the county.

(2) When any member of any board of supervisors shall be required to travel outside of the state of Mississippi in the performance of his official duties, such member shall receive as expenses of such travel the same mileage and actual and necessary expenses for food, lodging and travel by public carrier or private motor vehicles as is allowed state officers and employees pursuant to the provisions of Section 25-3-41, Mississippi Code of 1972. Provided, however, such travel must receive the prior approval of the board before it is undertaken, and such approval shall be spread upon the minutes of the board.

(3) Except as hereinafter provided with respect to mileage, no expenses shall be authorized or approved by any board of supervisors for travel by the member of such board travel within the county of such board. With respect to mileage, when travel within the county by a member of such board is done by a motor vehicle owned by the county, mileage shall not be authorized; however, when any member of such board does not have a county-owned motor vehicle regularly assigned to him for his use or when a county-owned vehicle is not otherwise available for his use at the time when travel is necessary, and he is required to travel within the county in the performance of his official duties using his private motor vehicle, then he may be reimbursed for mileage in the same manner as provided in Section 25-3-41, Mississippi Code of 1972.

(4) Itemized expense accounts shall be submitted by the member on forms prescribed by the Auditor of Public Accounts for reimbursement of expenses for state officers and employees in such numbers as the county may require. No expenses authorized this section shall be reimbursed unless the expenses have been authorized or approved by a vote of a majority of the members of the board duly made and spread upon the minutes of such board.

(5) Expenses authorized in this section shall be published by the board of supervisors in a newspaper of general circulation published in the county, and if no such newspaper is published in the county, then in a newspaper published elsewhere in the state which has a general circulation in such county. The publication shall be a detailed accounting of the expenses authorized to each member of the board. The cost of publishing such expense accounts shall be paid by the county pursuant to the provisions of Section 19-3-35. 1977, 461; 1984, 432; 1996, 456.

**19-3-68. Supervisors and county employees authorized to use credit cards to pay travel expenses.** The board of supervisors of any county may acquire one or more credit cards which may be used by members of the board of supervisors and county employees to pay expenses incurred by them when traveling in or out of the state in the performance of their official duties. The chancery clerk or county purchase clerk shall maintain complete records of all credit card numbers and all receipts and other documents relating to the use of such credit cards. The supervisors and county employees shall furnish receipts for the use of such credit cards each month to the chancery clerk or purchase clerk who shall submit a written report monthly to the board of supervisors. The report shall include an itemized list of all expenditures and use of the credit cards for the month, and such expenditures may be allowed for payment by the county in the same manner as other items on the claims docket. The issuance of a credit card to a supervisor or county employee under the provisions of this section does not authorize the supervisor or county employee to use the credit card to make any expenditure that is not otherwise authorized by law. Any supervisor or county employee who uses the credit card to make an expenditure that is not approved for payment by the board shall be personally liable for the expenditure and shall reimburse the county. 2001, 511; effective from and after passage (approved March 29, 2001).

19-3-69. Authority to contract for professional services. 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 shall be approved by the attorney for the board of supervisors and made a part of the minutes.

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

- (a) Attorneys at law, 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;
- (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. 1990, 532; 2004, 398.

19-3-71. Appointment of county fire coordinator. The board of supervisors in each county shall appoint a county fire coordinator, and may compensate him from any available county funds. The county fire coordinator shall serve as a liaison between the Commissioner of Insurance and local governments and shall be a fire fighter who is a member of a fire crew of a volunteer or municipal fire department serving any fire district, county or municipality. The director of local organization for emergency management serving the county may be such coordinator if he is a fire fighter as described in this section. 1989, 329.

Cross references--

Authorization for the board of supervisors of any county and the governing body of any municipality to contribute funds directly to any fire protection district or volunteer fire department serving the county or municipality to meet any standard established by the commissioner of insurance as provided in this section, see §83-1-39.

19-3-73. Authority of county to maintain real property owned or leased by fire protection district. In addition to the maintenance authority granted in Section 83-1-39, Mississippi Code of 1972, the board of supervisors of any county is hereby authorized and empowered, in its discretion, to grade, gravel, shell and/or maintain real property, including roads or driveways thereof, owned by a municipal fire protection district or county fire protection district, or leased for a term of not less than twenty (20) years by a municipal fire protection district or a county fire protection district, as necessary for the effective and safe operation of such district. Any action taken by the board of supervisors under the authority of this section shall be spread upon the minutes of the board of supervisors when the work is authorized. 1988, 596.

19-3-75. Maintenance of roads or driveways to public cemeteries. The board of supervisors of any county is hereby authorized and empowered, in its discretion, to grade, gravel or shell and/or to repair and maintain roads or driveways to public cemeteries. 1988, 493.

19-3-77. Programs of professional education for county purchase clerks, receiving clerks, inventory control clerks, and members of county boards of supervisors.

(1) There are hereby established programs of professional education for county purchase clerks, receiving clerks and inventory control clerks. The programs shall be offered at least every four (4) years at the beginning of terms of office for county elected officials and at other times when the State Auditor has been notified by a board of supervisors that a vacancy in the position of purchase clerk, receiving clerk or inventory control clerk has been filled with an uncertified appointee. The curriculum for each program shall be designed by the State Auditor. Program administration, coordination, delivery and attendance verification shall be conducted by the Community Development Department of the Mississippi Cooperative Extension Service. The professional education programs offered at the beginning of terms of office shall be scheduled in each planning and development district; provided, however, the Community Development Department may schedule a program in one geographical area encompassing several planning and development districts rather than scheduling separate programs in each planning and development district within that geographical area. Participants who successfully complete a program shall be certified by the State Auditor and shall display the certificate awarded in a prominent public place within their offices.

Any participant who travels outside the county of his employment to attend a professional education program shall receive as reimbursement of the expense of such travel the same mileage and actual and necessary expenses for food, lodging and travel as allowed state officers and employees pursuant to Section 25-3-41, Mississippi Code of 1972; however mileage shall not be allowed when travel is by motor vehicle owned by the county.

All or any part of the expense of a professional education program may be defrayed by the imposition of fees in a reasonable amount established by the State Auditor. Any fees imposed to defray expenses of a professional education program shall be paid by the county for participants.

(2) There is hereby established a program of professional education for members of county boards of supervisors. The program shall be offered at the beginning of each term of office for members of the boards of supervisors and may be offered more frequently at the discretion of the Committee on Supervisor Education. The curriculum of the program shall be designed by the Committee on Supervisor Education, which shall be composed of the following members:

- (a) Two (2) members from the State Department of Audit designed by the State Auditor;
- (b) Two (2) members from the Mississippi Association of Supervisors designed by the executive director of the association;
- (c) One (1) member from the Mississippi Cooperative Extension Service designed by the director of the service;
- (d) One (1) member from the Stennis Institute of Government at Mississippi State University designated by the director of the institute;
- (e) One (1) member from the Judicial College of the University of Mississippi designated by the director of the judicial college;
- (f) One (1) member from the Public Policy and Administration Program at Jackson State University designated by the Chairman of the Department of Political Science.

Program administration, coordination, delivery and attendance verification shall be conducted by the Community Development Department of the Mississippi Cooperative Extension Service in cooperation with the Mississippi Association of Supervisors. All or any part of the expense of the supervisor education program may be defrayed by the imposition of fees established by the Committee on Supervisor Education.

The primary resources for the supervisor education program shall be the State Department of Audit, the State Attorney General, the Judicial College of the University of Mississippi, the Stennis Institute of Government at Mississippi State University, the Public Policy and Administration Program at



Jackson State University, the Mississippi Research and Development Center or its successor, and any other federal, state, local or university entities having expertise in specific topical areas.

Any fees imposed to defray expenses of the supervisor education program shall be paid by the county for members of the board of supervisors of such county enrolled in the program; and, additionally, when any supervisor travels outside of his county to attend a school, seminar or workshop approved by the Committee on Supervisor Education, he shall receive as reimbursement of expenses of such travel the same mileage and actual and necessary expenses for food, lodging and travel by public carrier or private motor vehicles as is allowed state officers and employees pursuant to the provisions of Section 25-3-41; however, mileage shall not be authorized when such travel is done by a motor vehicles owned by the county. 1988 Ex Sess, 14; 1993, 595.

#### 19-3-79. Board of supervisors gaming duties outlined.

#### 19-3-81. Power of board to authorize sheriff to operate inmate canteen facilities; inmate canteen fund.

(1) (a) The board of supervisors of any county is hereby authorized and empowered, in its discretion, to allow the sheriff of such county to operate a facility or facilities to be known as an inmate canteen facility or facilities, the purpose of which is to make available certain goods and other items of value for purchase by inmates confined in the county jail of such county, employees of the county jail and persons visiting inmates or employees. The sheriff of such county shall promulgate rules and regulations for the operation of such a facility.

(b) If the board of supervisors of any county authorizes the sheriff of such county to operate such a facility or facilities as provided in subsection (1) of this section, any funds which may be derived from the operation of an inmate canteen facility or facilities shall be deposited into a special fund in the county treasury to be designated as the "Inmate Canteen Fund." Any monies in the special fund may be expended solely by the sheriff of the county for any educational related expenses, to purchase equipment and supplies and to provide for maintenance of the equipment purchased for the benefit and welfare of the inmates incarcerated in the county jail. The term "supplies" shall not include supplies related to the personal hygiene of inmates.

(2) In lieu of the authority to operate an inmate canteen facility under subsection (1) of this section, the board of supervisors of any county, in its discretion, may authorize the sheriff to contract with a private company for the provision of commissary services to inmates of the county jail. Money collected from or on behalf of an inmate for the purchase of commissary items shall be deposited to the credit of the inmate into a special fund in the county treasury to be designated as the "Inmate Commissary Trust Fund." Money in the special fund may be expended upon requisition by the sheriff for the purchase and delivery of prepackaged items from the company with which the sheriff has contracted. The sheriff shall adopt rules and regulations for the letting of contracts for commissary services, the collection and distribution of commissary items to inmates, and the items that inmates may purchase through commissary services contracts. 1990, 359; 1993, 434; 1997, 333; 2003, 318.

#### 19-3-85. Authority of board to dispose of lost, stolen, abandoned or misplaced personal property.

The board of supervisors of any county, upon the receipt of recovery of any lost, stolen, abandoned or misplaced personal property by the sheriff or other law enforcement officers of the county, shall cause to be posted, in three (3) public places in the county, notice that such property has been received or recovered. Such notice shall contain an accurate and detailed description of such property and, if the board of supervisors is advised as to who owns the property, a copy of the notice shall be mailed to such person or persons in addition to being posted as required in this section. The owner may recover the property by filing a claim with the board of supervisors and establishing his right to the

property. The board may require bond of the person claiming the property before delivering it to him. Parties having adverse claims to the property may proceed according to law.

If no person claims the property within one hundred twenty (120) days from the date the notice is given, the board of supervisors shall cause the property to be sold at public auction to the highest bidder for cash after first posting notice of the sale in three (3) public places in the county at least ten (10) days before the date of the sale. The notice shall contain a detailed and accurate description of the property to be sold and shall be addressed to the unknown owners or other persons interested in the property to be sold. The notice shall also set forth the date, time and place the sale is to be conducted and shall designate the sheriff to make the sale.

However, lost, stolen, abandoned or misplaced motor vehicles and bicycles may be sold in the manner provided in the preceding paragraph after the expiration of ninety (90) days from their receipt or recovery by law enforcement officers of the county.

The sheriff, promptly upon completion of the sale, shall deliver to the chancery clerk a copy of the notice authorizing the sale, a list of the property sold, the amount paid for each item, the person to whom each item was sold, and all monies received from such sale. The clerk then shall deposit the monies into the county treasury and the proceeds of the sale shall be first applied to the necessary costs and expenses of the sale, with the remainder to be credited to the special supplemental budget of the sheriff to be expended by the sheriff for any law enforcement purpose upon approval of the board of supervisors. The chancery clerk shall file the information concerning the sale among the other records of his office. If, within ninety (90) days after the date of the sale, any person claims to be the owner of the property sold, the board, upon satisfactory proof of ownership, shall pay to such person the amount for which the property was sold, and the board may require of such person a bond in such cases as the board deems advisable. No action shall be maintained against the county or any of its officers or employees or the purchaser at the sale for any property sold or the proceeds therefrom after the expiration of ninety (90) days from the date of the sales as authorized in this section. 2002, 502.

## **COUNTY COOPERATIVE SERVICE DISTRICT**

### **19-3-105. Board of Commissioners.**

(1) The powers of a district shall be vested in and exercised by a board of commissioners consisting of not less than one (1) not more than five (5) members appointed by the board of supervisors of each participating county. Each commissioner shall be either a member of the board of supervisors or an elected municipal official. Each commissioner shall be appointed and hold office for a term concurrent with the appointing authority. Any vacancy occurring on the board shall be filled by the appointing authority at a regular meeting of the board of supervisors, and unexpired terms shall be filled for the remainder of the term.

(2) Each commissioner shall take and subscribe to the oath of office prescribed in Section 268, Mississippi Constitution of 1890, before the clerk of the appointing board of supervisors that he will faithfully discharge the duties of the office of commissioner, which oath shall be filed with the clerk and by him preserved.

(3) The commissioners so appointed and qualified may be compensated for their services for each meeting of the board of commissioners attended, either regular or special, at the per diem established in Section 25-3-69, Mississippi Code of 1972, and shall be reimbursed for all expenses necessarily incurred in the discharge of their official duties as provided for state officers and employees in Section 25-33-41, Mississippi Code of 1972.

(4) The board of commissioners may appoint an executive committee, to be composed of not less than one (1) commissioner from each participating county, with a chairman to be designated by the board of commissioners. The executive committee is empowered to execute all powers vested in the full board of commissioners during the interim of the meetings of the board. A majority, plus one (1), of the members of the executive committee shall be a quorum for the transaction of business. 1990, 556.

Cross references--

Authority of district to issue revenue bonds, see §19-3-106.

## **CHAPTER 4. COUNTY ADMINISTRATOR**

### 19-4-1. Employment, qualifications and general duties.

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

The board of supervisors of any county is authorized, in its discretion, to employ a county administrator. The person employed as county administrator shall hold at least a bachelor's degree from an accredited college or university and shall have knowledgeable experience in any of the following fields: work projection, budget planning, accounting, purchasing, cost control, personnel management and road construction procedures. Such administrator, under the policies determined by the board of supervisors and subject to said board's general supervision and control, shall administer all county affairs falling under the control of the board and carry out the general policies of the board in conformity with the estimates of expenditures fixed in the annual budget as finally adopted by the board or as thereafter revised by appropriate action of the board.

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

The board of supervisors of each county shall appoint some person other than a member of such board to serve as county administrator. The board of supervisors may appoint the chancery clerk of the county as county administrator if the chancery clerk agrees to serve as county administrator, or the board may appoint as county administrator some other person who has knowledgeable experience in any of the following fields: work projection, budget planning, accounting, purchasing, cost control or personnel management. If the chancery clerk is appointed to serve as county administrator, the board of supervisors, with the approval of the chancery clerk, may appoint the chancery clerk also to serve as the county purchase clerk, an assistant purchase clerk, the inventory control clerk or any combination of such positions, but no chancery clerk who serves as county administrator shall also serve as the county road manager or a receiving clerk or an assistant receiving clerk for the county. If some person other than the chancery clerk is appointed to serve as county administrator, the board of supervisors may appoint such person also to serve as (a) inventory control clerk; (b) inventory control clerk and county road manager; or (c) inventory control clerk and county purchase clerk; but such person shall not serve as both county administrator and as a receiving clerk or an assistant receiving clerk for the county.

Notwithstanding any provisions of this section to the contrary, in any county having a population of less than three thousand (3,000) according to the latest federal decennial census, the board of supervisors, with the approval of the chancery clerk, may appoint the chancery clerk also to serve as the county administrator, the county purchase clerk, an assistant purchase clerk, the receiving clerk, and assistant receiving clerk, and the inventory control clerk, or any combination of such positions.

The county administrator, under the policies determined by the board of supervisors and subject to the board's general supervision and control, shall administer all county affairs falling under the control of the board and carry out the general policies of the board in conformity with the estimates of expenditures fixed in the annual budget as finally adopted by the board or as thereafter revised by appropriate action of the board.

The boards of supervisors of at least two (2) but no more than five (5) counties may, by agreement, execute under the Interlocal Cooperation Act of 1974, employ the same person to serve them as a county administrator; however, a chancery clerk may not be appointed to serve as administrator for more than one (1) county nor for any county other than the county for which he serves as chancery clerk.

The State Auditor shall prescribe a course of continuing education for county administrators to keep them knowledgeable about their duties and responsibilities with respect to administering the affairs of the county. At least one (1) training session shall be held annually. 1988 Ex Sess, 14, §6.

Cross references--

Application of this section to the prohibition against a county employee holding more than one position as purchase clerk, receiving clerk, or inventory control clerk, see §31-7-118.

19-4-3. Terms of employment--compensation.

[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:] The county administrator shall hold office at the pleasure of the board of supervisors. ... He shall be paid a salary to be fixed by the board ... which may be paid from the general county fund or from the proceeds of any tax levied by the board of supervisors for the support and maintenance of any unit of county government, excluding schools and hospitals, or from any funds which may be available to defray the financial administration expenses of county government. The board shall provide travel and transportation expense and other office expenses as are needed in the performance of the duties of the office. Said travel and transportation expense shall be paid on itemized vouchers in accordance with the provisions of Section 25-3-41, Code of 1972.

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

The person appointed as county administrator under Section 19-4-1 shall serve at the will and pleasure of the board of supervisors and may be removed from such position by a majority vote of the board. The compensation of the county administrator shall be fixed by the board of supervisors and may be paid from the county general fund or from any funds which may be available to defray the financial administration expenses of county government. Any chancery clerk who agrees to also serve as county administrator may be paid, in addition to such compensation as he is otherwise entitled to receive by law, such additional compensation as the board deems him to be entitled commensurate with the additional duties he performs as county administrator. The board shall provide travel and transportation expense and other office expenses as are needed in the performance of the duties of the office of county administrator. Said travel and transportation expense shall be paid on itemized vouchers in accordance with the provisions of Section 25-3-41, Mississippi Code of 1972. 1988 Ex Sess, 14, §7.

19-4-5. Establishment of administration policies by board. The board ... by action spread upon the minutes, shall establish the general policies to be followed in the administration of the county and the county administrator so employed shall have such duties and responsibilities as set forth in Sections 19-4-1 through 19-4-9. 1974, 486.

19-4-7. Duties and responsibilities. The board of supervisors may delegate and assign to the county administrator the duties and responsibilities enumerated in this section, in whole or in part, and such other duties ... as said board may determine, not contrary to law and not already assigned by law to some other officer. (Duties are listed for both beat and unit counties. The lists are lengthy and comprehensive and are not set forth in this digest. See code.) 1988 Ex Sess, 14, §8.

19-4-9. Oath and bond. The county administrator shall take the official oath of office and shall give bond to the board of supervisors, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to three percent (3%) of the sum of all the state and county taxes shown by the assessment rolls and the levies to have been collectible in the county for the year immediately preceding the commencement of the term of office for such administrator; however, such bond shall not exceed the amount of One Hundred Thousand Dollars (\$100,000.00). The bond premiums shall be paid from the county general fund or other available funds of the county. 1991, 604.

## CHAPTER 5. HEALTH, SAFETY AND PUBLIC WELFARE

19-5-1. Examination of county jail. At least annually, and as often as it may think proper, the board of supervisors, or a competent person authorized by the board of supervisors, shall examine into the state and condition of the jail, in regard to its safety, sufficiency and accommodation of the prisoners, and from time to time take such legal measures as may best tend to secure the prisoners against escape, sickness and infection, and have the jail cleansed if it shall appear from such examination that the sheriff has neglected his duty in the manner of keeping the jail, or keeping and furnishing the prisoners, the board shall fine him, as for a contempt, in any sum not exceeding \$100.00. The board of supervisors shall not authorize the sheriff or any member of his department to make the inspections required by this section. 1942, 2913; 1986, 315.

Cross references--

As to inspection of jail by grand jury, see §13-5-55.

As to duty of county auditor to keep account of jail, see §19-17-3.

19-5-3. Purchase and upkeep of law enforcement dogs. The board of supervisors ... is authorized and empowered to purchase and keep on hand, for the use of the sheriff, hounds of the best breeding and training. The board shall pay for the purchase and maintenance of such hounds out of the general county fund. When hounds are not purchased the board may allow the sheriff a reasonable amount for hire of hounds in attempting the capture of criminals charged with capital crimes. The board is also authorized to purchase "by negotiation or otherwise," any breed of dogs suitable for law enforcement and pay for same out of general funds. 1962, 244.

19-5-5. Acquisition and operation of radio stations for law enforcement. The board of supervisors may purchase necessary and suitable equipment required to install a complete radio base station, including mobile units to be installed in cars and motor boats, and to maintain the same. The radio station is to be operated by the sheriff. All of the expenses incident thereto shall be borne by any available funds of said counties, including its general fund. Radio equipment may be purchased without competitive bids, provided said price does not exceed \$500.00. Two or more counties may cooperate, and counties and municipalities may cooperate, in such purchasing and maintaining of radio stations. 1964, 279.

Cross references--

As to purchase of radio equipment for county patrolmen, see §45-7-25.

19-5-7. Employment of school crossing guards. The board of supervisors of (a) any county in this state having a population in excess of two hundred fifty thousand (250,000) according to the 1990 federal census, and an assessed valuation in excess of Three Hundred Million Dollars (\$300,000,000.00) as shown by the last completed assessment for taxation, and (b) any county in this state having a population of at least thirty-eight thousand (38,000), according to the latest federal decennial census, having one (1) completely constructed highway bridge and an additional highway bridge at least fifty percent (50%) constructed which cross the Mississippi River resulting in a high volume of vehicular traffic in the county, and which has only one (1) public school district in the county, shall be authorized, in its discretion, to employ school crossing guards.

The board of supervisors of the county described in "(a)" above may pay each of the guards employed by it a monthly amount to be established by the board of supervisors, and the board of supervisors of the county described in "(b)" above may pay each of the guards employed by it an amount not to exceed Three Hundred Fifty Dollars (\$350.00) per month. Any such board may purchase and furnish the school crossing guards with suitable uniforms.

The board of supervisors of any county which employs school crossing guards under the authority of this section shall annually spread upon its official minutes the total number of school crossing guards employed by the county, including the names of and compensation paid to each of such school crossing guards. 1987, 501; 1999, 319.

19-5-9. Adoption of building and other related codes. Detailed provisions are contained in this section for the adoption of building and other related codes. Elections on the matter are provided for. After any such code shall take effect the board of supervisors is authorized to employ such directors and other personnel as the board may deem necessary and to expend general county funds or any other funds available to the board to fulfill the purposes of this section. If provision in the county codes do not include provisions to maintain updated amendments, specifications for cements used in Portland cement concrete will be superseded by nationally recognized specifications referenced in any code adopted by the Mississippi Building Code Council. 1974, 530; 2000, 590; 2001, 587; 2006, 541; 2008, 379.

19-5-11. Compensation for destruction of certain diseased livestock. The board of supervisors may pay the owner compensation not exceeding the value of any farciéd or glandered (usually fatal diseases of cattle--Ed.) stock killed heretofore by the sheriff under the provisions of law. 1906, 122.

Cross references--

As to how claims for damage for death or injury of livestock shall be proved and paid, see §19-13-49.

19-5-13. Compensation for cattle killed or injured in dipping process. Any person in any county shall be entitled to recover from said county reasonable compensation for any livestock owned by said person that may be killed or permanently injured in the process of dipping or as a result of such dipping for the eradication of the cattle tick, where such dipping was done under the supervision of the board of supervisors or the livestock sanitary board (now the board of animal health). 1917, 38.

19-5-15. Establishment of common graves for livestock dying as result of epidemic. Boards of supervisors are authorized to use the road equipment of the counties to dig graves for the burying of livestock which shall have died as a result of an epidemic, whenever any licensed veterinarian shall certify to the board or any member thereof that there is an epidemic among the livestock of the county. 1964, 222.

19-5-17. Establishment and maintenance of rubbish and garbage disposal systems. After December 31, 1992, the board of supervisors of any county in the state shall provide for the collection and disposal of garbage and the disposal of rubbish, and for that purpose is required to establish, operate and maintain a garbage and/or rubbish disposal system or systems; to acquire property, real or personal, by contract, gift or purchase, necessary or proper for the maintenance and operation of such system; to make all necessary rules and regulations for the collection and disposal of garbage and/or rubbish and, if it so desires, to establish, maintain and collect rates, fees and charges for collecting and disposing of such garbage and/or rubbish; and, in its discretion, to enter into contracts, in the manner required by law, ... for the establishment, operation and maintenance of a garbage and rubbish disposal system or systems, and/or to enter into contracts on such terms as the board of supervisors thinks proper with any municipality, other county or region, enabling the county to use jointly with such municipality, other county or region any collection system. ... The board of supervisors shall designate by order the area to be served by the system. All persons in the county generating garbage shall utilize a garbage collection and disposal system. However, this provision shall not prohibit any

person from managing solid waste generated by such person in any municipal solid waste management facility owned by the generator.

... the board of supervisors of such county have the authority to initiate a civil action to recover any delinquent fees and charges for collecting and disposing of such garbage and/or rubbish, and all administrative and legal costs associated with collecting such fees and charges, in the event any person, ... shall fail or refuse to pay such fees ... that in a civil action to recover such delinquent fees and charges for collecting and disposing of such garbage and/or rubbish, and all administrative and legal costs associated with collecting such fees and charges, the county shall in all respects be a proper party to such suit as plaintiff and shall have the power to sue for and recover such unpaid fees and charges and all administrative and legal costs associated with collecting such fees and charges, from any person, firm or corporation, including a municipal corporation, as may fail, refuse or default in the payment of such fees and charges. 1992, 583.

Cross references--

Authority of county and municipal governments to enter into joint agreements for the operation and implementation of solid waste management, see §17-17-31.

Participation by counties in regional solid waste disposal and recovery systems, see §17-17-33.

Billing system for collection of costs of operation of systems, see §19-5-18.

Authority of county to issue bonds to fund establishment of rubbish and garbage disposal systems, see §19-9-1.

Authority of municipality or board of supervisors to adopt ordinances relating to individual onsite wastewater disposal systems, see §41-67-15.

19-5-18. Development of billing system; collection of fees.

(1) To defray the cost of establishing, operating and maintaining the system provided for in Section 19-5-17, the board of supervisors may develop a system for the billing and/or the collection of any fees or charges imposed on each person furnished garbage and/or rubbish collection and/or disposal service by the county or at the expense of the county. The board of supervisors may designate, by resolution, a county official to collect the fees or charges. If the board of supervisors designates an elected county official to collect the fees or charges, the board of supervisors shall pay the reasonable costs incurred in collecting the fees or charges. The county official so designated shall notify the board of supervisors monthly of any unpaid fees or charges assessed under Section 19-5-21. The sheriff of the county, in accordance with the performance of his regular duties, shall assist in the collection of any delinquent fees or charges.

(2) The board of supervisors may enter into a contract upon mutual agreement with a public or private corporation, nonprofit corporation, planning and development district or a public agency, association, utility or utility district within the county and/or the area receiving garbage and/or rubbish collection and/or disposal services from the county for the purpose of developing, maintaining, operating and administering a system for the billing and/or collection of fees or charges imposed by the county for garbage and/or rubbish collection and/or disposal services. The entity with whom the board of supervisors contracts shall notify the board of supervisors monthly of any unpaid fees or charges assessed under Section 19-5-21. Any entity that contracts to provide a service to customers, within the area being served by the county's garbage and/or rubbish collection and/or disposal system, may provide a list of its customers to the board of supervisors upon the request of the board. 1991, 581; 1994, 624.

19-5-19. Authority of counties to grant tax exemptions for property surrounding certain public landfills; credit against services received from regional authority in amount of tax revenues lost.

(1) Any county which locates, develops, owns or operates a municipal solid waste management facility within the county ... is authorized to grant a tax abatement or exception from ad valorem taxation in an amount not to exceed fifty percent (50%) of the tax amended and levied against the real property located directly adjacent and surrounding the site of such facility or such other property

within are made of the site which is determined by the board of supervisors to be impacted by the location and operation of the site.

(2) Any county, which is a member of a regional authority, and which grants the tax exemption authorized herein for a municipal solid waste management facility site of the regional authority, shall receive a credit against services received from the regional authority in an amount commensurate with the tax revenue lost as a result of tax exemptions granted pursuant to this section. 1992, 583.

19-5-21. Levy of ad valorem taxes and surcharges for payment of costs of establishment and operation of garbage and rubbish disposal systems; borrowing in anticipation of surcharge levy; use of special funds. [These duties are lengthy and comprehensive and are not set forth in this digest. See code.] 1992, 583; 1996, 536; 1999, 473, 2004, 529.

19-5-22. Assessment of fees and charges; joint and several liability of generator and property owner; notice; liens; discharge of liens.

(1) Fees for garbage or rubbish collection or disposal shall be assessed jointly and severally against the generator of the garbage or rubbish and against the owner of the property furnished the service. Any person who pays, as a part of a rental or lease agreement, an amount for garbage or rubbish collection or disposal services shall not be held liable upon the failure of the property owner to pay those fees.

(2) Every generator assessed the fees authorized by Section 19-5-21 and the owner of the property occupied by that generator shall be jointly and severally liable for the fees. The fees shall be a lien upon the real property offered garbage or rubbish collection or disposal service.

The board of supervisors may assess the fees annually. If the fees are assessed annually, the fees for each calendar year shall be a lien upon the real property beginning on January 1 of the next immediately succeeding calendar year. The person or entity owing the fees, upon signing a form provided by the board of supervisors, may pay the fees in equal installments.

If the fees are assessed on a basis other than annually, the fees shall become a lien on the real property offered the service on the date that the fees become due and payable.

No real or personal property shall be sold to satisfy any lien imposed under this subsection (2).

The county shall mail a notice of the lien, including the amount of unpaid fees and a description of the property subject to the lien, to the owner of the property.

(3) Liens created under subsection (2) may be discharged by filing with the circuit clerk a receipt or acknowledgment, signed by the designated county official or billing and collection entity, that the lien has been paid or discharged.

(4) (a) The board of supervisors may notify the tax collector of any unpaid fees assessed under Section 19-5-21 within ninety (90) days after the fees are due. Before notifying the tax collector, the board of supervisors shall provide notice of the delinquency to the person who owes the delinquent fees and shall afford an opportunity for a hearing, that complies with the due process protections the board deems necessary, consistent with the Constitutions of the United States and the State of Mississippi. The board of supervisors shall establish procedures for the manner in which the notice shall be given and the contents of the notice; however, each notice shall include the amount of fees and shall prescribe the procedure required for payment of the delinquent fees. The board of supervisors may designate a disinterested individual to serve as hearing officer.

(b) Upon receipt of a delinquency notice, the tax collector shall not issue or renew a motor vehicle road and bridge privilege license for any motor vehicle owned by a person who is delinquent in the payment of fees unless those fees, in addition to any other taxes or fees assessed against the motor vehicle, are paid. Payment of all delinquent garbage fees shall be deemed a condition of receiving a motor vehicle road and privilege license tag.

(c) The tax collector may forward the motor vehicle road and bridge privilege license tag renewal notices to the designated county official or entity that is responsible for the billing and collection



of the county garbage fees. The designated county official or the billing and collection entity shall stamp a message on the license tag renewal notices that the tag will not be renewed until delinquent garbage fees are paid. The designated county official or the billing and collection entity shall return the license tag notices to the tax collector before the first of the month.

(d) Any appeal from a decision of the board of supervisors under this section regarding payment of delinquent garbage fees may be taken as provided in Section 11-51-75.

(5) If the property owner is a nonresident of the county, the board of supervisors may levy the garbage fees as a special assessment against the property in lieu of the lien authorized in this section. The board of supervisors shall certify to the tax collector the assessment due from the owner of the property. The tax collector shall enter the assessment upon the annual tax roll of the county and shall collect the assessment at the same time he collects the county ad valorem taxes on the property. 1996, 536; 1997, 423; 2008,441.

19-5-23. Notice of tax levy; protest; election. The tax levy authorized by §19-5-21 shall not be imposed until the board of supervisors shall have published notice of its intention to levy same. ... Twenty percent, or 1,500 of the qualified electors, whichever is less, may file a petition against the tax levy, thus forcing an election. The notice provided for herein shall only be required prior to the initial levy except when the board of supervisors intends to increase the levy over the amount shown in the initial notice. 1976, 367.

19-5-25 through 19-5-27. Reimbursement of tax levies; supplemental act. The levies made under §19-5-21 shall not be reimbursed under the Homestead Exemption Law of 1946. It is the intention of §§19-5-19 to 19-5-27 to provide counties a supplemental method for handling garbage and rubbish removal. They do not purport to repeal §19-5-17 or §§17-5-3 to 17-5-11, or any other existing law relating to the subject. 1971, 370; 1997, 423.

19-5-29. Payment for laying certain water mains. Boards of supervisors may pay such part of the cost for laying water mains from municipal water systems along the highways outside the corporate limits of such municipalities, not exceeding a distance of five miles. ... Such expenditure by the board shall not exceed one half of the entire cost for laying such water main. ... However, no part of the expense is to be borne by any board of supervisors unless there is situated on the route of such proposed water main one or more county schools. 1926, 203.

19-5-31 through 19-5-39. Golden Age Nursing Homes--establishment and operation; levy and collection of tax; issuance of bonds. The board of supervisors of any county or counties coming within the provisions of §§19-5-31 through 19-5-39 may purchase the land for and may construct Golden Age Nursing Homes; may employ persons to control and operate same; may provide physicians and nurses in such cases as it may deem proper; and purchase necessary medicines and medical supplies and pay for all of same out of the general fund, or out of any funds ensuing from any levy made by the board for the support and maintenance of such institutions. ... The board may combine and use any property now being used for county homes and use such property hereafter as a combined institution. ... The board may set aside, appropriate and expend moneys from the general fund for support and maintenance of such nursing homes. ... Furthermore, the board may issue and sell its full faith and credit bonds to secure funds with which to construct and equip such Golden Age Nursing Homes. 1962, 403; 1986, 400.

Cross references--

As to advertising contracts for public works, generally, see §19-13-9.

As to levy of special tax for erection of county buildings, see §19-9-93.

As to issuance of county bonds and notes, generally, see §19-9-1, *et seq.*

19-5-41. Creation of county hospital building commission in certain counties. Applicable only to Hinds County (by description). 1962, 243.

19-5-43. Temporary care and maintenance of the pauper insane. The boards of supervisors may temporarily provide for the care and maintenance of any person alleged to be insane when such person has no means of paying such expense, pending an investigation of the person's mental status by the chancery clerk ... and may provide for the maintenance and care of such persons by the sheriff when there is no room in the state mental institutions for such insane person. The cost of same shall be paid out of the county treasury. Code 1942, 2916.

Cross references--

As to commitment of insane persons, generally, see §§41-21-1, *et seq.*

As to paupers, generally, see §§43-31-1, *et seq.*

As to use of Golden Age Nursing Homes for care of county paupers, see §19-5-35.

19-5-45. Construction of sheltered workshop for employment of handicapped. The boards of supervisors of Lincoln and Attala counties are authorized to issue the negotiable bonds or certificates of indebtedness of said counties for the purpose of constructing industrial buildings to be used as sheltered workshops for the employment of handicapped people. (For details see code). 1964, 280.

19-5-47. Construction of public health buildings and clinics. Boards of supervisors are empowered to acquire by gift, donation or purchase necessary real estate on which to erect public health buildings and clinics ... funds to be expended out of the general fund or out of any fund collected from a special levy made by the county for public health purposes. ... Said buildings may be constructed in conjunction with any municipality of the county or any federal agency, and under contract after advertisement is had for bids and contracts awarded. Code 1942, 280.

19-5-49. Lease of county homes and farms. The board of supervisors is authorized to lease or rent any lands or buildings owned by the county and being used or intended to be used as a county home and farm to any person, or association for the purpose of using such land and buildings for the care and keeping of old, infirm, or indigent persons. At any time that such lands and buildings cease to be used for such purposes, said lease shall automatically expire. 1946, 260.

19-5-50. Controlling running of animals at large; establishing county pounds. The boards of supervisors of Harrison, Hancock, Jackson and Hinds counties (by description) shall have the power to prevent or regulate the running at-large of animals of all kinds, and to cause such as may be running at-large to be impounded and sold. ... (See code). 1972, 509; 1974, 560.

Cross references--

As to prohibition against livestock roaming at-large upon public highways, see §§69-13-101, *et seq.*

19-5-51. Bounty on beaver, nutria, and bobcats. Any board of supervisors may offer a bounty not to exceed \$5.00 for each nutria (otter), beaver or bobcat destroyed, where such board finds and determines that such animals are in such quantities that the preservation of trees and other properties requires such bounties to be offered. Upon presentation to the sheriff of the complete tail of one of the said animals, the sheriff shall execute a receipt therefor. Upon filing of such receipt with the chancery clerk, the amount of such bounty may be allowed by the board as other accounts are allowed. ... There is further provided a bounty not to exceed \$5.00 for each beaver to be paid by the Mississippi

Department of Wildlife, Fisheries and Parks from funds appropriated to is for the purpose, and under the provisions contained in the statute. (See code). 1974, 569; 2000, 516.

19-5-53 through 19-5-61. Promotion of excellence in raising crops and livestock; limitation on amount to be expended, etc. Boards of supervisors are authorized to appropriate money out of the general county fund for the purpose of offering premiums for excellence in raising crops and livestock in their county. ... The amount of money to be appropriated and offered shall not exceed the following: (a) for corn \$200.00 for the best five acres or more, \$100.00 for the second best and \$50.00 for the third best, or half the amount for three acres; (b) for mule colt not more than \$100.00 for the best, \$75.00 for the second best and \$50.00 for the third best; (c) for horse colt the same as for a mule colt; (d) for cow not more than \$50.00 for the best, \$30.00 for the second best and \$20.00 for the third best; (e) for hog the same as for a cow. Other premiums for excellence in raising agricultural, horticultural and livestock products may be given in proportion. Other detailed rules are provided. 1910, 144.

19-5-63. Establishment of county extension department. Counties may establish extension departments ... and the board of supervisors, upon the recommendation of the director of extension of Mississippi State University and the approval of the U.S. Department of Agriculture, shall appoint the county agent, assistant county agents and home economics agents, fix their salaries and other necessary expenses, payable out of the general county fund, but same may be supplemented by the extension department, etc. Office space, supplies and necessary clerical assistance shall be provided, all such expense to be paid in the same manner as the salaried aforementioned. 1944, 242.

Cross references--

As to appropriations for construction of buildings for the use of junior beef boys and girls and junior dairy boys and girls, see §19-5-69.

19-5-65. Funding of display rooms for county home economics or home demonstration agents. The boards of supervisors of Class 1 counties are authorized to appropriate and expend moneys out of the general fund of the county for ... renting or otherwise providing offices or display rooms wherein the county home economic or home demonstration agents may display, offer for sale, and sell products and articles produced under the home demonstration program of the extension department. 1946, 188.

19-5-67. Establishment of department of animal husbandry. The boards of supervisors of two or more counties, one or more of which has an incorporated livestock association, are authorized to establish a joint department of animal husbandry. ... The department shall be headed by a joint commissioner and his salary shall be fixed by the boards of supervisors and paid out of the general funds of said counties. ... The boards ... of such counties may set aside, appropriate and expend moneys from the general fund to help defray the expense of maintaining such departments ... and further, boards may set aside, appropriate and expend moneys from the general fund to help defray the expenses of maintaining a department of animal husbandry, and the employment of a dairy husbandryman ... 1950, 189; 1986, 400.

19-5-69. Funding of buildings for junior beef and dairy boys and girls. The boards of supervisors of the various counties having livestock shows or association located therein, and having a department of animal husbandry, as created under Section 19-5-67, and having a total assessed valuation of less than \$5,000,000.00 are authorized to donate not to exceed \$10,000.00 of lands and materials not exceeding that sum in value ... to aid ... in the construction of buildings for the use of junior beef and dairy boys and girls. Said boards may borrow not to exceed \$10,000.00 for paying for the lands

and materials necessary for the construction of buildings on livestock show grounds or other places selected by the board of supervisors. ... The board may apply for and receive contributions, etc., for such work. 1946, 432.

19-5-71. Support of experiment stations. The boards of supervisors may appropriate money from the general funds of the county for the purpose of buying lands, personal property, or equipment for experiment stations, and may appropriate money for the support and maintenance of such stations, whether the same be located within or without the county. 1928, 220.

19-5-73. Establishment of farmers markets. The provisions of this section are applicable only to George and Harrison counties. (For details see code). 1954, 147; 1986, 400.

19-5-75 through 19-5-87. Acquisition of cold storage plants; lease of establishment; issuance of notes, bonds, or loan warrants; levy of taxes. The boards of supervisors of Hancock, Harrison, Jackson, and apparently, Lamar counties are given authority to construct cold storage and meat curing plants. (For details see code). 1944, 251.

19-5-89. Promotion of youth activities. The boards of supervisors of Warren, Clay, Jefferson Davis, Tate and Walthall counties (by description) are authorized to appropriate and expend not exceeding \$500.00 per annum, to be paid from the general fund, for youth activities. Authority is given to Adams County to expend not to exceed \$1,000.00 per year. 1977, 305.

19-5-91. Agreements with the United States relative to navigation projects. The board of supervisors of any county through any part of which any river or other stream may run, or any part of which any river or other stream may touch or border, on which the United States of America has authorized navigation projects, including channel clearing, channel improvements, cut-offs, levees, dams, or other navigation projects, is authorized, for that part of such river or stream running through any part of said county or bordering or touching said county, to give satisfactory assurance to the United States of America, or any agency thereof, including the secretary of defense, that it will:

(a) Provide, without cost to the U.S., all lands, easements and rights-of-way necessary for the construction of the project; (b) hold and save the U.S. free from damages due to the construction of the works; and (c) maintain and operate all of the works after completion in accordance with regulations prescribed pursuant to the terms of any federal law relating to navigation or to navigable streams. ... Any such board of supervisors is also authorized to ... levy, assess and collect such taxes on said area so benefited as may be necessary, etc... board of supervisors is authorized to enter contracts or agreements with the United States... to sponsor a project for the environmental restoration of a lake or body of water... 1950, 424; 2001, 476.

19-5-92.1 Authority of counties to alter channels of streams and water courses; construction and repair of bridges; erosion prevention; property acquisition and easements; compensation to land owners; financing.

(1) The board of supervisors of any county, whenever the board determines that the health, comfort and convenience of the inhabitants of the county will be promoted, may:

- (a) Alter and change the channels of streams or other water courses;
- (b) Construct, reconstruct and repair bridges over streams and water courses; and
- (c) Incur costs and pay necessary expenses for:
  - (i) Providing labor, materials and supplies to clean or clear drainage ditches, creeks or channels and to prevent erosion of such ditches, creeks or channels;

- (ii) Acquiring property and obtaining easements necessary to perform work under this section; and
- (iii) Reimbursing landowners for damages and injury resulting from work performed by the county under this section.

(2) The work performed and the expenses incurred under subsection (1) of this section may take place on public or private property. However, if the work is to be performed or the expenses to be incurred will take place on private property, the board of supervisors must:

- (a) Make a finding, as evidenced by entry upon its minutes, that such work and/or expenses are necessary in order to promote the public health, safety and welfare of the citizens of the county;
- (b) Give notice, in writing, to all owners of property that will be affected by the work for such period of time as is reasonable to allow such owners to express any objections;
- (c) Not receive written objection to the work by any owners of property that will be affected by the work within the period of time allowed to express objections; and
- (d) Unless otherwise agreed, in writing, by the county and the landowner, construct or install a culvert or bridge, at the county's expense, at an appropriate location or locations to provide the landowner ingress and egress to all of the property to which the landowner had access immediately before performance of the work by the county.

(3) The county shall reimburse landowners for all damages or injury resulting from work performed by the county under this section.

(4) The provisions of this section do not impose any obligation or duty upon a county to perform any work or to incur any expenditures not otherwise required by law to be performed or incurred by a county, nor do the provisions of this section create any rights or benefits for the owner of any public or private property in addition to any rights or benefits as may be otherwise provided by law.

(5) No additional taxes may be imposed for the work authorized under subsection (1) of this section until the board of supervisors adopts a resolution declaring its intention to levy the taxes and establishing the amount of the tax levies and the date on which the taxes initially will be levied and collected. This date shall be the first day of the month, but not earlier than the first day of the second month, from the date of adoption of the resolution. Notice of the proposed tax levy must be published once each week for at least three (3) consecutive weeks in a newspaper having a general circulation in the county. The first publication of the notice shall be made not less than twenty-one (21) days before the date fixed in the resolution on which the board of supervisors proposes to levy the taxes, and the last publication of the notice shall be made not more than seven (7) days before that date. If, within the time of giving notice, fifteen percent (15%) or two thousand five hundred (2,500), whichever is less, of the qualified electors of the county file a written petition against the levy of the taxes, then the taxes shall not be levied unless authorized by three-fifths (3/5) of the qualified electors of the county voting at an election to be called and held for that purpose. 2002, 504; 2004, 381; 2006, 321

19-5-93. Donations for certain patriotic and charitable uses. The board of supervisors of each county is hereby authorized, in its discretion, to donate money for the objects and purposes following, to wit:

(a) Confederate graves. For the location, marking, care and maintenance of the grave or graveyard of Confederate soldiers or sailors who died in the Confederate service, and the purchase, if necessary, of the land on which any of the said graveyards may be situated, and the erection and maintenance of appropriate monuments and appropriate inscriptions thereon. In the exercise of this power the board is fully authorized to accept donations of land on which any of said graveyards may be situated and also money or funds to be used for any of the purposes in this section expressed.

Any board of supervisors may, in its discretion, contribute money to be used for the upkeep of graves of the Confederate dead in its county.

(b) Care of the aged. For the support and maintenance of such residents of the county who are worthy indigent aged inmates of the Old Ladies' Home of Jackson, Mississippi, or of the Golden Age Nursing Home and hospital for North Mississippi in Greenwood, Mississippi, and not exceeding five hundred dollars (\$500.00) per annum for the support of the county's inmates of the Old Men's Home, located near Jackson, Mississippi, and in addition thereto a sum not exceeding two hundred dollars (\$200.00) per annum to each of said institutions for their support and maintenance in the care of the aged.

(c) King's Daughters. To the King's Daughters in their respective counties for charities under their supervision.

(d) Travelers Aid Society. A sum of money not exceeding fifteen dollars (\$15.00) per month for the support of the organization known as the Travelers Aid Society, provided the same is nonsectarian.

(e) Hospitals for pellagra sufferers. For the establishment and maintenance of a hospital for the treatment of persons afflicted with pellagra. For this purpose the board may issue bonds and incur such indebtedness within the limits now authorized by law.

(f) Tubercular hospitals. For the establishment and maintenance of a hospital for the care and treatment of persons suffering from tuberculosis. In the execution of this power the board may select trustees to establish and operate said hospital. In counties having a population of more than forty thousand (40,000) people, as shown by the latest United States census, the board may set aside, appropriate and expend moneys from the general fund for the purpose of aiding in the maintenance and support of hospitals maintained and operated in such county for the care and treatment of persons suffering from tuberculosis. The money shall be expended by the board through such trustees, not less than three and not more than five, to be elected by the board of supervisors annually. The trustees shall file reports with the board at least once every six months showing in detail all expenditures made by them, and the number of patients which have been for the preceding period aided or cared for by the institution, and the board may otherwise require a strict accounting of the administration of said funds.

(g) Same--additional provisions. The boards of supervisors of one or more counties are hereby authorized and empowered, in their discretion, separately or jointly, to acquire by gift, purchase or lease, real estate, for tubercular hospital purposes, and to own, erect, build, establish, maintain, regulate and support a tubercular hospital and to remodel buildings on such property to be used for such hospital purposes.

In the event the boards of supervisors of two or more counties agree to cooperate in establishing and maintaining such hospital, the board of supervisors of each of said counties shall adopt a resolution agreeing to the proportionate part each county will contribute to the establishment and maintaining of such hospital.

Each county operating under the provisions of this subsection is hereby authorized and empowered to set aside, appropriate and expend moneys from the general fund for the purpose of erecting, maintaining and operating such hospital.

(h) Charity wards in hospitals. A sum of money not exceeding one hundred dollars (\$100.00) per month to maintain a charity ward or wards in any hospital in their respective counties, or in the event there shall be no hospital in such county, then a like sum, in their discretion, to maintain a charity ward or wards in any hospital in any adjoining county receiving and treating patients from such county having no hospital.

(i) Same--coast counties. The several counties of this state bordering on the tidewater of the Gulf of Mexico are hereby authorized and empowered, in the discretion of the proper authorities thereof, to appropriate such a sum of money as said authorities shall deem reasonable, to provide and maintain a charity ward or wards, in any of the hospitals in said counties, or, in the discretion of said authorities, to make and enter into contracts with any such hospitals for the treatment and care in such hospitals of the indigent sick of said counties, and to pay therefor out of the general fund of such counties such sum or sums as shall be a reasonable and just compensation to said hospital. However, the board of supervisors of any county mentioned herein may, in its discretion, make and enter into contracts with any hospital in any adjoining county receiving and treating patients from the respective counties

mentioned herein in such hospitals of the indigent sick of said counties, mentioned herein, and to pay therefor out of the general funds of such county, such sum or sums that shall be reasonable and just to said hospitals.

(j) Public libraries. A sum not to exceed one thousand dollars (\$1,000.00) per annum toward the support and maintenance of one or more public libraries situated in the county. In any county whose total assessed valuation, including railroads and all public utilities, is more than eighteen million dollars (\$18,000,000.00) the board, in its discretion, may appropriate a sum not to exceed three thousand dollars (\$3,000.00) per annum for public libraries.

The board may also give or donate any legislative journals, constitutional convention journals, printed official reports of any state or county officers, official reports of departments, bureaus or officers of the United States, and copies of the acts of the legislature or laws of Mississippi now or hereafter in the county library of such county and not needed, in the opinion of the board in the county library (but not including any Mississippi reports and not including any acts of the legislature or laws of the state, unless such acts or laws be more than twenty years old) to any library or library association or foundation or organization maintaining a free public library for reference or otherwise, provided such library, association, foundation or organization owns free from encumbrance a fireproof library building located in this state, in which building said journals, reports, acts and laws may be and shall be deposited where received under this subsection and made accessible under reasonable regulations to the general public. Such library, association, foundation or organization shall not have the right to sell or otherwise dispose of said journals, reports, acts and laws. Said journals, reports, acts and laws may be returned to the county library from which received without expense to the county, or to the state library, without expense to the state, at any time by the library, association, foundation or organization receiving the same.

Any gift or donation made by the board of supervisors of any county under the authority of this subsection shall be evidenced by an order spread upon the minutes of said board. The county shall bear no expense in connection with any donation. The sheriff of the county, or the custodian of the county library, shall deliver to the representative of the library, association, foundation or organization entitled to receive the same any of said journals, reports, acts, laws and official publications in accordance with the directions contained in any order of the board of supervisors for the delivery of the same, and shall take proper receipt from the party receiving the same, and shall deliver such receipt to the clerk of the board of supervisors of the county, and the board of supervisors shall have the said receipt entered in full on the minutes of the board.

Any library, association, foundation or organization receiving any gift or donation from any county under this subsection shall report in writing to the board of supervisors, from which such gifts or donations have been received every two years, that the gifts and donations so received are still in the possession of the donee and are accessible to the general public. If any of the gifts or donations so received have been lost, destroyed or have otherwise disappeared, report thereof shall be made.

If any library, association, foundation or organization receiving gifts or donations under this subsection shall cease operating as free public library or shall cease to be the owner of a fireproof building in which it keeps and maintains a free public library, for reference or otherwise, the said library, association, foundation or organization shall thereupon immediately return to the county library, without expense to the county, or to the state library, without expense to the state, any gifts or donations it may have received under this subsection.

(k) Patriotic organizations and memorials. A sum not to exceed five thousand dollars (\$5,000.00) to build or aid any post of the American Legion, any chapter of the Daughters of the American Revolution, any chapter of the United Daughters of the Confederacy, or any post, unit or chapter of any patriotic organization within the county in building a memorial to the veterans of World War I and World War II; and a sum not to exceed one thousand dollars (\$1,000.00) to aid in defraying the cost of the erection of suitable memorials to deceased soldiers, sailors, and marines of the late world wars. Such appropriation may be made, even though no provision has been made therefor in the county budget.

(l) American Red Cross. Any board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate annually, out of any moneys in its respective

treasury, to be drawn by warrant thereon, a sum not exceeding one hundred dollars (\$100.00) per million of assessed valuation to the support of a local chapter of the American Red Cross.

(m) St. Jude Hospital. For the payment of mileage expense for transporting persons to St. Jude Hospital in Memphis, Tennessee, for treatment. The mileage shall be based on a round trip basis from the patient's place of residence to St. Jude Hospital at the mileage rate set forth in Section 25-3-41.

(n) Public museums. For the support and maintenance of such public museums located in the county constituted under the provisions of Chapter 9, Title 39, Mississippi Code of 1972.

(o) Domestic violence shelters. The board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate annually out of any money in the county treasury, such sums as the board deems advisable to support any domestic violence shelter or rape crisis center operating within or serving its area. For the purposes of this section, "rape crisis center" means a place established to provide care, counseling and related services to victims of rape, attempted rape, sexual battery or attempted sexual battery.

(p) Literacy programs. The board of supervisors of any county in this state is hereby authorized and empowered, in its discretion, to donate out of the general fund of the county such sum of money as the board deems reasonable to any literacy program being conducted within the county.

(q) Care of neglected children. The board of supervisors of any county in this state, in its discretion, may donate annually out of any money in the county treasury such sums as the board deems advisable to support any residential group home for the abused, abandoned or neglected children which operates within or serves the county. For the purposes of this paragraph the term "residential group home" means a group residence established to provide care and counseling, and to serve as a home, for children who are the victims of abuse, neglect or abandonment.

(r) Boys and Girls Club. To any chartered chapter of the Boys and Girls Clubs of America located within the county, out of any funds in the county treasury, provided that the cumulative sum of donations to all chapters within the county does not exceed the amount generated in the county by one-fourth (1/4) mill on all of the taxable property within the county, during the fiscal year in which the donations are made. Nothing in this paragraph authorizes the imposition of additional tax.

(s) Mississippi Burn Care Fund. To the Mississippi Burn Care Fund, subject to the limitations specified in Section 21-19-58. 1990, 539; 1995,358, 2009

Cross references--

As to Golden Age Nursing Homes, see §§19-5-31, *et seq.*

As to power of state board of health to contract with counties and fraternal and benevolent organizations

for care of tuberculosis patients, see §41-33-25.

As to power of county to provide treatment of tubercular citizens, see §41-33-27.

As to establishment and operation of libraries, see §§39-3-3, 39-3-5.

Domestic violence shelters, generally, see §§93-21-101, *et seq.*

19-5-95. Aid to fire departments. The board of supervisors of any county in this state is hereby empowered and authorized to appropriate out of the county treasury annually a sum not in excess of \$250.00 in aid of any fire department for services and protection by such fire department, and, in its discretion, to appropriate out of the county treasury annually a sum not in excess of the amount which would be produced by a levy of one-fourth mill on all taxable property within the county in aid of municipal fire departments in the county, or in aid of volunteer fire departments within the county which meet the requirements set forth in Section 83-1-39(2), but in no event shall the aggregate amount appropriated annually under this section exceed an amount equal to the amount which would be produced by a levy of one-fourth mill on all taxable property within the county. 1981, 1st ex sess, ch. 7.

Cross references--

As to "county volunteer fire department fund," see §83-1-39.



19-5-97. Purchase, operation and maintenance of fire trucks and other fire fighting equipment. The board of supervisors, for the county or for any district thereof, may purchase, operate and maintain fire trucks, and all other kinds of fire fighting equipment, and may contract with one or more municipalities in the county for keeping and storing same, etc. The board may pay its part of the cost of such equipment from the general fund if the entire county participates in the provisions of this section, or from a special "fire prevention fund" if less than all five districts participate. 1968, 283.

Cross references--

As to "county volunteer fire department fund," see §83-1-39.

19-5-99. Establishment of economic development districts. This is a lengthy section and attention is called to it herein so that it may be easily found in the code. Taxes may be levied; all funds are declared to be public funds. The county shall not be liable for the repayment of any indebtedness incurred by a district unless the board of supervisors has pledged a portion of the tax levy authorized by Section 19-9-111 as security therefor, in which event the county shall be obligated only to the extent of the tax levy so pledged. 1978, 451; 1983, 539; 1984, 495; 1985, HB 983; 1986, 304, 438, 458; 1987, 483; 1988, 937, 253; 1992, 491; 1993, 425; 1997, 492.

Cross references--

As to auditor of public accounts, see §§7-7-1, *et seq.*

19-5-101. Establishment of juvenile residential treatment centers. The board of supervisors may expend moneys from the general county fund to match any other funds for the purpose of establishing juvenile residential treatment centers including, but not being limited to, treatment centers and halfway houses. 1972, 514.

19-5-105. Cleaning private property; lien.

The board of supervisors of any county is hereby authorized and empowered on its own motion, or upon the receipt of a petition requesting the board of supervisors to so act signed by a majority of the residents eighteen (18) years of age or older, residing upon any street or alley, or the reasonable proximity thereto, within seven hundred fifty (750) feet ... of the alleged menace ... to give notice to the property owner by United States registered mail, return receipt requested, receipted by addressee only, three (3) weeks before the date of a hearing, or if the property owner be unknown or his address unknown, then by three (3) weeks' notice in a newspaper having a general circulation in the county, of a hearing to determine whether ... any parcel ... is ... a menace to the public health and safety of the community. If at such hearing the board ... shall ... adjudicate such a parcel ... to be a menace ... the board of supervisors may, if the owner not do so himself, proceed to have the land cleaned ... Thereafter, the board of supervisors may at its next regular meeting by resolution adjudicate the actual cost of cleaning the said lot and the cost shall become an assessment against the same. However, the action herein authorized shall not be undertaken against any one (1) parcel of land more than twice in any one (1) calendar year, and the expense of cleaning of said lot shall not exceed the amount of Ten Thousand Dollars (\$10,000.00) in any one (1) calendar year.

The assessment above provided for shall be a lien against said property and may be enrolled in the office of the circuit clerk of the county as other judgments are enrolled, and the tax collector of the county shall, upon order of the board of supervisors, proceed to sell said land to satisfy said lien as now provided by law for the sale of lands for delinquent taxes. Furthermore, the property owner whose land has been sold pursuant to this section shall have the same right of redemption as now provided by law for the sale of lands for delinquent taxes. All decisions rendered under the provisions of this section may be appealed in the same manner as other appeals from county boards are taken. 1983, 459; 1996, 332.

19-5-109. Estimation of cost of garbage collection and disposal services; means of meeting costs; effect on contracts.

(1) Each county and municipality shall make a good faith effort to estimate the cost of garbage and rubbish collection and disposal services. These costs may be met, in amounts necessary to defray the cost of the system, by any combination of generator fees, ad valorem tax revenues as authorized under Section 19-5-21 or Section 21-19-2, or county or municipal special funds as authorized under Section 19-5-21 or 21-19-2.

(2) Nothing in Chapter 624, Laws of 1994 shall be construed to abrogate or cancel any contract that a county or a municipality has entered into for garbage and rubbish collection and disposal. If a county or municipality entered into a contract before April 1, 1994, and the term or period of performance of that contract does not exceed five (5) years, the county or municipality may continue to levy the ad valorem tax assessment in effect before April 1, 1994, to honor the contract for the term of that contract. 1994, 624; 1996, 536; 1997, 423.

19-5-151 through 19-5-165. Water, sewer, garbage disposal, and fire protection districts. These sections deal with the creation, maintenance and operation of these districts, including capital outlay authorizations, tax levies, bond issues, expenditures, etc. 1986, 445; 1987, 485, 507; 1988, 568; 1999, 304; 2008, 306.

19-5-167. Board of commissioners -- appointment; terms; general powers and duties.

(1) Except as otherwise provided in this section, the powers of each district shall be vested in and exercised by a board of commissioners consisting of five (5) members to be appointed by the board of supervisors. Upon their initial appointment, one (1) of the commissioners shall be appointed for a term of one (1) year; one (1) for a term of two (2) years; one (1) for a term of five (5) years; thereafter, each commissioner shall be appointed and shall hold office for a term of five (5) years. Any vacancy occurring on a board of commissioners shall be filled by the board of supervisors at any regular meeting of the board of supervisors, and the board of supervisors shall have the authority to fill all unexpired terms of any commissioner or commissioners. Notwithstanding the appointive authority herein granted to the board of supervisors, its legal and actual responsibility, authority and function, subsequent to the creation of any district, shall be specifically limited to the appointive function and responsibility outlined in Sections 19-5-179, 19-5-189 and 19-5-191. The operation, management, abolition or dissolution of such district, and all other matters in connection therewith, shall be vested solely and only in the board of commissioners to the specific exclusion of the board of supervisors, and the abolition, dissolution or termination of any district shall be accomplished only by unanimous resolution of the board of commissioners. The board of commissioners of a fire protection district created under Sections 19-5-151, *et seq.*, by unanimous resolution, may dissolve such district and, under Sections 19-5-215, *et seq.*, may create a fire protection grading district consisting of the same boundaries as the previously existing fire protection district. Petition and election requirements of Sections 19-5-217 through 19-5-227 shall not apply where the board of commissioners dissolves a fire protection district and creates a fire protection grading district under this section. Except as otherwise provided in this act, such board of commissioners shall have no power, jurisdiction or authority to abolish, dissolve or terminate any district while the district has any outstanding indebtedness of any kind or character, unless such dissolution or termination is accomplished under the provisions of Section 19-5-207. If a fire protection district is dissolved in accordance with this subsection, the board of supervisors may continue to levy the same millage as was being levied within the boundaries of the fire protection district before its dissolution provided that a fire protection grading district is created, in accordance with Sections 19-5-215, *et seq.*, with identical boundaries as the previously existing fire protection district.

(2) The board of supervisors of the incorporating county, may upon receipt of a unanimous resolution from two (2) or more boards of commissioners of duly created fire protection districts, may

consolidate such districts for administrative purposes. Upon receipt of unanimous resolutions requesting consolidation, the board of supervisors shall conduct a public hearing to determine the public's interest. Following such a hearing, the board may create a consolidated commission consisting of the participating districts for administrative purposes. Such districts then shall dissolve their respective boards of commissioners, transferring all records to the consolidated board of commissioners. A consolidated board of commissioners consisting of not less than five (5) members shall be appointed with equal representation from each participating district. Any commissioners appointed to a consolidated fire protection district commission must comply with eligibility requirements as authorized in Section 19-5-171. In the event that a consolidated fire protection district commission consists of an even number of members, the chairman elected as authorized by Section 19-5-169 shall vote only in the event of a tie. General powers and duties of commissioners and commissions and other related matters as defined in Section 19-5-151 through 19-5-207 shall apply to the entire area contained in the consolidating fire protection districts as described in the resolution incorporating the fire protection districts as well as to subsequent annexations.

(3) If the creation of the district is initiated in accordance with Section 19-5-153(3), the powers of the district shall be vested in and exercised by a board of commissioners selected in the following manner:

(a) Upon creation of the district, the board of directors of the former nonprofit, nonshare corporation shall serve as the board of commissioners of the newly created water district for a period not to exceed sixty (60) days. The initial commissioners shall be subject to the requirements of Section 19-5-171, except the requirement for executing a bond. If an initial commissioner fails to meet a requirement of Section 19-5-171 as provided in this section, the board of supervisors shall appoint member to fill that vacancy on the board of commissioners.

(b) In the resolution creating a district initiated in accordance with Section 19-5-153(3), the board of supervisors shall direct the existing board of directors of the rural water association to create within the district five (5) posts from which commissioners shall be elected. The board of supervisors shall designate the positions to be elected from each post as Post 1, Post 2, Post 3, Post 4 and Post 5. Post 5 shall be an at large post composed of the entire district. Within sixty (60) days following creation of the district, the board of supervisors shall call an election. Such election shall be held and conducted by the election commissioners in accordance with the general laws governing elections. The election commissioners shall determine which of the qualified electors of the county reside within the district and only those electors shall be entitled to vote in the election. Notice of the election setting forth the time, place or places and the purpose of the election shall be published by the clerk of the board of supervisors in the manner provided in Section 19-5-155.

The initial elected commissioners shall be elected to a term of office expiring on December 31 of the year in which the next succeeding general election for statewide officials is held. After the initial term of office, commissioners shall be elected to four-year terms. Vacancies shall be filled by the procedure set forth in Section 23-15-839. 1992, 387; 1999, 304.

19-5-169 through 19-5-173. Board of commissioners -- officers; seal; eligibility; bond; oath; compensation; and power to enact regulations. 1972, 536; 1972, 536; 1973, 370, 396; 1999, 304; 2002, 580; 2008,454; 2009

19-5-175 through 19-5-177 General powers of districts. 1992, 387; 1999, 361, 565; 2002, 580.

19-5-179 through 19-5-207. These sections deal with eminent domain, revenue bonds, tax levies, construction contracts, annexations to district, etc. 1972, 536; 1973, 433; 1973, 493; 1974, 457; 1984, 506; 1991, 459; 1997, 424; 1999, 304.

19-5-215. Fire protection grading districts. Any contiguous area situated within any county of the state, and not being situated within the corporate boundaries of any existing municipality, may become incorporated as a fire protection grading district solely for the purpose of grading by the Mississippi Rating Bureau for fire protection classification in the manner set forth in the following sections. 1992, 387.

19-5-217 through 19-5-241. Fire protection grading districts. These sections deal with creation, maintenance and operation of these districts, including petition for incorporation, publication of resolution of intent, costs, bond, district embracing lands in more than one county, district as governmental entity, exercise of eminent domain, annexation, financial aid, etc. 1992, 387.

19-5-251. Rural waterworks system may merge with another. 1974, 457.

19-5-257. Assumption of existing indebtedness. Upon acquiring such nonprofit, nonshare corporation or utility district, the political subdivision, utility district, etc., shall assume any existing indebtedness of the said district and be responsible for such indebtedness. 1974, 457.

19-5-301 through 19-5-361. Emergency telephone service (911). These sections deal with creation or emergency telephone service, methods for responding, abusive calls, sanctions, etc. 1987, 310; 1992, 309; 1992, 447; 1993, 536; 1997, 409; 1998, 458, 531; 2000, 564; 2001, 490, 569; 2002, 626; 2003, 367; 2004, 442; 2006, 355; 2007, 593.

## **CHAPTER 7. PROPERTY AND FACILITIES**

### 19-7-1. Acquisition of certain real estate.

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

The board of supervisors shall have power to accept as a gift, or to purchase for the county, so much real estate, in fee simple, at the place where the courts may be required to sit, as may be convenient and necessary for the building and use of the courthouse and jail, and, at any convenient place in the county, property for fire protection purposes and homes and farms for the poor, the purchase money to be paid out of the county treasury, and the title to the property be made to and in the name of the county.

The board of supervisors of any county may acquire, by lease or purchase, grounds and buildings or may erect buildings on grounds owned by the county or road district, to be used by the county or road district in storing and preserving road machinery, trucks, teams or other county or road district property. The same shall be paid for out of the general fund or road district fund.

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

(1) The board of supervisors shall have power to accept as a gift, or to purchase for the county, so much real estate, in fee simple, at the place where the courts may be required to sit, as may be convenient and necessary for the building and use of the courthouse, county facilities and jail, and at any convenient place in the county, property for fire protection purposes and homes and farms for the poor, the purchase money to be paid out of the county treasury, and the title to the property be made to and in the name of the county.

(2) Subject to the provisions of Section 65-7-91, the board of supervisors of any county may purchase or lease grounds and buildings or may erect buildings on grounds owned or leased by the county, to be used by the county in storing and preserving road machinery, trucks or other county

property. The same shall be paid for out of the general fund of the county or out of road maintenance and bridge funds. 1990, 414.

Cross references–

As to power of board of supervisors to provide poor homes or farms, see Miss Const §262.

For requirement that boards of supervisors erect and maintain courthouses, see §19-3-41.

As to issuance of county bonds and notes for purchasing land for county buildings, acquiring homes for

county indigents, etc., see §19-9-1

Requirement that plaques on buildings financed with funds of state or political subdivision acknowledge

contribution of taxpayers, see §29-5-151.

As to levy of special tax for erection, repairing, etc., of the courthouse, jail and other county buildings,

see §§19-9-93, 19-9-115.

As to authority to purchase land and erect buildings for county home and farm, see §43-31-3.

19-7-3. Disposal of real estate.

(1) In case any of the real estate belonging to the county shall cease to be used for county purposes, the board of supervisors may sell, convey or lease the same on such terms as the board may elect and may, in addition, exchange the same for real estate belonging to any other political subdivision located within the county. In case of a sale on a credit, the county shall have a lien on the same for the purchase money, as against all persons, until paid and may enforce the lien as in such cases provided by law. The deed of conveyance in such cases shall be executed in the name of the county by the president of the board of supervisors, pursuant to an order of the board entered on its minutes.

(2)(a) Before any lease, deed or conveyance is executed, the board shall publish at least once each week for three (3) consecutive weeks, in a public newspaper of the county in which the land is located, or if no newspaper be published in said county then in a newspaper having general circulation therein, the intention to lease or sell, as the case may be, the county-owned land and to accept sealed competitive bids for the leasing or sale. The board shall thereafter accept bids for the lease or sale and shall award the lease to the highest bidder in the manner provided by law.

(b) The board of supervisors of any county may contract for the professional services of a Mississippi-licensed real estate broker to assist in the marketing and sale or lease of the property for a reasonable commission, consistent with or lower than the market rate, for services rendered to be paid from the sale or lease proceeds.

(3) Whenever the board of supervisors shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes (a) that any county-owned property is no longer needed for county or related purposes and is not to be used in the operation of the county, (b) that the sale of the property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the county, and (c) that the use of the county property for the purpose for which it is to be sold, conveyed or leased will promote and foster the development and improvement of the community in which it is located and the civic, social, educational, cultural, moral, economic or industrial welfare thereof, the board of supervisors of such county shall be authorized and empowered, in its discretion, to sell, convey, lease, or otherwise dispose of same for any of the purposes set forth herein.

(4) (a) In addition to such authority as is otherwise granted under this section, the board of supervisors, in its discretion, may sell, lease, or otherwise convey property to any person or legal entity without public notice, without having to advertise for and accept competitive bids and without appraisal, with or without consideration, and on such terms and conditions as the parties may agree if the board of supervisors finds and determines, by resolution duly and lawfully adopted and spread upon its official minutes:

- (i) That the subject property is real property acquired by the county:
    - 1. By reason of a tax sale;
    - 2. Because the property was abandoned or blighted; or
    - 3. In a proceeding to satisfy a county lien against the property;
  - (ii) That the subject property is blighted and is located in a blighted area;
  - (iii) That the subject property is not needed for governmental or related purposes and is not to be used in the operation of the county;
  - (iv) That the sale of the property in the manner otherwise provided by law is not necessary or desirable for the financial welfare of the county; and
  - (v) That the use of the property for the purpose for which it is to be conveyed will promote and foster the development and improvement of the community in which it is located or the civic, social, educational, cultural, moral, economic or industrial welfare thereof; the purpose for which the property is conveyed shall be stated.
- (b) All costs associated with a conveyance under this subsection shall be paid by the person or entity to whom the conveyance is made.
- (c) Any deed or instrument of conveyance executed pursuant to the authority granted under this subsection shall contain a clause of reverter providing that title to the property will revert to the county if the person or entity to whom the property is conveyed does not fulfill the purpose for which the property was conveyed and satisfy all conditions imposed on the conveyance within two (2) years of the date of the conveyance.
- (d) In any such deed or instrument of conveyance, the county shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same.
- (5) Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under [Section 17-25-3](#) or [Section 57-75-37](#). Laws 1976, Ch. 484, § 1, eff. from and after passage (approved May 25, 1976). Amended by [Laws 2003, Ch. 483, § 2](#), eff. from and after passage (approved March 28, 2003); [Laws 2004, Ch. 400, § 1, eff. July 1, 2004](#); [Laws 2005, Ch. 315, § 9](#), eff. from and after passage (approved March 14, 2005); 2007, 579.

**19-7-5. Disposal of personal property.** The board of supervisors shall have the power to sell and dispose of at public sale for cash, any personal property belonging to the county or any subdivision thereof when the same shall have ceased to be used for county purposes or when, in the judgment of said board, a sale thereof would promote the best interest of the county. Said sale shall be advertised by posting notices at three public places in the county, at least ten days prior to such sale, one of which said notices shall be posted at the courthouse. The proceeds of said sale shall be placed in the county depository to the credit of the proper fund. Where said property shall not exceed \$100.00 in value the same may be sold and disposed of by the boards of supervisors at a private sale by the unanimous vote of the members of said board of supervisors and the proceeds thereof disposed of as above provided. However, if the board of supervisors find consistent with fact that the fair market value of the personal property is zero and this finding is duly entered on the minutes of the board, then the personal property in question may be disposed of as deemed to be appropriate and in the best interest of the county, provided that no county official or employee derives any personal economic benefit from such disposal. If any of such property may be of use or benefit to the United States government in its national

defense effort, the board of supervisors is hereby authorized in its discretion to turn over such property to the United States government by way of a donation thereto. Nothing contained in this section shall be construed to prohibit, restrict or to prescribe conditions with regard to the authority granted under Section 1 of House Bill No. 860, 2003 Regular Session. 1942, 193; 2000, 593; 2003, 483.

Cross references--

As to inventory of county personal property, see §19-3-45.

As to recovery of public property unlawfully disposed of, see §7-7-211.

**19-7-7. Insurance on county property.** All county property, both real and personal, may be insured against loss by fire, cyclone and other hazards. The cost thereof shall be paid out of the county treasury. Two or more counties may pool their risks when purchasing insurance. 1942, 208; 1988, 476.

**19-7-9. Tagging of motor vehicles.** The board of supervisors shall place license tags or identification tags on all county automobiles, trucks and tractors. 1926, 205.

Cross references--

As to payment of privilege taxes on county motor vehicles, see §§27-19-25, 27-19-27.

For provision that name of agency must be painted on certain public vehicles before a tag will be issued, see §27-19-59.

For provisions concerning identification of sheriff's motor vehicles, see §19-25-15.

**19-7-11. Erection or renovation of courthouse and jail.** If a new courthouse or jail shall be required in any county, or if the courthouse or jail shall need remodeling, enlarging, or repairing, the board of supervisors shall see that all plans are prepared and that the necessary work is performed. The board may appoint one or more commissioners to superintend the work, who shall receive a reasonable compensation. The board of supervisors of Jasper County (by description) is further authorized to issue negotiable bonds of either of the judicial districts of such county for the purpose of erecting, equipping, repairing, etc., the courthouse in and for the judicial district for which the bonds are issued. 1971, 321.

Cross references--

As to requirement that boards of supervisors erect and maintain courthouse and jail, see §19-3-41.

As to authority to issue bonds for erecting, remodeling, etc., county courthouse, jails, and other county buildings, see §19-9-1.

As to authority to levy special tax for erection, repairing, etc., of courthouse, jail or other county buildings, see §19-9-93.

**19-7-13. Employment of janitor and assistants.** The board of supervisors may employ a janitor and necessary assistants for the courthouse and county buildings, their salaries to be fixed by the board and to be paid out of any funds in the county treasury not otherwise appropriated. 1964, 283.

**19-7-15. Employment of caretaker of county lands.** Boards of supervisors may employ a competent person to look after the interest of the county in any lands that may be owned by such county other than 16th section or lieu lands, and to pay such person a salary of not exceeding \$1,800.00 annually. Such salary will be paid out of the revenue derived from the lands, and the county superintendent of education may be selected to perform these duties and pay him the said salary in addition to his salary as county superintendent. Also, such counties may pay the secretary of the county superintendent of education an additional sum of \$600.00 per annum out of the revenues derived from such lands. (In practice this is applicable to Leflore County only and concerns management of the "Allen School Lands.") 1952, 211.

19-7-19. Employment of caretaker of county lands--minutes of board to be sole authority. Boards ... shall not enter into a contract, as provided for in Section 19-7-15, except by placing the same on their minutes, and in the event any such contract be made without complying with this section, the party attempted to be employed shall not receive any compensation whatever for any services that he may have performed thereunder. 1928, 59.

19-7-21. Counties conveying land for state park may lease retained mineral interests. Any county which acquires and conveys land for state park purposes ... and ... retains the mineral rights thereunder may lease the same for oil, gas and other minerals. No lease shall become effective after its acceptance by the board of supervisors until it receives the written approval of the state mineral lease commission and the board of park examiners.

From the proceeds arising from the execution of the original lease there shall be paid all costs incident to the execution thereof, and any balance remaining on hand and accruing thereafter shall be used, first, to build necessary bridges in the park property affected and, second, any balance then remaining on hand shall be used to call or pay any countywide bonds now or hereafter outstanding and, third, if there be no outstanding countywide bonds, then such balance shall be paid into the general funds of the county. 1946, 242.

19-7-23. Furnishing of courthouse. The board of supervisors shall provide for properly furnishing the courthouse and for supplying all county offices with necessary record books, stationery, furniture, etc., and shall provide the chancery clerk's office with a copy of the field notes of the U.S. survey ... the original entries of land and the necessary township maps, and provide for the orderly keeping of all the records thereof, and shall make all needful allowances, payable out of the county treasury, therefor. On the order of the circuit court, or the chancery court, the board shall allow all sums expended for supplying the offices and courtrooms with all necessary articles, but an allowance shall not be made for printing in record books of conveyances. 1942, 2897.

Cross references--

For definition of "stationery" see §1-3-51.

As to court reporter's stationery, see §9-13-23.

As to office furniture and supplies of county superintendent of education, see §37-5-81.

As to duty of county superintendent of education to prepare and keep maps of school districts, see §37-5-91.

As to sheriff's responsibility for courthouse, see §19-25-69.

19-7-25. Providing books and bookcase for courtroom. The board of supervisors ... shall have placed in the courtroom of the courthouse a suitable bookcase, with doors and lock, of sufficient capacity to hold not less than 200 law books. ... The board shall purchase any volume of Mississippi reports, statutes, etc., required, all of which shall be paid for out of the county treasury. 1942, 2898.

Cross references--

As to provisions for law libraries, see §19-7-31.

19-7-27. Providing bulletin boards for legal notices. The board of supervisors shall provide suitable bulletin boards, to be placed conspicuously at or near the front entrance of the courthouse, upon which all notices required to be there posted may be placed. 1942, 2901.



19-7-29. Maintenance of courthouse yard. The board of supervisors may maintain a good and sufficient fence around the courthouse yard, and, when necessary, a substantial pavement on the walks of the same, and may have shade trees planted therein, and shall provide for the absolute exclusion of livestock therefrom. No tent or booth may be erected on the courthouse yard to be used for the advertising or the vending of any goods, wares, notions, or nostrums, or for doing the business of a photographer, unless written authorization therefor is obtained from the board of supervisors. The board of supervisors may pave and improve the streets around the courthouse yard. 1989, 363.

19-7-31. Law libraries. The board of supervisors of each county in the state shall have power, by an appropriate order or orders on its minutes, to establish and maintain in the county courthouse or other suitable public building, adjacent or near thereto, a public county law library under such rules, regulations and supervision as it may from time to time ordain and establish, and to that end, the board may accept gifts, grants, donations or bequests of money, furniture, fixtures, books, documents, maps, plats or other property suitable for such purpose.

The board of supervisors shall have power to exchange or sell duplicate volumes or sets of any such books or furniture, and in case of sale to invest the proceeds in other suitable books or furniture. The said board may also purchase or lease from time to time additional books, furniture, or equipment therefor.

For the purpose of providing suitable quarters for such public law library, the said board of supervisors may, in its discretion, expend such sums as may be deemed necessary or proper for such purpose, and may also employ a suitable person as librarian and pay said law librarian such salary as the board, in its discretion, may determine. The board may employ additional librarians or other employees on either a part-time or full-time basis and may pay these additional employees as the board, in its discretion, may determine. The board of supervisors, in their discretion, may contract with the county or municipal library for any staff or facilities as they deem necessary for the overall management and operation of the county law library. The board of supervisors may contract with the State Law Library for law library services that may be offered by the State Law Library.

In case such public law library shall be so established, all books, documents, furniture and other property then belonging to the county library, as provided for in Section 19-7-25, shall be transferred to and become part of such public law library, and all books, documents and publications hereafter donated by the state to the county library shall also become a part thereof. And in such case, Section 19-7-25 and 19-25-65, relating to the county library, shall be superseded in such county so long as such public law library shall be maintained therein.

The board of supervisors of any such county is further authorized, in its discretion, to levy, by way of resolution, additional court costs not exceeding \$2.50 per case for each case, both civil and criminal, filed in the chancery, circuit and county courts or any of these in resolution, additional court costs not exceeding \$1,50 per case for each case, both civil and criminal, filed in the justice courts of said county for the support of the library therein authorized. If the courts shall collect said costs for all cases thereafter filed in his court and forward same to the chancery clerk who will deposit the same in a special account in a county depository for support and maintenance of said library, and the chancery clerk shall be accountable therefor. However, no such levy shall be made against any cause of action, the purpose of which is to commit any lunatic, alcoholic or narcotic addict to any institution for custodial or medical care, and no such tax shall be collected under this subsection on any cause of action that the proper clerk handling same deems to be in its very nature charitable and in which cause said clerk has not collected his own legal fees.

To accomplish the purposes of this section, the board of supervisors is hereby further authorized and empowered to enter into such arrangement or arrangements with the county bar association of any such county as may seem advisable for the care and operation of said law library and said board may receive and consider, from time to time, such recommendations as the bar association may deem appropriate in the premises.

The board of supervisors of each county in which there are two (2) judicial districts is authorized and empowered, in its discretion, to maintain a law library in each judicial district; in such counties the board is authorized and empowered, in its discretion, to pay from the county general fund or from the special fund herein authorized all such costs herein authorized, provided that the board shall not spend in each judicial district less than the amount of the special court costs authorized herein and collected in each such district.

The governing authorities of any municipality are authorized, in their discretion, by resolution duly adopted and entered on their official minutes, to levy additional court costs not exceeding \$1.50 per case for each conviction in the municipal court of the municipality for the support and maintenance of the county law library in the county collected by the clerk of the court, forwarded to the chancery clerk of the county for deposit in a special account in the county depository, and expended for support and maintenance of the county law library in the same manner and in accordance with the same procedure as provided for costs similarly collected in the chancery, circuit, county and justice courts of the county. 1992, 312; 2003, 377.

19-7-33. Regulation of parking on courthouse and other county lands. The board of supervisors may regulate the parking of motor vehicles on county public lands on which the courthouse and other county buildings are located, or any other lands under the control and jurisdiction of the county. 1968, 287.

19-7-35. Procurement of artesian well on county property. 1908, 152.

19-7-37. Use of part of oil severance tax funds for building and permanent improvements. The board of supervisors of any county receiving a part of the oil severance tax ... is hereby authorized to allocate a part of the money so received to a fund or funds for building and permanent improvements for the county or for any school district or any road district, etc. 1946, 454.

19-7-39. Maintenance and repair of public or private nonprofit cemeteries in certain counties. The board of supervisors of Harrison County (by description) may maintain and repair any public or private nonprofit cemetery located within the county but located outside any town or city in the county. Such expenses may be paid from any available county funds. ... The board of supervisors of any county may accept in the name of the county, title by deed to any cemetery within the county but located outside the corporate limits of any municipality in the county which, due to age, abandonment of graves by private owners or for other good cause, it not being properly maintained or repaired and thereby has become detrimental to the public health and welfare. The board may maintain, repair, enlarge, fence or otherwise improve any cemetery, title to which has been accepted by the board. 1975, 395.

19-7-41. Authority of county boards of supervisors to exercise power of eminent domain for construction of penitentiaries. The board of supervisors of any county is authorized to exercise the power of eminent domain for the acquisition of land whenever public necessity and convenience so requires for the construction of a penitentiary in the county. In the exercise of such power pursuant to this section with respect to the construction of a federal correctional facility or other federal penal institution, the board of supervisors of any county having a land area of more than nine hundred (900) square miles and a population of more than twenty-five thousand (25,000) but less than twenty-five thousand six hundred (25,600) according to the 1990 federal census may exercise the right of immediate possession to real property, including oil, gas, and other mineral interests, as provided in Section 11-27-81, *et seq.*, Mississippi Code of 1972. 1991, 619; 1992, 350; 1994, 310.

## CHAPTER 9. FINANCE AND TAXATION

### Uniform System for Issuance of County Bonds

#### 19-9-1. Purpose of bonds enumerated.

The board of supervisors of any county is authorized to issue negotiable bonds of the county to raise money for the following purposes:

- (a) Purchasing or erecting, equipping, repairing, reconstructing, remodeling and enlarging county buildings, courthouses, office buildings, jails, hospitals, nurses' homes, health centers, clinics, and related facilities, and the purchase of land therefor;
- (b) Erecting, equipping, repairing, reconstructing, remodeling, or acquiring county homes for indigents, and purchasing land therefor;
- (c) Purchasing or constructing, repairing, improving and equipping buildings for public libraries and for purchasing land, equipment and books therefor, whether the title to same be vested in the county issuing such bonds or in some subdivision of the state government other than the county, or jointly in such county and other such subdivision;
- (d) Establishing county farms for convicts, purchasing land therefor, and erecting, remodeling, and equipping necessary buildings therefor;
- (e) Constructing, reconstructing, and repairing roads, highways and bridges, and acquiring the necessary land, including land for road building materials, acquiring rights-of-way therefor; and the purchase of heavy construction equipment and accessories thereto reasonably required to construct, repair and renovate roads, highways and bridges and approaches thereto within the county;
- (f) Erecting, repairing, equipping, remodeling or enlarging or assisting or cooperating with another county or other counties in erecting, repairing, equipping, remodeling, or enlarging buildings, and related facilities for an agricultural high school, or agricultural high school-junior college, including gymnasiums, auditoriums, lunchrooms, vocational training buildings, libraries, teachers' homes, school barns, garages for transportation vehicles, and purchasing land therefor;
- (g) Purchasing or renting voting machines and any other election equipment to be used in elections held within the county;
- (h) Constructing, reconstructing or repairing boat landing ramps and wharves fronting on the Mississippi Sound or the Gulf of Mexico and on the banks or shores of the inland waters, levees, bays and bayous of any county bordering on the Gulf of Mexico or fronting on the Mississippi Sound, having two (2) municipalities located therein, each with a population in excess of twenty thousand (20,000) in accordance with the then last preceding federal census;
- (i) Assisting the Board of Trustees of State Institutions of Higher Learning, the Office of General Services or any other state agency in acquiring a site for constructing suitable buildings and runways and equipping an airport for any state university or other state-supported four-year college now or hereafter in existence in such county;
- (j) Aiding and cooperating in the planning, undertaking, construction or operation of airports and air navigation facilities, including lending or donating money, pursuant to the provisions of the airport authorities law, being [Sections 61-3-1](#) through [61-3-83, Mississippi Code of 1972](#), regardless of whether such airports or air navigation facilities are located in the county or counties issuing such bonds;
- (k) Establishing rubbish and garbage disposal systems in accordance with the provisions of [Sections 19-5-17](#) through [19-5-27](#);
- (l) Defraying the expenses of projects of the county cooperative service district in which it is a participating county, regardless of whether the project is located in the county issuing such bonds;

(m) Purchasing machinery and equipment which have an expected useful life in excess of ten (10) years. The life of such bonds shall not exceed the expected useful life of such machinery and equipment. Machinery and equipment shall not include any motor vehicle weighing less than twelve thousand (12,000) pounds;

(n) Purchasing fire fighting equipment and apparatus, and providing housing for the same and purchasing land necessary therefor;

(o) A project for which a certificate of public convenience and necessity has been obtained by the county pursuant to the Regional Economic Development Act;

(p) Constructing dams or low-water control structures on lakes or bodies of water under the provisions of [Section 19-5-92](#);

(q) For the purposes provided for in [Section 57-75-37](#).

Laws 1932, Ch. 204, § 1; Laws 1950, Ch. 241, § 1; Laws 1954, Ch. 360, § 27; Laws 1956, Ch. 198, § 1; Laws 1957, 1st Ex. Sess., Ch. 13, § 5; Laws 1966, Ch. 293, § 1; Laws 1968, Ch. 284, § 1; Laws 1973, Ch. 446, § 1; Laws 1982, Ch. 441, § 1; Laws 1989, Ch. 519, § 9; Laws 1990, Ch. 542, § 1, eff. from and after passage (approved April 4, 1990). Amended by [Laws 2000, 2nd Ex. Sess., Ch. 1, § 46](#), eff. from and after passage (approved August 30, 2000); [Laws 2001, Ch. 476, § 3](#), eff. from and after passage (approved March 23, 2001); [Laws 2005, Ch. 315, § 10](#), eff. from and after passage (approved March 14, 2005).

#### Cross references--

As to determining validity of bond issues, see §31-13-5.

As to limitation on amount of bond issue, see §31-15-5.

As to method of payment of principal and interest at bank or trust company, see §31-19-9.

As to advertising sale of bonds, see §31-19-25.

As to bond issue for joint construction of jails by certain counties and municipalities, see §17-5-1.

As to authority to contribute county funds to airport facilities acquired for the use of universities or colleges, see §§61-5-71, 61-5-73.

As to payment of road bond issues, see §§65-15-9, *et seq.*

As to county ... bonds for pollution control, see §§49-17-101, *et seq.*

As to applicability of this and following sections to bonds issued for construction of access road or roads to and from sulphur extraction plants in certain counties, see §27-25-705.

Authorization for issuance of bonds for solid or hazardous waste disposal projects, see §17-17-105.

Regional Economic Development Act, see §§ 57-64-1, *et seq.*

#### 19-9-3. Bonds of road or supervisors districts.

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

The board of supervisors of any county is authorized to issue negotiable bonds of any road district or supervisors district within any such county to raise money for the purpose of constructing, reconstructing, and repairing roads, highways and bridges, and acquiring the necessary land, including land for building materials, and rights-of-way therefor.

The board of supervisors of any county designated in paragraph (h) of Section 19-9-1 is authorized to issue negotiable bonds of any supervisors district or districts in such county to raise money for the purposes described in paragraph (h) of Section 19-9-1.

All bonds issued pursuant to this section shall be issued in like manner and be subject to the same limitations and provisions as are set forth in Section 19-9-1 to 19-9-31 with reference to the issuance of county bonds.

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

The board of supervisors of any county designated in paragraph (h) of Section 19-9-1 is authorized to issue negotiable bonds of any supervisors district or districts in such county to raise money for the purpose described in paragraph (h) of Section 19-9-1. All bonds issued pursuant to this section shall be issued in like manner and be subject to the same limitations and provisions as are set forth in Sections 19-9-1 through 19-9-31 with reference to the issuance of county bonds. 1988 Ex Sess, 14, §11.

#### 19-9-5. Restriction on amount of indebtedness.

No county shall hereafter issue bonds secured by a pledge of its full faith and credit for the purposes authorized by law in an amount which, when added to the then outstanding bonds of such county, shall exceed either (a) fifteen percent (15%) of the assessed value of the taxable property within such county according to the last completed assessment for taxation, or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater.

However, any county in the state which shall have experienced washed-out or collapsed bridges on the public roads of the county for any cause or reason may hereafter issue bonds for bridge purposes as now authorized by law in an amount which, when added to the then outstanding general obligation bonds of such county, shall not exceed either (a) twenty percent (20%) of the assessed value of the taxable property within such county according to the last completed assessment for taxation or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater.

Provided further, in computing such indebtedness, there may be deducted all bonds or other evidences of indebtedness heretofore or hereafter issued, for the construction of hospitals, ports or other capital improvements which are payable primarily from the net revenue to be generated from such hospital, port or other capital improvement, which revenue shall be pledged to the retirement of such bonds or other evidences of indebtedness, together with the full faith and credit of the county. However, in no case shall any county contract any indebtedness payable in whole or in part from proceeds of ad valorem taxes which, when added to all of the outstanding general obligation indebtedness, both bonded and floating, shall exceed either (a) twenty percent (20%) of the assessed value of all taxable property within such county according to the last completed assessment for taxation, or (b) fifteen percent (15%) of the assessment upon which taxes were levied for its fiscal year ending September 30, 1984, whichever is greater. Nothing herein contained shall be construed to apply to contract obligations in any form heretofore or hereafter incurred by any county which are subject to annual appropriations therefor, or to bonds heretofore or hereafter issued by any county for school purposes, or to bonds issued by any county under the provisions of [Sections 57-1-1](#) through [57- 1-51](#), or to any indebtedness incurred under [Section 55-23-8](#), or to bonds issued under [Section 57-75-37](#).

Laws 1932, Ch. 235, § 3; Laws 1950, Ch. 241, § 3; Laws 1962, Ch. 245, § 1; Laws 1974, Ch. 495, § 1; Laws 1982, Ch. 347, § 1; Laws 1985, Ch. 476, § 1; Laws 1987, Ch. 424, § 1; Laws 1989, Ch. 499, § 2; [Laws 1992, Ch. 499, § 2](#); [Laws 1995, Ch. 526, § 1](#); [Laws 1996, Ch. 419, § 1](#), eff. from and after passage (approved March 25, 1996). Amended by [Laws 2001, Ch. 602, § 11](#), eff. from and after passage (approved April 16, 2001); [Laws 2005, Ch. 315, § 11](#), eff. from and after passage (approved March 14, 2005).

19-9-7. Details of county bonds. All bonds are to be lithographed or engraved, printed in two or more colors; shall be in sums not less than \$100.00 nor more than \$5,000.00 each; shall be registered as issued, be numbered in a regular series from one upward, and every bond shall specify on its face the purpose for which it was issued and the total amount authorized to be issued; each shall be made payable to bearer, and interest shall be evidenced by proper coupons thereto attached. Bonds may be issued pursuant to powers granted in the Registered Bond Act (Sections 31-21-1 through 31-21-7). 1983, 494.

19-9-9. Levy of special tax. The board of supervisors shall annually levy a special tax upon all of the taxable property within the county, which tax shall be sufficient to provide for the payment of the principal of and interest on such bonds according to the terms thereof. 1966, 294.

Cross references--

As to levy of special tax in connection with establishment and operation of convention bureaus, see §17-3-31.

19-9-11 through 19-9-17. Notice of intention to issue bonds; election. 1971, 479; 1950, 241.

Cross references--

As to elections ordered by petition of qualified electors, see §19-3-55.

As to necessity for compliance with provisions of this section in issuance of county industrial development authority bonds, see §57-31-9.

As to necessity for compliance with this section prior to issuance of port bonds, see §59-7-105.

19-9-19. Maturities, interest and signatures. All bonds of a county shall mature annually; all maturities not more than 20 years; not less than 1/50th of the total issue to mature each year for the first five years, not less than 1/25th each year during the next ten years, and the remainder to be amortized, as to principal and interest, into approximately equal payments, one payment to mature each year for the remaining life of the bonds. Exception: When bonds are issued or dated after the date fixed for making the county tax levy in the year such bonds are to be issued, the first maturity date of not less than 1/50th of the total issue, may be fixed for any period not to exceed two years, with the same schedule of subsequent maturities as herein above set forth. Overall maximum interest not to exceed 7%. No bond shall bear more than one rate of interest; all bonds of the same maturity shall bear the same rate of interest from date to maturity; all interest shall be payable semiannually or annually, etc. ... Each interest rate must be in multiples of 1/8th of 1% or 1/10th of 1% ... Bonds to be signed by manual or facsimile signature of the president of the board of supervisors and countersigned by the manual or facsimile signature of the clerk thereof ... and ... at least one signature on each bond shall be a manual signature. The coupons are to bear only facsimile signatures. ... No bonds to be issued and sold hereunder for less than par and accrued interest. 1983, 541.

19-9-21. Proceeds shall not be diverted. The proceeds of any bonds issued by a county shall be placed in the county treasury ... as a special fund, and shall be used for no other purpose than that for which ... they ... were authorized to be issued. Violations on the part of supervisors, or any other officer, shall make him or them guilty of a felony ... shall be punished by imprisonment ... and the official shall be liable personally on his official bond for the amount so diverted. The penalties here indicated may be escaped on the part of a supervisor by his requesting and having his vote recorded in the negative on any illegal diversion of the proceeds of bonds. 1950, 241.

19-9-23. Transfer of residue of bond proceeds. Whenever a balance shall remain of the proceeds of any bond issue after the purpose for which such bonds were issued shall have been accomplished, such balance shall forthwith be transferred to the applicable bond and interest fund. 1950, 241.

19-9-25. Bond and interest funds may be used to buy outstanding bonds. Amounts in bond and interest funds in excess of the amount which will be required for expenditure therefrom within the next twelve months, may be used to purchase the outstanding bonds of the county payable from such fund, etc. 1950, 241.

19-9-27. Borrowing in anticipation of taxes. The board of supervisors may borrow money in anticipation of taxes for the purpose of defraying the expenses of such county, and may issue negotiable notes of the county therefor, to mature not later than April 1 of the year succeeding the year in which they are issued. The amount that can be borrowed shall not be in excess of 25% of the estimated amount of taxes collected and to be collected under the last preceding annual tax levies for the fund for which said money is borrowed. The money may be borrowed from other county funds or from outside sources. Interest shall not exceed 8%. ...

For the payment of such loan, the board shall either pledge the levy of a special tax each year sufficient to pay the amount borrowed for use that year, with interest, or shall pledge that such notes shall be paid out of the first money collected from taxes for the year in which they are issued. ... Publication of intention to issue is required ... petition of 20%, or 1,500 of qualified electors, whichever smaller, may force election ... then such notes shall not be authorized unless the proposal receives a 3/5th majority vote. 1981, 462; 1982, 434; 1983, 541.

Cross references--

As to borrowing in anticipation of tax levy for the establishment and operation of garbage and rubbish disposal system, see §19-5-21.

As to borrowing in anticipation of tax levy for establishing air ambulance services, see §41-55-45.

19-9-28. Borrowing in anticipation of receipt of funds from confirmed federal or state grants or loans. Any county which has a commitment for a grant or loan from the federal government or the state (generally revenue sharing funds) may borrow money in the anticipation of the receipt of such loan or grant, unless prohibited by federal or state law or by the terms of the agreement itself. The board may borrow said money from any available fund in the county treasury, excepting funds acquired as a result of excess taxes received, or may borrow said money from any other source, and such loan shall be repaid from the first available federal funds received by the county in the manner and subject to the same terms as herein provided. The principal on any such loan, including interfund loans, shall be repaid within a reasonable time after receipt of funds, the anticipation of which gave rise to the borrowing. Not necessary to publish intention to borrow. Borrowing must be limited to the sum of (a) the amount of the confirmed grant or loan; (b) the amount of interest payable on such interim financing; and (c) the reasonable cost of incurring such indebtedness or issuing the note or notes evidencing such indebtedness. Further provisions are given. 1977, 427; 1982, 451; 1983, 541; 1985, HB 1226.

19-9-29. Investment of surplus funds. Whenever any county shall have on hand any bond and interest funds, any funds derived from the sale of bonds, special funds, or any other funds in excess of the sums which will be required to meet the current needs and demands of no more than seven business days, the board of supervisors of such county shall invest such excess funds in the following manner:

(a) Such excess funds shall be invested for periods of from fourteen days to one year in interest-bearing time certificates of deposit with or through county depositories serving in accordance with Section 27-105-303 which are willing to accept the same, at a negotiated rate of interest. The negotiated rate of interest shall be at the highest rate possible at the date of purchase or investment for such time certificates of deposit or interest-bearing accounts, but such rate of interest shall not be less than the rate of interest paid to the general public on passbook savings. The rate of interest established herein shall be the minimum rate of interest and there shall be no maximum rate of interest.

(b) The balance, if any, of such excess funds shall be invested in interest-bearing time certificates of deposit for the same maturity periods and at the same rate of interest as prescribed in paragraph (a) of this section in or through state depositories located in such county which are willing to accept the same, to the same extent as such depositories are eligible for invested state funds.

(c) To the extent that the board of supervisors finds that such excess funds cannot be invested pursuant to paragraphs (a) and (b) of this section for the stated maturity of from fourteen days to one year, the board of supervisors may invest such funds in any bonds or other direct obligations of the United States of America, the State of Mississippi, or any county, municipality or school district of this state, if such county, municipal or school district bonds have been approved by a reputable bond attorney or have been validated by a decree of the chancery court, or the board of supervisors may invest such funds, together with any other funds required for current operation, in obligations issued or guaranteed in full as to principal and interest by the United States of America which are subject to a repurchase agreement with a county or state depository, or the board of supervisors may deposit such funds in interest-bearing accounts with a county or state depository. Such bonds or obligations purchased may have any maturity date, provided that they shall mature or be redeemable prior to the time that the funds so invested will be needed for expenditure.

Any excess funds invested in certificates of deposit or interest-bearing accounts with county or state depositories under this section shall be secured in the manner required by Section 27-105-315. The proceeds of such certificates of deposit shall be immediately reinvested on the date of maturity in accordance with paragraphs (a), (b) and (c) of this section, unless the board of supervisors determines that such funds are required for current operation.

When bonds or other obligations have been purchased, the same may be sold or surrendered for redemption at any time, except certificates of deposit which must mature, by order or resolution of such board of supervisors. The president of the board of supervisors, when authorized by such order or resolution, shall have the power and authority to execute all instruments and take such other action as may be necessary to effectuate the sale or redemption thereof. When such bonds or other obligations are sold or redeemed, the proceeds thereof, including accrued interest thereon shall be paid into the same fund as that from which the investment was made and shall in all respects be dealt with as are other moneys in such fund. Except as hereinafter provided, any interest derived from the investments authorized in this section may, as an alternative, be deposited into the general fund of the county. Any interest derived from the investment of sums received under the terms of the Federal State and Local Fiscal Assistance Act of 1972, and any subsequent revisions or reenactments of that act shall be paid into the same fund as that from which the investment was made. Any interest derived from the investment of school bond funds shall be handled as provided in Section 37-59-43. Any interest derived from investment of other bond proceeds or from investment of any bond and interest fund, bond reserve fund or bond redemption sinking fund shall be deposited either in the same fund from which the investment was made or in the bond and interest fund established for payment of the principal or interest on the bonds. Any interest derived from special purpose funds which are outside the function of general county government shall be paid into that special purpose fund. 1977, 426; 1985, 514; 1995, 567; 2007, 426.

Cross references--

As to investment of surplus funds from sale of county bonds, etc., generally, see §31-19-5.

As to investment of surplus funds of road districts, see §65-19-47.

19-9-93 through 19-9-117. Special tax levies for specified purposes; general provisions. The board of supervisors may make general fund appropriations and/or special levies of ad valorem taxes for the following purposes and in the following millages, as set forth by the applicable section of the Code of 1972.

19-9-93. For purpose of erecting or renovating county buildings. General fund appropriation. Code 1942, §2907; 1986, 400.

19-9-95. In Hancock County (by description) to defray court expenses. General fund appropriation. 1940, 266; 1986, 400.



19-9-96. County tax levy to fund operation of youth court. General fund appropriation. 1980, 550; 1985, HB 813; 1986, 400.

19-9-97. To promote certain matters of public health. General fund appropriation. 1940, 272; 1986, 400; 1992, 487.

19-9-99. For purpose of eradicating fire ants. General fund appropriation. 1968, 294; 1986, 400.

19-9-101. For maintaining fair associations. General fund appropriation. 1960, 272; 1986, 400.

19-9-103. In certain counties (all those situated wholly or partly in a levee district) for purpose of advertising economic resources therein. General fund appropriation. 1940, 321; 1986, 400.

19-9-105. In order to make soil survey maps and land classifications. General fund appropriation. 1940, 267; 1986, 400.

19-9-107. In Scott, Leake, Smith and Lowndes counties (be description) for support of industrial and economic programs. General fund appropriation. 1964, 283; 1986, 400.

19-9-109. For purchase, operation and maintenance of fire trucks and other fire fighting equipment. Not exceeding one-fourth of one mill. 1968, 283.

19-9-111. For purpose of financing economic development districts. Not more than one mill. 1962, 254; 1985, 441.

19-9-113. For support of soil and water conservation district. General fund appropriation. 1974, 489; 1986, 400.

19-9-114. For construction of vocational and technical education center. (Harrison County only, by description). Not to exceed one mill. 1972, 517.

[Special provisions are contained in several of these sections, see the code for details.]

Cross references--

As to issuance of county bonds, generally, see §19-9-1, *et seq.*

As to levy of countywide road tax, see §27-39-305.

As to making contracts and superintending erection or remodeling of courthouse or jail, see §19-7-11.

For authority of board of supervisors to appropriate money for the purpose of eradicating insect pests, rodents, etc., see §69-25-33.

As to homestead exemptions, see §27-33-1, *et seq.*

As to power of county board of supervisors of a public health district to appropriate funds for support of county or district health departments, see §41-3-43, *et seq.*

19-9-115. Bond for special tax. When any special tax may be levied for county purposes, the board of supervisors may require the tax collector to give an additional bond for the faithful collection and payment of the same. 1942, 2908.

19-9-117. Tax levy in second judicial district of Harrison County; bonds. 1962, 257.

## CHAPTER 11. COUNTY BUDGET

19-11-5. Fiscal year. County fiscal years in Mississippi begin on October 1 and end on September 30 of each year. 1950, 247.

### 19-11-7. Preparation and publication of annual budget.

<Text of section applicable to any county which is exempt from the provisions of Section 19-2-3>

(1) The board of supervisors of each county of the State of Mississippi shall, at its August meeting of each year, prepare a complete budget of revenues, expenses and a working cash balance estimated for the next fiscal year, which shall be based on the aggregate funds estimated to be available for the ensuing fiscal year for each fund, from which such estimated expenses will be paid, exclusive of school maintenance funds, which shall be shown separately. Such statement of revenues shall show every source of revenue along with the amount derived from each source. The budget containing such statement of revenues and expenses shall be published at least one (1) time during August or September but not later than September 30 of the year in a newspaper published in the county, or if no newspaper is published therein, then in a newspaper having a general circulation therein.

(2) The board of supervisors shall not prepare a budget that reduces the county budget by more than twenty percent (20%) in the last year of the members' term of office if a majority of the members of the board are not reelected.

<Text of section applicable to any county which is required to operate on a countywide system of road administration as described in Section 19-2-3>

(1) The county administrator of each county of the State of Mississippi shall prepare and submit to the board of supervisors at its August meeting of each year a complete budget of revenues, expenses and a working cash balance estimated for the next fiscal year, which shall be based on the aggregate funds estimated to be available for the ensuing fiscal year for each fund, from which such estimated expenses will be paid, exclusive of school maintenance funds, which shall be shown separately and exclusive of the budget of the sheriff's department which shall be prepared by the sheriff. Such statement of revenues shall show every source of revenue along with the amount derived from each source. The budget, including the sheriff's budget, containing such statement of revenues and expenses shall be published at least one (1) time during August or September but not later than September 30 of the year in a newspaper published in the county, or if no newspaper is published therein, then in a newspaper having a general circulation therein.

(2) The county administrator shall not prepare a budget that reduces the county budget by more than twenty percent (20%) in the last year of the members' term of office if a majority of the members of the board are not reelected.

Laws 1940, Ch. 282, § 1; Laws 1950, Ch. 247, § 4; Laws 1954, Ch. 319, § 1; Laws 1958, Ch. 549, § 3; Laws 1970, Ch. 539, § 1; Laws 1985, Ch. 514, § 4; Laws 1986, Ch. 350, § 1; Laws 1988, 1st Ex. Sess., Ch. 14, § 12, eff. October 1, 1989. Amended by [Laws 2000, Ch. 605, § 1, eff. July 1, 2000](#); [Laws 2005, Ch. 334, § 1, eff. July 1, 2005](#).

**19-11-9. Form of budget.** The budget of expenses, revenues, and working cash balance shall be prepared upon forms to be prescribed by the state auditor, as the head of the state department of audit, or by the director thereof appointed by the state auditor. Such budget shall show in detail all estimates of the expenditures to be made out of the general county fund and its auxiliary funds, the road and bridge maintenance and construction funds, and the several bond and interest sinking funds for the bonded debt service in the next fiscal year. 1950, 225; 1985, HB 1226.

**Cross references--**

As to department of audit, generally, see §§7-7-201, *et seq.*

**19-11-11. Contents and approval of final budget, budget reduction restriction.**

(1) The budget as finally determined, in addition to setting out separately each general item of expenditure for which appropriations are to be made and the fund out of which the same is to be paid, shall set out the total amount to be expended from each fund, the anticipated working cash balance in the fund at the close of the present fiscal year, the estimated amount, if any, which shall accrue to the fund from sources other than taxation for the new fiscal year, and the amount necessary to be raised for each fund by tax levy during such fiscal year, and the working cash balance which the board determines necessary for the next fiscal year. The board of supervisors, not later than September 15th, shall then, by resolution, approve and adopt the budget as finally determined, and enter the same at length and in detail in its official minutes, and in like manner the said board shall enter the budget of estimated expenses for the county department of education which shall have been prepared and presented to the board by the county superintendent of education as provided by law.

(2) The board of supervisors shall not adopt a budget that reduces the county budget by more than twenty percent (20%) in the last year of the members' term of office if a majority of the members of the board are not reelected.

Laws 1950, Ch. 247, § 9; Laws 1985, Ch. 514, § 6; Laws 1986, Ch. 350, § 2, eff. from and after passage (approved March 20, 1986); [Laws 2005, Ch. 334, § 2, eff. July 1, 2005](#)

**19-11-13. Keeping of uniform system of accounts.** The clerk of the board of supervisors shall open and keep a regular set of books, as prescribed by the state department of audit. Such set of books shall be known as the "uniform system of accounts for the counties," ... and shall contain accounts, under headings, corresponding with the several headings of the budget, so that the expenditure under each head may at once be known. It shall be the duty of the said clerk to enter all receipts and expenditures in the said books or system of accounts monthly, post and balance the ledgers thereof at the end of each month so that all information needed for a comprehensive review of the operations of the county under budgetary limitations may be readily available. Such books shall be paid for out of the general county fund. 1950, 247.

**Cross references--**

As to duties of clerk in receiving, filing and paying claims, see §19-13-29.

As to department of audit, generally, see §§7-7-201, *et seq.*

**19-11-15. Expenditure of funds.** The board of supervisors shall at all times keep within the sum named in its budget and within the annual revenue, always seeking to lessen expenditures instead of exceeding revenue and budget estimates. The amount appropriated and authorized to be expended for any item in the budget must not exceed the amount actually estimated for such item, and the total amount appropriated and authorized to be expended from any fund, except for capital outlay, election expenses and payment of emergency warrants and interest thereon, or for extraordinary court expenses, shall not exceed the total amount actually estimated for all purposes. The total expenditures authorized to be made from any fund shall exclude reserves added thereto, and the total shall not, in any event, exceed the aggregate of the cash balance, excluding reserves, in such funds at the close of the previous fiscal

year, plus the amount of estimated revenues to accrue to such fund, as determined and fixed in the manner herein provided, and the amount which may be raised for such fund by a lawful tax levy during the current fiscal year. 1950, 247.

**19-11-17. Budget estimates not to be exceeded.** No expenditures shall be made, or liabilities incurred, or warrants issued, in excess of the budget estimates as finally determined by the board of supervisors, or as thereafter revised as is provided in Section 19-11-19 hereof. The board shall not approve any claim, and the clerk shall not issue any warrant for any expenditure in excess of the budget estimates thus made and approved ... or as thereafter revised ... except upon the order of a court of competent jurisdiction, or for an emergency as provided in Section 19-11-21 hereof. Any violation of the provisions of this section shall make the members of the board of supervisors voting for same, and the surety upon their official bonds, liable for the full amount of the claim allowed, the contract entered into, or the public work provided for, and the state auditor, as the head of the state department of audit, shall be authorized to sue for the recovery of the sum or sums so voted. 1950, 247.

**Cross references--**

As to penalty for claiming and receiving unauthorized compensation from county, see §19-13-35.  
As to liability of members of boards of supervisors for unauthorized appropriations, see §19-13-37.

**19-11-19. Revision of county budget.**

(1) When it shall appear to the board of supervisors that collection of anticipated revenues from taxation and/or other sources for any fund or funds of any county will be more than the amounts estimated, or when it appears that such revenues will be less than estimated, the board of supervisors may revise the budget of expenses at any regular meeting during the fiscal year by increasing or decreasing the items of said budget in proportion to the increase or decrease in the anticipated revenue collections and/or other sources of funds. When it shall appear to the board of supervisors that some item of the budget is in excess of the requirements of said item, and that the amount budgeted to such item will not be needed during the fiscal year, the board may, at any regular meeting, transfer funds to and from items within the budget when and where needed, but no such transfer shall be made from fund to fund, or from item to item, which will result in the expenditure of any money for a purpose different from that for which the tax was levied. However, revisions as herein authorized shall not be deemed to permit any expenditures in excess of the various items of the budget as then approved, and any expenditures made in excess of the budget as then approved shall be invalid, and subsequent revision shall not validate such expenditures. The revisions made in the budget, from time to time, shall be spread upon the official minutes of the board at the meeting at which any such revision is made.

(2) The reductions authorized under this section shall not exceed the reduction restrictions under [Section 19-11-11](#).

Laws 1950, Ch. 247, § 14, eff. August 31, 1950; [Laws 2005, Ch. 334, § 3, eff. July 1, 2005](#).

**19-11-21. Emergency expenditures.** This section defines emergencies because of which boards of supervisors, voting unanimously, may so declare, and make such expenditures as are found to be necessary, or incur the liabilities, or borrow the money, to meet such emergency, all without further notice or hearing, and may revise the budget accordingly. These emergencies are those caused by fire, flood, storm, epidemic, riot or insurrection, or caused by an inherent defect due to defective construction, or when the immediate preservation of law and order or of public health is necessary, or when the restoration of a condition of usefulness of any public building or other property which has been destroyed by accident or otherwise, is necessary, or when mandatory expenditures required by law must be met. The clerk shall issue emergency warrants, drawn against the special fund or funds properly chargeable with such expenditures. If at the time there be not sufficient funds to pay such warrants, the board of supervisors may borrow not to exceed the amount of the authorized emergency expenditure, and in such event the board may levy a special tax, not to exceed two mills on the dollar, for the repayment of such

notes, which shall be made to mature not later than March 25th next succeeding the date of issuance. 1966, 307.

19-11-23. Monthly report of clerk. The clerk shall submit to the board of supervisors at every regular monthly meeting, a report showing the expenditures and liabilities incurred against each separate budget item during the preceding calendar month, and for the fiscal year to the first of the current month, together with the unencumbered balance in each fund. He shall also set forth in detail the receipts from property and other taxes and from all other sources by each fund for the same period. 1950, 247.

19-11-25. When appropriations made under budget lapse. All appropriations of funds under the provisions of a budget for a fiscal year shall lapse at the end of such year, and all books shall close September 30. All disbursements and appropriations made on or after October 1, other than appropriations for uncompleted improvements in process of construction, shall be charged to the current (new) budget and all funds actually received on and after October 1 shall be credited to the current (new) budget. However, when the delay in presentation of any claim is caused by the willful act of a member of the board of supervisors or other official of the county, such member or official shall be liable on his official bond, to the claimant thereof, for the amount of same. In the administration of the Homestead Exemption Law of 1946, however, the time shall be extended to October 20 following the close of the fiscal year, for both the payment of claims and the accounting of revenue, belonging to and/or accruing to the immediately preceding year. 1954, ex, 36.

19-11-27. Certain expenditures for last year of term limited. No board of supervisors of any county shall expend from, or contract an obligation against, the budget estimates for road and bridge construction, maintenance and equipment, made and published by it during the last year of the term of office of such board, between the first day of October and the first day of the following January, a sum exceeding 1/4 of such item of the budget made and published by it, except in cases of emergency. The clerk of any county is prohibited from issuing any warrant contrary to the provisions of this section. No board of supervisors nor any member thereof shall buy any machinery or equipment in the last six months of their or his term unless or until he has been elected at the general election of that year. The provisions of this section shall not apply to a contract, lease or lease-purchase contract executed pursuant to the bidding requirements in Section 31- 7-13 and approved by a unanimous vote of the board. Such unanimous vote shall include a statement indicating the board's proclamation that the award of the contract is essential to the efficiency and economy of the operation of the county government. 1984, 480; 2000, 428; 2003, 539.

## **CHAPTER 13. CONTRACTS, CLAIMS AND TRANSACTIONS OF BUSINESS WITH COUNTIES**

19-13-11. Contracts not to be made in vacation; approval. A board of supervisors shall not authorize any one or more members of such board, or other person, to let or make contract for the building or erection of public works of any description, or for working public roads, in vacation, or during a recess of said board except ... in cases of emergency when a bridge or road has been or is about to be damaged by floods or otherwise, and in other special cases. All other contracts shall be made and approved by said board in open session, and the board shall accept the lowest responsible bid. ... All contracts made in violation of any of the provisions of law shall be void. 1942, 2924.

### Cross references--

As to contracts for construction and maintenance of public roads and bridges, see §65-7-107.

19-13-15. Payment for work not to be made until inspection; partial payments.

[Note: For contracts executed prior to July 1, 1984, see code book under this statute.

For contracts executed on or after July 1, 1984, the following provisions apply:]

(1) The board of supervisors shall never make a payment to any contractor for building or repairing a bridge, or for doing any work on a public road, public building or other public work, where the contract price exceeds two hundred dollars (\$200.00) but is less than one thousand dollars (\$1,000.00), without first having the same inspected and accepted by a committee, and having the certificate of the committee, under oath filed and entered on the minutes of the board. Such committee shall be appointed by the board of supervisors for that purpose and shall consist of at least two members of the board of other districts than the one in which the work is done. The board shall not be bound by the acceptance of the committee, and shall never pay for the work in such cases until the specifications therefor are complied with and the work completed. In all cases of public work let by the board of supervisors where the contract price exceeds one thousand dollars (\$1,000.00), the board may contract so as to provide for making partial payments to the contractor therefor as the work progresses. In no case shall the retained amount of such partial payments be less than two and one-half percent nor more than ten percent of the value of the work done and material used in the performance of the contracts, such value to be estimated by some competent person employed by the board to superintend such work, and not until the superintendent shall furnish to the board such estimate, in writing, on his oath as to the correctness of such estimate, which estimate, with the oath annexed thereto, shall be filed with and recorded in the minutes of the board; provided, however, the amount retained by the prime contractor from each payment due the subcontractor shall not exceed the percentage withheld by the board of supervisors from the prime contractors. Before such person employed by the board shall enter upon the discharge of the duty of supervising such work, and before he shall furnish any estimate as to the value of the work done, he shall enter into bond in such penalty as may be fixed by the board, with sufficient sureties, to be approved by the board, and conditioned for the faithful performance of his duties as superintendent of such work, which bond shall be filed and preserved by the board, and shall be liable to suit thereon in the name of the county, for any misfeasance or malfeasance on the part of such superintendent touching the performance of his duties. The board shall not be bound by the estimate of such superintendent, nor shall the making of any partial payments on any public work, as above provided, be construed as an acceptance of the work and materials so inspected by such superintendent. The board shall not make the final payment on any such works or building without first having the same inspected as a whole and accepted by a committee of the board, as hereinbefore provided, and until the specifications are complied with and the work completed.

(2) The board of supervisors may make partial payments for the work done and materials used in performance of all contracts for public buildings and public works upon certification in writing to the board by the architect or engineer on the project, and on all such contracts for work done and materials used in performance of said contracts a percentage of not less than two and one-half percent of each estimate thereon paid shall be retained until final acceptance of such project.

(3) On any contract as described in this section, except for a contract for building or repairing a bridge or doing any work on a public road, of which the total amount is seven hundred fifty thousand dollars (\$750,000.00) or greater, ten percent shall be retained until the work is at least fifty percent (50%) complete, on schedule and satisfactory in the architect's and/or engineer's opinion. At such time fifty percent (50%) of that retainage shall be returned to the prime contractor for distribution to the appropriate subcontractors and suppliers who are on schedule and performing satisfactorily, in the opinion of the prime contractor. Thereafter, a five percent (5%) retainage shall be withheld. 1976, 450; 1979, 454; 1984, 406; effective 7/1/84; and shall apply only to contracts executed on or after July 1, 1984.

Cross references--

As to inspection of roads, bridges, and ferries, see §65-19-41.

As to payment of road contractors, see §65-19-41.

19-13-17. Purchase of road equipment. [With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:] A board of supervisors purchasing tractors, trucks and other machinery or equipment for constructing, reconstructing and maintaining the public roads, shall not pay, or agree or contract to pay, more therefor than the then prevailing manufacturer's retail list price at the factory, plus freight and sales tax, any federal excise tax, and a reasonable service and assembly charge. The board may provide for the payment of all or any portion of such price over the useful life of the property as determined according to the most recent asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and regulations thereunder or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines; provided, however, that no installment contract described in this sentence may be executed by the board during the last year of the board's term of office. All such deferred payments shall be represented by notes of the county, or a separate road district or supervisors district thereof, as the case may be, to be dated at or after the time of delivery of the machinery, bearing interest at a rate not exceeding that allowed in Section 75-17-105, from date until paid, and payable to the seller of the machinery, or the purchaser of the notes, out of the road fund of the county or district. All such notes for any purchase shall be payable on the fifteenth day of June or the fifteenth day of December, the first to be payable not more than one year after date, and none of such notes shall be made to mature later than the fifteenth day of June of the last year of the term of office of the members of the board making such purchase. Said notes shall be signed by the president of the board, and countersigned by the clerk thereof, under the seal of the county. Said notes may be validated in the manner provided by law, and may be delivered to the seller of the machinery, or to any person who will purchase the same at a lower rate of interest than said seller is willing to accept, or at a like rate of interest plus a premium, any money received from a sale of such notes to be applied to the payment of the balance due on said machinery, and any surplus to be paid into the road fund of the county or district, as the case may be. On the first business day of each month in which any such note matures, the clerk shall docket the principal amount of such note, with interest thereon to maturity, as a claim against the county, in favor of the last known holder of such note, and the board shall allow the same at its regular meeting held that month without further presentation, proof or demand, to be paid as other claims in its proper order.

In all advertisements for bids ... under this section, the board ... shall insert in such advertisements a statement as to whether or not the road machinery or equipment purchase is to be paid for in cash, or is to be purchased upon installment payments as authorized herein. All indebtedness shall be incurred under the provisions hereof may be incurred by the board without the necessity of calling an election thereon, receiving a petition therefor, or giving notice of the intention of the board to incur such indebtedness. However, no indebtedness shall be hereafter incurred under the provisions of this section which, when added to the amount of notes incurred hereunder which are then outstanding shall require the use in the retirement of such notes in any one (1) year of more than fifty percent (50%) of the amount available to the county, separate road district, or supervisors district, as the case may be, for the maintenance of roads and bridges for the preceding fiscal year. The amount available for the maintenance of roads and bridges shall be deemed to be the sum of the amounts produced by the county's or district's share of the state gasoline and motor vehicle privilege license tax, less that amount required by law to be set aside for the payment of bonds, together with the amount produced by the road and/or bridge ad valorem tax levy for such county or district, as the case may be. Nothing herein, however, shall be construed to invalidate any indebtedness previously incurred and now outstanding.

When any county, separate road district, or supervisors district has heretofore incurred, or shall hereafter incur an indebtedness under the provisions of this section for the purchase or road machinery or equipment, it shall be the duty of the chancery clerk of such county to deduct each month from the distribution of the state gasoline tax which would otherwise be paid to such county or district (but not from the amount required by law to be set aside for the payment of bonds) a proportionate amount of the sum which will be due as the principal of and interest upon the next installment to be paid on such

indebtedness, it being the intention of this section to provide that if the indebtedness be payable in semiannual installments then there shall be set aside each month out of said distribution of state gasoline tax one-sixth (1/6) of the amount which will be necessary to pay the principal of and any interest upon the next installment to become due, and that a like method of computation shall be followed in all cases in determining the amount to be so set aside. All amounts so deducted under the provisions of this section shall be kept in a separate fund of the county, separate road district, or supervisors district, as the case may be, and shall be expended for no other purpose than the payment of the principal and interest of said indebtedness until the same be paid. Should said separate fund so created not be sufficient for the payment of the next maturing installment of principal and interest when the same becomes due, there shall be transferred thereto from the road and bridge fund such amount as will make the separate fund sufficient for the purpose.

If any person, firm, corporation or association, or any agent or employee thereof, shall willfully claim and receive any amount from any county, ... as the purchase price of, or as any installment upon the purchase price of, any road machinery or equipment where the provisions of this section have not been complied with, or if any member of the board of supervisors shall knowingly vote for the payment of any unauthorized claim for the purchase price, or any installment upon the purchase price, of any road machinery or equipment, then such person, ... shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding double the amount of such unauthorized claim, or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

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

A board of supervisors purchasing tractors, trucks and other machinery or equipment for constructing, reconstructing and maintaining the public roads may provide for the payment of all or any portion of the price thereof over the useful life of the property as determined according to the most recent asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and regulations thereunder or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines; provided, however, that no installment contract described in this sentence may be executed by the board during the last year of the board's term of office. All such deferred payments shall be represented by notes of the county, to be dated at or after the time of delivery of the machinery, bearing interest at a rate not exceeding that allowed in Section 75-17-105, ... from date until paid, and payable to the seller of the machinery, or the purchaser of the notes, out of the road fund of the county. All such notes for any purchase shall be payable on June 15, or December 15, the first to be payable not more than one (1) year after date, and none of such notes shall be made to mature later than June 15 of the last year of the term of office of the members of the board making such purchase. Said notes shall be signed by the president of the board, and countersigned by the clerk thereof, under the seal of the county. Said notes may be validated in the manner provided by law, and may be delivered to the seller of the machinery, or to any person who will purchase the same at a lower rate of interest than said seller is willing to accept, or at a like rate of interest plus a premium, any money received from a sale of such notes to be applied to the payment of the balance due on said machinery, and any surplus to be paid into the road fund of the county. On the first business day of each month in which any such note matures, the clerk shall docket the principal amount of such note, with interest thereon to maturity, as a claim against the county, in favor of the last known holder of such note, and the board shall allow the same at its regular meeting held that month without further presentation, proof or demand, to be paid as other claims in the proper order.

In all advertisements for bids for road machinery or equipment under this section, the board of supervisors shall insert in such advertisements a statement as to whether or not the road machinery or equipment purchased is to be paid for in cash, or is to be purchased upon installment payments as authorized herein. All indebtedness incurred under the provisions hereof may be incurred by the board without the necessity of calling an election thereon, receiving a petition therefor, or giving notice of the intention of the board to incur such indebtedness. However, no indebtedness shall be hereafter incurred



under the provisions of this section which, when added to the amount of notes incurred hereunder which are then outstanding shall require the use in the retirement of such notes in any one (1) year or more than fifty percent (50%) of the amount available to the county for the maintenance of roads and bridges for the preceding fiscal year. The amount available for the maintenance of roads and bridges shall be deemed to be the sum of the amounts produced by the county's share of the state gasoline and motor vehicle privilege license tax, less that amount required by law to be set aside for the payment of bonds, together with the amount produced by the road and/or bridge ad valorem tax levy for such county. Nothing herein, however, shall be construed to invalidate any indebtedness previously incurred and now outstanding.

When a county has heretofore incurred, or shall hereafter incur an indebtedness under the provisions of this section for the purchase of road machinery or equipment, it shall be the duty of the chancery clerk as county treasurer to pay the principal of and interest upon the indebtedness in semiannual installments from the road maintenance and bridge funds.

If any person ... shall willfully claim and receive any amount from any county as the purchase price of, or as any installment upon the purchase price of, any road machinery or equipment where the provisions of this section have not been complied with, then such person, ... shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding double the amount of such unauthorized claim or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment. 1983, 494; 1983, 541, 1988 Ex Sess, 14, §13, 1993, 556. 1995, 445.

Cross references--

As to a prohibition against installment buying, see §65-7-97.

Individual liability of supervisors for purchasing supplies, equipment, or heavy equipment in violation of law, see §31-7-48.

Purchases of commodities without competitive bidding where contract price does not exceed approved state contract price, see §31-7-67.

Purchase of motor vehicles from local dealers at price not in excess of 3% over dealer invoice cost, see §31-7-69.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see §99-19-73.

19-13-19. Purchase of surplus road equipment from federal agencies. 1956, 182.

19-13-21. Repairs of road equipment. The board of supervisors may at any time have its road machinery and equipment repaired, or may purchase repair parts therefor ... whether or not there is then a sufficient amount in the fund out of which the cost thereof must be paid. The claim for the repairs or parts shall be allowed in due course when filed, and be paid in its proper order as other claims. However, if any repairs herein permitted to be made after the first day of July of the last year of the term of office of the members of the board making such repairs shall exceed the sum of Five Thousand Dollars (\$5000.00), the repairs shall not be made unless and until the board of supervisors, or a majority of them, shall have authorized the making of the repairs at a regular meeting of the board, or a special meeting called for that purpose. 1950, 246; 2003, 539.

19-13-23. Presentation of claims against county for allowance. Any person having a just claim against any county shall file the same on or before the last day of the month for which such claim may be payable, with the clerk of the board of supervisors for presentation to the board for allowance. Said claim shall be properly dated and itemized, and shall be accompanied by any evidence of performance of delivery as required by Section 19-13-25. ... Claims may be amended ... and the claimant may appear before the board ... if desired. 1950, 244, 247.

19-13-25. Itemization of claims for sales of personal property. All claims filed for allowance by a board of supervisors which are based upon a sale or sales of any personal property shall

be sufficiently itemized to show in detail the kind, quantity and price of the articles sold. Claims covering the sale of lumber shall ... show in detail the grade or grades thereof, the amount of each different size, together with the total number of feet of each different grade and size, and the price per thousand feet ... stated separately for each different grade and size. ... Each itemized invoice or statement ... shall be accompanied by either (1) a receipt, in like detail, properly dated and signed by a public officer, agent or employee authorized to accept delivery of such property, or (2) a bill of lading or shipping receipt issued by a common carrier making delivery of such property, the rules of which carrier required a receipt to be given by the consignee on delivery, or (3) an affidavit of the seller, his agent, or employee, showing how, where, when, and to whom delivery ... was made. (Details are given as to what the affidavit, if used, must contain.) No claim not first filed with the clerk ... shall be allowed until the seller has filed such claim in accordance with the requirements of this section. 1950, 244; 1973, 365.

Cross references--

As to payment of claim which clerk has failed to enter on docket of claims, see §19-13-27.

As to disposition of claims by board of supervisors, see §§19-13-31, 19-13-43.

As to licensing of persons selling personal property to county, see §§19-13-17, *et seq.*

19-13-27. Docket of claims. The clerk of the board of supervisors shall be furnished with and shall keep a "docket of claims," in which he shall monthly enter all demands, claims and accounts against the county in the order in which they are filed. ... All demands, claims and accounts filed against the county shall be preserved by the clerk as a permanent record, and numbered to correspond with the warrants to be issued therefor, if allowed. ... Any claimant whose claim is not allowed because of the failure of the clerk to keep the docket of claims, shall be entitled to recover the amount of such claim from such clerk on his official bond. Failure of the clerk to keep said docket of claims shall also render the clerk liable to the county in the amount of \$500.00, and the auditor of public accounts, upon information to the effect that such claims docket has not been kept, shall proceed immediately against such clerk for the collection of said penalty. 1950, 244; 1985, 514.

Cross references--

As to duties of clerk in receiving, filing and paying claims, see §§19-13-23, 19-13-29.

As to disposition of claims by board of supervisors and payment by clerk, see §§19-13-31, 19-13-43.

19-13-29. Duties of clerk in receiving, filing and paying claims. When claims against the county shall be presented to the clerk ... he shall mark "filed" on each such claim, as of the date of presentation, and shall audit, number, and docket the same consecutively under the heading of each fund in the book of accounts required by Section 19-11-13 out of which the same shall be paid. The said clerk shall file the claims in like manner ... and preserve ... them ... as records of his office. Each year's records shall be kept separate and begin with a new number for each year. ...

In issuing any warrant ... on allowance by the board ... to pay any one of the claims so numbered and kept, said clerk shall enter the number of the claim and designate the fund against which allowed in the body of the warrant so that the claim may be easily found and identified, and so that possible duplication can be avoided.

Failure on the part of the clerk to perform the duties required of him in this connection shall make him not entitled to compensation for such duty ... and the board is prohibited from making such allowance, but, instead, the board shall be authorized to employ a competent person to perform the duties that the clerk has failed to perform ... and pay such person the compensation now provided by law (either as clerk or as county auditor) for such services.

Any claim filed with the clerk on or before the last working day in the month prior to the next regular meeting of the board of supervisors at which claims are considered pursuant to Section 19-13-31

shall be so docketed as to be considered by the board of supervisors at such meeting. 1950, 247; 1986, 489.

Cross references--

As to presentation of claims against county for allowance, see §19-13-23.

As to claims warrants, see §19-13-43.

**19-13-31. Disposition of claims.** At each regular meeting of the board of supervisors, the claims docket shall be called and all claims then on file, not previously rejected or allowed, shall be passed upon in the order in which they are entered upon the docket. All claims found ... to be illegal, and which cannot be made legal by amendment, shall be rejected or disallowed. All other claims shall be audited, and all those found proper ... shall be allowed in the order in which they appear on the docket, whether or not there shall then be sufficient money in the several funds on which warrants must be drawn for their payment. Those claims as to which a continuance is requested by the claimant, and those found to be defective but which might be perfected by amendment, shall be continued. When any claim is allowed ... the board ... shall see that the claims docket correctly specifies the name of the claimant, the number of the claim, the amount allowed, and on what account. ... The president or vice-president ... of the board ... shall check the claims docket at the close of each day's business ... shall verify the correctness of all docket entries made during the day. He shall sign his name at the end of the docket entries covering the day's business, but it shall not be necessary that he sign the docket under each claim allowed or otherwise disposed of. The board shall enter an order on its minutes approving the demands and accounts allowed, but it shall only be necessary to refer to such demands and accounts by the numbers as they appear on the claims docket.

If the board shall reject any claim ... or refuse ... to pass finally thereon, the claimant may appeal to the circuit court, or may bring suit against the county on such claim. In either case, if the claimant recovers judgment and notifies the clerk of the board of supervisors, and if no appeal be taken to the Supreme Court, the board shall allow the same, and a warrant shall be issued therefor.

If the terms of the invoice provide a discount for payment in less than forty-five days, boards of supervisors shall preferentially process it and use all diligence to obtain the savings by compliance with the invoice terms, if it would be cost effective.

In processing claims of vendors, the board of supervisors shall be subject to the provisions of Sections 31-7-301, 31-7-305, 31-7-309, 31-7-311 and 31-7-313.

(2) Notwithstanding the provisions of this section to the contrary, the chancery clerk may be authorized by an order of the board of supervisors entered upon its minutes, to issue pay certificates against the legal and proper fund for the salaries of officials and employees of the county or any department, office or official thereof without prior approval by the board of supervisors as required by this section for other claims, provided the amount of the salary has been previously entered upon the minutes by an order of the board ... or by inclusion in the current fiscal year budget and provided the payment thereof is otherwise in conformity with law and is the proper amount of a salaried employee and for hourly employees for the number of hours worked at the hourly rate approved on the minutes. 1959, ex, 22; 1986, 489, 1989, 358.

Cross references--

As to duties of clerk in receiving, filing and paying claims, see §19-13-29.

**19-13-33. Certain allowances unlawful.** It shall be unlawful for the board of supervisors to allow a greater sum for any account, claim, or demand ... than the amount actually due ... according to the legal or ordinary cash compensation for such services rendered, or for salaries or fees of officers, or for materials furnished, or to issue county warrants upon such accounts, claims or demands, when

allowed for more than the actual amount due. ... Any illegal allowance ... may be inquired into ... whenever the matter may come into question in any case. 1942, 2942.

19-13-35. Penalty for unauthorized appropriations. If any person shall claim and receive from the board of supervisors any fee or compensation not authorized by law, or if any member of such board shall knowingly vote for the payment of any such unauthorized claim, or any appropriation not authorized by law, he shall be subject to indictment, and, on conviction, be fined not exceeding double the amount of such unlawful charge, or be imprisoned in the county jail not more than three months, or both. 1942, 2943.

Cross references--

As to authority of grand jury to examine records of county officers, see §13-5-57.

19-13-39. How member may avoid liability. Any member of the board of supervisors may have his vote, on any question before the board, recorded on the minutes thereof at the time of such vote, and a member who voted against any unauthorized appropriation of money shall not be liable therefor. 1942, 2945.

19-13-41. Supervisors to furnish printed blank warrants. The board of supervisors shall provide the clerk with sufficient printed warrants ... "bound in book form" ... "with a sufficient blank margin," to be used in drawing money out of the county treasury ... and of the same type ... to draw money out of the school fund. First appeared 1857, 59; 1942, 2946.

19-13-43. Warrants; assignment thereof. Warrants shall be drawn by the clerk, under his seal of office, in favor of the claimants, on all demands, claims and accounts allowed by the board, in the order of their allowance, against the several funds in the county depository from which such allowed claims must be paid. The board of supervisors of any county may, in its discretion, adopt the use of a standard check signing machine to be used in lieu of the manual signing of warrants by the clerk, under such terms and conditions as the board shall deem meet and proper for the protection of the interest of the county. No warrant shall be signed, removed from the warrant book, nor delivered by the clerk until there is sufficient money in the fund upon which it is drawn to pay the same and all prior unpaid warrants drawn upon that fund, whether delivered or not. The owner of any claim so allowed may, either before or after allowance, transfer the same by assignment, and the holder of such assignment shall be entitled to receive the warrant therefor at the proper time by presenting such assignment to the clerk at any time before delivery of such warrant to the original claimant. 1982, 374.

19-13-45. Registration and payment of warrants. All county warrants shall be registered in a book kept for that purpose, and the fact of registration shall be noted on the back of the warrant. The depository shall pay warrants in the order of their registration, unless there are sufficient funds in the treasury to pay all registered warrants. This order of payment shall not apply to jury or witness certificates, nor to warrants used in payment of taxes. A warrant not presented for payment within one year after date of its registration shall lose its priority. When warrants so used in the payment of taxes are turned over to the county depository by the tax collector in settlement the said tax collector shall make a list of said warrants, showing date of registration and showing by whom and when said warrants were so paid for taxes, and said list shall have attached to it the affidavit of the tax collector that said warrants were actually received by his office in payment of taxes from the parties and on the dates as set out in said list. 1912, 206.

19-13-47. Oath required. The county depository shall not receive a jury or witness certificate nor a school warrant from ... any county officer in settlement unless the officer make oath that

he received same in payment of taxes or that he paid the holder the full sum of its face value, etc. 1942, 2948.

19-13-49. Claims for livestock killed or injured in dipping process. Any owner of livestock making claim for damages for the death or injury of same ... as a result of dipping for the eradication of the cattle tick, shall first make proof of his loss to the board of supervisors. ... Any payments made thereon shall be made from the general county fund. 1917, 38.

19-13-51. Defective bridges, causeways, and culverts--damages allowable for injury suffered therefrom. The board of supervisors of any county shall have the power, in its discretion, to allow damages sustained to stock and other property injured or destroyed while traveling along the public highways maintained by the county where such loss is caused by defects in a bridge, causeway or culvert in such highway. No such payment shall be allowed unless such defect in such bridge, ... was the proximate cause of the injury and was not apparent or discoverable by the exercise of reasonable diligence, and no such payment shall be made unless such defect had existed for such a time that the failure to remedy or repair the same amounts to gross carelessness on the part of the county. Such payments shall be made from the county road and bridge funds. 1988 Ex Sess, §14.

19-13-53 and 19-13-55. Defective bridges, causeways, and culverts--presentation of claims; payment of claims. How claims are filed; publication of pendency of claims; four-fifths vote necessary. 1914, 203.

19-13-101. Definition of "stationery." The term stationery, as applied to purchases for the counties of the state, includes everything properly so called, and the boards of supervisors shall provide for everything in contracts for stationery as herein defined that can be conveniently so purchased. 1950, 246; 1968, 506.

19-13-107. Out of state contracts. If the board of supervisors is satisfied that bids for printing submitted by resident printers are materially more expensive ... than prevails in adjoining states (the board) may require such bids to be lowered ... and if the resident bidders refuse so to do ... the board may make temporary contracts with printers located outside of the state. 1936, 222.

19-13-109 through 19-13-119. Bids may be rejected; bids and contracts to be definite; rejection or bids when bidder is unfair; bonds required of contractors; payment of bills; penalty for noncompliance with the law. The board of supervisors may reject any and all bids ... and no bid shall be considered unless ... accompanied by a certified check ... for at least \$25.00, or said sum in cash. 19-13-115 All bids and contracts. ... must be specific ... and the board shall give preference to those bids which are most specific. 1968, 506. If it appears ... that there has been a combination between the bidders, or that the bidding is purposely unfair ... all bids may be rejected. 1968, 506. The successful bidder shall execute a bond to be approved by the board ... 1968, 506. All accounts and bills ... shall be approved and allowed as other claims against the counties are required to be, and warrants issued for the payment out of the county treasury. 1968, 506. Members of the board of supervisors failing to comply with the provisions of the (printing bid and contract law) shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$10.00 or imprisonment, or both. 1916, 135; 1968, 506.

## **CHAPTER 15. RECORDS AND RECORDING**

19-15-1. Preservation of essential public records of county governments.

The Legislature declares that records containing information essential to the operation of government and to the protection of the rights and interests of persons should be protected against the destructive effect of all forms of disaster whether fire, flood, storm, earthquake, explosion or other disaster, and whether such occurrence is caused by an act of nature or man, including an enemy of the United States. It is, therefore, necessary to adopt special provisions for the preservation of essential records of counties, and this section shall be liberally construed to effect its purposes. However, it is the express intention of this section that the provisions herein contained are not mandatory but are permissive only and shall authorize preservation of records as herein contemplated within the discretion of the governing authorities of the counties of the state and in accordance with a records control schedule approved by the Local Government Records Committee as provided in Section 25-60-1.

The board of supervisors of any county is hereby authorized and empowered in its discretion to preserve essential records, or any portion thereof, of the county deemed by the board of supervisors to be an essential record necessary to the operation of government in an emergency created by disaster or containing information necessary to protect the rights and interests of persons or to establish and affirm the powers and duties of governments in the resumption of operations after the destruction or damage of the original records.

The board of supervisors of any county is authorized and empowered in its discretion to make and enter into contracts and agreements with any person, firm or corporation to make and prepare copies or duplicates of records, and, subject to the standards established by the Department of Archives and History, to provide for and enter into contracts concerning the safekeeping and preservation of copies or duplicates at points of storage at a location approved by the Local Government Records Committee.

In the event that the original record or records shall have been destroyed, the copy or reproduction shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. An enlargement or facsimile of a reproduction is likewise admissible in evidence if the original reproduction is in existence and available for inspection under direction of court.

The board of supervisors of any such county is authorized and empowered, in its discretion, to appropriate and expend monies out of the available funds of the county for the purposes of this section. 1963, 1st Ex Sess, 11; 1996, 537; 2006, 495.

### 19-15-3. Reproduction of certain county records; destruction of originals.

Whenever any county records, documents, files or papers whatsoever are required by law to be preserved and retained, or which are necessary or desirable to be preserved or retained, the board of supervisors of the county shall have the power and authority, in its discretion, to destroy or dispose of any records, documents, files or papers after having reproductions made thereof as hereinafter provided and in accordance with a records control schedule approved by the Local Government Records Committee as provided in Section 25-60-1.

Whenever the board of supervisors of any county shall desire to destroy or dispose of any records, documents, files or papers, the board shall first cause the same to be reproduced under standards established by the Department of Archives and History using microfilm, microfiche, data processing, computers, magnetic tape, optical discs or other medium. If the county where records and the like are to be destroyed or disposed of does not have or own the necessary equipment to reproduce same, the board of supervisors shall be authorized and empowered to enter into a contract for the reproduction thereof, which contract may be for a period of not more than twelve (12) months from the date thereof. The contract shall be awarded to the lowest and best bidder after the board of supervisors shall have advertised its intentions of awarding such contract by publication of a notice thereof once each week for

at least three (3) consecutive weeks in some newspaper published or having a general circulation in such county.

After reproduction of the records and the like shall have been made, the board of supervisors shall have the power and authority to destroy and dispose of the originals thereof after spreading upon its minutes certification that the reproductions are true and correct copies and disposal is in accordance with a records control schedule approved by the Local Government Records Committee as provided in Section 25-60-1; the reproductions shall thereafter be preserved, retained and stored by the board of supervisors as a record of the county, and provision shall be made for preserving, examining and using them. Any reproductions or copy of any original record or other documents shall be deemed to be the original record for all purposes and shall be admissible as evidence in all courts or administrative agencies. A facsimile, exemplification or certified copy thereof shall, for all purposes set forth herein, be deemed to be a transcript, exemplification or certified copy of the original record.

The board of supervisors of any county is hereby authorized to pay all expenses incurred in reproducing records and the like and in making provision for the preservation, retention and storage of the reproductions from the general fund of the county.

When any of the records and the like of which reproductions are made under the provisions of this section are declared by law or are by their nature confidential and privileged records, then the reproduction thereof shall likewise be deemed to be confidential and privileged to the same extent as the original records and the like.

Nothing herein shall be construed to require the keeping and preservation of any records and documents which are not required by law or a records control schedule to be kept and preserved, or which it is not desirable or necessary to keep and preserve, and in all cases where records and the like are authorized by law to be destroyed or disposed of, they may be disposed of as authorized by a records control schedule approved by the Local Government Records Committee as provided in Section 25-60-1. This act shall take effect and be in force from and after July 1, 2006. 1950, 240; 1996, 537; 2006, 495.

#### 19-15-5. Photostating or other photorecording equipment for chancery clerks.

The board of supervisors of any county is authorized and empowered, in its discretion, to purchase all the necessary equipment and supplies needed for the electronic storage of documents out of the general fund of said county. Before purchasing such equipment advertisement shall be made, as required by law for letting of bids, and the board shall purchase the equipment from the lowest and best bidder on the type machine desired to be purchased. 1952, 225; 1994, 521.

#### Cross references--

As to authority of board of supervisors to contract for reproduction of certain documents, see §19-15-3.

19-15-7. General index of disposed chancery and probate cases; filing system for papers in such cases. The board of supervisors of any county may, when in its opinion the interest of the county would be served thereby, have made a complete index of all chancery court cases and probate court causes which have been finally disposed of in the courts of the county. Said board may provide for the proper storage and preservation of the original papers in all cases which have been finally disposed of in the chancery court or the probate court of the county. Such general index shall be prepared by the chancery clerk, and the necessary filing system shall be installed under his direction. The board of supervisors shall be authorized to pay to the chancery clerk such reasonable compensation therefor as the board may deem proper. 1946, 382; 1994, 521.

**19-15-9. Rebinding of record books; transcription of deteriorating record books.**

The board of supervisors shall have rebound all record books of conveyances and of last wills and testaments, of indexes thereto, and all other record books of the county that need to be rebound. The board shall have transcribed into new record books all conveyances and other instruments of record, and indexes thereto, that need to be transcribed for preservation. The cost thereof shall be paid out of the county treasury. 1942, 2900.

**Cross references--**

As to procedures for supplying lost records, see §25-55-3.

**19-15-11. Record of abstracts of title.** The board of supervisors ... may ... procure by purchase or have made, a complete abstract of titles to land in the county, and may provide all books necessary for the purpose. The costs thereof shall be paid out of the county treasury. Such abstracts ... shall be kept in the office of the chancery clerk ... as a public record. 1942, 2902.

## **CHAPTER 17. COUNTY AUDITORS**

**19-17-1. The clerk is county auditor.** The clerk of the board of supervisors is county auditor, and he shall perform the duties of auditor as prescribed by law. 1942, 3003.

**Cross references--**

As to salaries of county auditors, see §25-3-19.

As to county budgets, see §§19-11-1, *et seq.*

As to department of audit, generally, see §§7-7-201, *et seq.*

**19-17-3. To keep certain ledger accounts.** The county auditor shall keep a well-bound book, in which he shall keep an account with each county office, and with the courthouse, jail, and poorhouse, and wherein he shall enter allowances for each. He shall keep accounts of allowances made for mileage and pay for the members of the board of supervisors and of jurors, and of witnesses for the state, each separately, as well as expenditures on account of each part of every public road under a separate contract or other separate link. 1942, 3004.

**Cross references--**

As to preparation of warrants for disbursement of district road funds, see §65-19-39.

As to chancery clerk being clerk of board of supervisors, see §§19-3-27, *et seq.*; Const 170.

**19-17-5. To keep depository funds ledger.** The county auditor shall keep, as a record in his office, a book to be styled "depository funds ledger" in which he shall record all receipts and disbursements of county funds, and he shall compare and reconcile said "depository funds ledger" with the depository's report of funds in the county on deposit, as shown by such report, quarterly and/or at such other times as may be required by the board of supervisors. 1946, 337.

**19-17-7. To keep accounts of officers.** The county auditor shall keep a suitable book, in which he shall enter the accounts of all officers whose duty it is to receive or collect any money for the county, exhibiting the debits and credits, and what they represent, whether money, warrants, or bonds, and whether belonging to the general or any special fund. Such book shall be at all times subject to the inspection of any citizen of the county. 1942, 3006.

**19-17-9. To issue receipt warrants.** It shall be the duty of the county auditor to issue his receipt warrant to any person desiring to pay money into the county treasury, specifying the amount and



the particular account on which such payment is to be made, and the fund to which it belongs. However, a receipt warrant shall not be credited to the person making such payment, nor be charged to the county depository, until there shall be produced and filed with such auditor a duplicate receipt, signed by the depository, for the sum specified in such receipt warrant. 1942, 3007.

Cross references--

For requirement that county depository furnish triplicate receipts to depositors, see §27-105-321.

19-17-11. To settle with officers, and exact payment. The county auditor shall examine, audit, and settle the accounts of the collector of taxes payable into the county treasury, and of all officers receiving funds payable into same, and shall require all sums due from any officer to be paid into the county depository on the day such funds are collected or on the next business day thereafter. In all cases, on issuing his receipt warrant for the payment of any money into the county treasury, he shall charge the person to whom the warrant is issued with its amount, if not before charged to such person, and on presentation to him of the duplicate receipt of the county depository, he shall charge it with such sum, and credit the person to whom the receipt warrant was issued with the sum. If any officer whose duty it is to make any payment into the county treasury, shall fail to do so as prescribed by law, the county auditor or the board of supervisors shall forthwith institute suit against the officer on his official bond for such default. 1942, 3008; 1985, HB 1226; 1986, 305.

Cross references--

As to settlement of tax collector's accounts, generally, see §§27-29-1, *et seq.*

As to duty of tax collector to present cash book to county auditor, see §27-41-41.

As to settlement with county by paying amount due to county depository, see §27-105-325.

19-17-13. To debit and credit tax collector with county taxes. It shall be the duty of the clerk, as county auditor, on delivering the assessment rolls to the tax collector, to charge him with the full amount of all taxes required to be paid into the county treasury, as shown by the rolls and the law, or by the order of the board of supervisors levying county taxes, and in settling with him to charge him with any additional assessments ... that may have been made, and to credit him only with such payments as he shall have made, according to law, into said treasury, and with such legal allowances as shall have been made to him by the board of supervisors, or as are fixed by law. 1942, 3009.

Cross references--

As to monthly reports of tax collector, see §§27-29-11, 27-29-15.

As to penalty for failure of tax collector to make settlement, see §97-11-47.

19-17-15. To charge appropriate officer with jury taxes, fines, penalties, and forfeitures. It shall be the duty of the clerk, on receiving from the circuit court the list of jury taxes accrued at any term thereof, and of the fines, penalties and forfeitures imposed or accrued at each term of the court, at once, as county auditor, to charge the sheriff of the county ... with the full amount thereof, and to require the sheriff to pay the amount into the county treasury, except such as he shall show a legal excuse for not collecting and paying. When a fine, penalty, or forfeiture shall be imposed by any court of which he is a clerk, he shall, as county auditor, at once charge such sum to the proper officer, and require its payment into the county treasury. 1942, 3010, 3011.

19-17-17. To examine books of officers and make proper charges; report to grand jury. The clerk ... as county auditor, is authorized and required to examine the accounts, dockets and records of clerks, sheriffs, and other officers of his county, to ascertain if any money payable into the county treasury is properly chargeable to them, and he shall charge them with such money. It shall be his

duty to make written report, under oath, to each regular session of the grand jury setting forth the conditions as found by said examination, and any failure to make such report shall be a misdemeanor, and upon conviction for same he shall be fined not less than \$50.00 nor more than \$200.00. 1914, 237.

19-17-19. To report defaulting officers. If any justice of the peace, or other officer required by law to make report or furnish list to the clerk of the board of supervisors, or to make payment of any money accruing to the county or state and payable into the county treasury, shall fail to do so, or if the county depository shall fail to bring all moneys or certificates of deposit belonging to the county treasury to the board of supervisors to be counted by the board as required by law, it shall be the duty of the clerk, as county auditor, to report such delinquent in writing, to the grand jury, and also to the district attorney, for the institution of legal proceedings for the default. 1942, 3013.

Cross references--

As to duty of justice of the peace to account for all fines and penalties, see §9-11-19.

19-17-21. To credit and report on poll tax. It is the duty of the county auditor to place to the credit of the public school fund of the county all sums of money paid into the county treasury from collection of poll taxes. [This statute has not been repealed, but as a result of federal court rulings, it is now of little, or no, effect.] 1942, 3014.

## CHAPTER 19. CONSTABLES

19-19-1. Number to be elected.

(1) In accordance with the provisions of Section 1 of this act, there shall be a competent number of constables in each county of the state.

(2) The board of supervisors shall furnish each constable with at least two (2) complete uniforms and with some type of motor vehicle identification which clearly indicates that the motor vehicle is being used by a constable in his official capacity. A constable shall, at all times while on official duty, wear his uniform and, when in his vehicle, clearly display his official motor vehicle identification required to be furnished pursuant to this subsection. In addition, the board of supervisors shall provide each constable with a blue flashing light which the constable shall affix to his motor vehicle at all times while using such motor vehicles on official duty. The design of such uniforms, the design of such motor vehicle identification and the type of such flashing blue light shall be prescribed by the board on law enforcement officers standards and training in order that all constables within the state shall be similarly equipped. 1986, 441.

19-19-3. Oath and bond of office. Constables shall take the oath of office prescribed by the Constitution and give bond, with sufficient surety, to be payable, conditioned and approved as provided by law in the same manner as other county officials, in a penalty equal to \$25,000.00. The bond premium for each constable shall be paid from the general county fund of the respective counties. The board of supervisors of the county may at any time require such additional sum as it deems necessary. 1986, 458.

19-19-5. General duties of constables.

(1) It shall be the duty of every constable to keep and preserve the peace within his county, by faithfully aiding and assisting in executing the criminal laws of the state; to give information, without delay, to some justice court judge or other proper officer, of all riots, routs and unlawful assemblies, and of every violation of the penal laws which may come to his knowledge in any manner whatsoever; to execute and return all process, civil and criminal, lawfully directed to him, according to the command thereof; and to pay over all moneys, when collected by him to the person lawfully authorized to received the same. In addition, the constable is authorized to serve process issued by any county, chancery, or

circuit court, and shall receive the same fees as he would receive for service of process in justice court. No constable shall receive any fee provided by law for making an arrest, or attending any trial, wherein the defendant has been arrested, or is being tried for any violation of the motor vehicle laws committed on any designated United States highway located within the district or county of the constable.

(2) (a) During a constable's term of office, each constable shall attend and, to the extent to which he is physically able, participate in a curriculum, with a duration of two (2) weeks, which addresses the nature and scope of specific duties and responsibilities of a constable and which includes firearm use and safety training, to be established by the Board on Law Enforcement Officers Standards and Training in the field of law enforcement at the Mississippi Law Enforcement Officers' Training Academy or such other training programs that are approved by the Board on Law Enforcement Officers Standards and Training pursuant to Section 45-6-9. No physical fitness test shall be required to be successfully completed in order to complete the training program. The board of supervisors of the county shall be responsible for paying, only one time, the tuition, living and travel expenses incurred by any constable of that county in attendance at such training program or curriculum. If such constable does attend and, to the extent to which he is physically able, participate in the entirety of the required program or curriculum, any further training which may be required by this section shall be completed at the expense of such constable. No constable shall be entitled to the receipt of any fees, costs or compensation authorized by law after the first twenty-four (24) months in office if he fails to attend the required training and, to the extent to which he is physically able, participate in the entirety of the appropriate program or curriculum. Any constable who does not complete the required training when required may execute and return civil process but thereafter shall not be paid any fees, costs or compensation for executing such process and shall not be allowed to exercise any law enforcement functions or to carry a firearm in the performance of his duties until he has completed such training.

(b)(i) The Board of Law Enforcement Officers Standards and Training shall develop a program of continuing education training for constables to attend consisting of eight (8) hours annually. The program shall be divided equally between firearms training and safety and instruction in both substantive and procedural law. The training program shall be conducted by the Mississippi Constables Association, and appropriate parts of the program may be conducted by members who have been certified by the board to conduct the training program. The cost of travel, tuition and living expenses in attending the continuing training shall be paid out of the Law Enforcement Officers Training Fund created in Section 45-6-15.

(ii) No constable elected prior to January 1, 2000, shall be required to comply with the continuing education requirements of this paragraph (b); however, any constable may elect to attend the annual training and shall be reimbursed therefor as provided in this paragraph (b).

(c) The provisions of this subsection shall not apply to a constable who has received a certificate from the Board on Law Enforcement Officers Standards and Training evidencing satisfaction of subsections (2) and (3) of Section 45-6-11, or who is exempt from the requirements of subsections (2) and (3) of Section 45-6-11 by the provisions of subsection (1) of Section 45-6-11. 1986, 441; 1993, 343; 2000, 578; 2003, 320.

Cross references--

Submission of training program for constables, see §19-19-6.

Duties imposed on sheriffs and constables by the Miss. Code of Military Justice and penalties for failure to perform, see §33-13-623.

Mississippi Law Enforcement Officers' Training Academy general, see §45-5-1, *et seq.*

Board on Law Enforcement Officers Standards and Training generally, see §§45-6-5 through 45-6-9.

19-19-6. Training programs for constables. On or before January 7, 1990, the Board on Law Enforcement Officers Standards and Training shall submit to the Mississippi State Legislature a proposal describing the training program required by Section 19-195, which is specifically designed for the training of constables. The proposal shall set forth in detail the nature and scope of the curriculum

and time period of training for constables, with due consideration being given to the specific duties and responsibilities of constables. 1989, 586.

19-19-7. Constable to attend justices' court. It shall be the duty of the constable to attend the justices' courts of his district, and to obey their lawful orders. He shall execute all judgments of said courts in any criminal case before them. 1942, 3891.

19-19-8. Compensation for constable serving as justice court bailiff A constable that serves as a bailiff in justice court for criminal cases may be paid by the county in an amount equal to the allowance paid to riding bailiffs as provided in Section 19-25-31. 2007, 588; 2009

19-19-9. Effect of failure to execute and return execution. If any constable or other officer fail to execute and return according to law, any execution to him directed by any justice of the peace, on or before the return day thereof, the plaintiff in execution may recover the amount thereof, with interest and cost and five per centum damages thereon, by motion before the justice to whom the execution was returnable, against the officer and his sureties. When any constable, or such other officer, of his sureties, shall have paid the amount of money and damage recovered, the original judgment shall be vested in the person so paying. The justice, on motion, may fine the officer not exceeding fifty dollars for failing to return such execution. 1942, 3888.

19-19-15. Penalty for neglect of duty. A constable who shall fail to discharge any of the duties required of him, when no other penalty is provided for such failure, shall be liable to be fined, as for a contempt, not exceeding \$50.00, by the justice of the peace before whom the proceedings may be pending. Code 1942, 3892.

Cross references--

As to penalty for neglect of duty, see §§19-19-15, 97-11-37.

As to fees, see §25-7-27.

As to embezzlement by county officer, see §97-11-25.

## **CHAPTER 21. CORONER**

19-21-101 through 19-21-109. Mississippi Coroner Reorganization Act. 1986, 459.

## **CHAPTER 23. COUNTY ATTORNEYS**

19-23-1 through 19-23-19. County attorneys, generally. These sections deal with the office, duties, qualifications, etc. of county attorneys. Of particular interest for purposes of this work are the following provisions:

He is not to defend criminal cases in the county, but he may in a county in another circuit court district. 1975, 476. He may be attorney for the board ... and 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. 1944, 188. The board of supervisors may pay a reasonable sum not exceeding \$1,000.00 per month to the county prosecuting attorney for secretarial services actually rendered to him in the discharge of the official duties of his office. 1997, 570. Harrison County (by description) has special provisions in the law. 1973, 322.

Cross references--

As to exemption of certain attorneys' work products from requirement of public access, see §25-1-102.

## CHAPTER 25. SHERIFFS

19-25-1. Commission; terms of office; oath and bond. There shall be chosen one sheriff for each county, who shall be commissioned by the governor. He ... shall take the oath prescribed ... and enter into bond ... in the penalty ... prescribed in Section 19-25-5. Code 1942, 4231; 1986, 458.

### Cross references--

As to responsibilities of sheriff in connection with two-way radio equipment purchased for coroner, see §19-21-35.

19-25-3. Eligibility to hold office of sheriff; training in law enforcement required. A person shall not be eligible to the office of sheriff who shall, at the time of his election, be a defaulter to the state, or any county or municipality thereof, or to the United States. Any person who is not a qualified elector, or who denies the existence of a Supreme Being, shall not be eligible to said office. A sheriff shall be eligible to immediately succeed himself in office.

Prior to taking the oath of office ... each sheriff-elect (excluding those who have previously served as sheriff, or have had at least five years' experience as a full-time enforcement officer, or have previously successfully completed a course of training at the Mississippi Law Enforcement Officers' Academy, or the Jackson Police Academy) shall, at the expense of the county, attend and complete a (course) in the field of law enforcement at the Mississippi Law Enforcement Officers' Academy. ... No sheriff, excluding those who are exempt from the initial course specified in this section, shall, until he has attended such academy within one year after taking office, be entitled to payment of salary after the first year in office.

Prior to July 1, 1983, or as soon thereafter as permitted by vacancies at the Mississippi Law Enforcement Officers' Academy, either the sheriff or one deputy sheriff in each county having two or more full-time deputies shall, at the expense of the county, attend and complete a (course) in the field of narcotics and dangerous drugs at the said academy. ... 1972, 357.

19-25-5. Penalties of bond. The sheriffs of the several counties shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law and in the same manner as other county officials, in a penalty equal to one hundred thousand dollars (\$100,000.00), the premium for which shall be paid by the county. 1968, 369; 1986, 458.

19-25-7 through 19-25-11. Sheriff--liability, duties; incapacity to serve; arrest and confinement. The remedy on the sheriff's bond shall be joint and several. Code 1942, §4234. If the sheriff is a party to any suit, or for other cause be incapable or unfit to execute his office in any particular case, or if he have outstanding against him a warrant for his arrest ... where there is no vacancy in the office of sheriff ... the circuit judge or chancellor may appoint someone else to act. 1986, 459. If there be an outstanding warrant for the arrest of the sheriff ... any constable ... or any marshal or police officer ... may execute the same and arrest the said sheriff. ... Said officer making the arrest shall be the jailor of said county during the confinement of the sheriff in jail and/or while his cause on said criminal charge is pending for trial, provided the sheriff was jailor and living in the jail at the time of his arrest. 1938, 296; 1986, 459.

19-25-13. Budgeting and financing of sheriff's department. The sheriff shall, at the July meeting of the board of supervisors, submit a budget of estimated expenses of his office for the ensuing fiscal year beginning October 1 in such form as shall be prescribed by the Director of the State

Department of Audit. The board shall examine this proposed budget and determine the amount to be expended by the sheriff ... for the fiscal year and may increase or reduce said amount as it deems necessary and proper.

The budget shall include amounts for compensating the deputies and other employees of the sheriff's office; for insurance providing protection for the sheriff and his deputies in case of disability, death, and similar coverage; for travel and transportation expenses ... for feeding prisoners and inmates of the county jail, and for such other expenses as may be incurred in the performance of the duties of the office of sheriff. In addition, the budget shall include amounts for the payment of premiums on bonds and insurance for the sheriff and his deputies which, in the opinion of the board of supervisors, are deemed necessary to protect the interests of the county or the sheriff and his deputies. Such amounts shall include official bonds and any bonds required of his deputies by the sheriff; liability insurance; insurance against false arrest charges; insurance against false imprisonment charges; theft, fire and other hazards and hospitalization insurance as provided for in Sections 25-15-101 and 25-16-103. The board may authorize the reimbursement of the sheriff and deputies for the use of privately owned automobiles ... in the performance of official duties at the rate provided by law for state officers and employees, or may authorize the purchase by the sheriff of such motor vehicles and such equipment as may be needed for operation of the sheriff's office, such vehicles and equipment to be owned by the county....

The board of supervisors, in its discretion, may include in its annual budget for the sheriff's office an amount not to exceed One Thousand Dollars (\$1,000.00), which may be expended by the sheriff to provide food, water and beverages for the sheriff, the sheriff's deputies, national and local law enforcement officers, emergency personnel, county employees and members of the general public who the sheriff requests to assist him and his office while in the performance of search and rescue missions, disasters or other emergency operations.

The board of supervisors may acquire one or more credit cards which may be used by the sheriff and his deputies to pay expenses incurred by them when traveling in or out of state in the performance of their official duties. The chancery clerk or the county purchase clerk shall maintain complete records of all credit card numbers and all receipts and other documents relating to the use of such credit cards. The sheriff shall furnish receipts for the use of such credit cards each month to the chancery clerk or purchase clerk who shall submit a written report monthly to the board of supervisors, which report shall include an itemized list of all expenditures and use of the credit cards for the month, and such expenditures may be allowed for payment by the county in the same manner as other items on the claims docket. The issuance of a credit card to a sheriff or his deputy under the provisions of this section shall not be construed to authorize such sheriff or deputy sheriff to use such credit card to make any expenditure which is not otherwise authorized by law.

The board of supervisors is hereby authorized and empowered, in its discretion, to appropriate and pay a sum not to exceed \$400.00 annually as a clothing allowance to each plainclothes investigator employed by the sheriff's office of such county. The board of supervisors of any county bordering on the Gulf of Mexico and having a population of more than thirty-one thousand seven hundred (31,700) but less than thirty-one thousand eight hundred (31,800) according to the 1990 Federal Census may appropriate and pay a sum not to exceed \$400.00 annually as a clothing allowance to the administrator of the county jail.

The board of supervisors shall, at its first meeting of each quarter beginning on October 1, January 1, April 1 and July 1, appropriate a lump sum for the sheriff for the expenses of his office during the current quarter. The quarterly appropriation shall be one-fourth of the amount approved in the annual budget unless the sheriff requests a different amount. Except in case of emergency ... the appropriation for the quarter beginning in October of the last year of the sheriff's term shall not exceed one-fourth of the annual budget.

The sheriff shall file a report of all expenses of his office incurred during the preceding month with the board of supervisors for approval at its regular monthly meeting in a form to be prescribed by the Director of the State Department of Audit, and upon filing thereof, and approval by the board, the clerk of the board shall issue warrants

in payment thereof but not to exceed the budget appropriation for that quarter. Any appropriated funds which are unexpended at the end of the fiscal year shall remain in the county general fund.

The budget for the sheriff's office may be revised at any regular meeting by the board of supervisors. Upon recommendation of the sheriff, the board may at any regular meeting make supplemental appropriations sheriff's office.

Any fees previously required to be paid by a sheriff shall be paid by the board of supervisors by including the estimates therefor in the sheriff's budget. All fees and charges for services heretofore collected by sheriffs shall be collected by said sheriff and paid monthly into the general fund of the concerned county. However, any fees heretofore collected by such sheriffs from the county shall not be paid. 1972, 385; 1991, 518; 2007, 508.

Cross references--

As to supplemental tax levy in certain counties, see §27-1-32.

19-25-15. Identification of sheriff's motor vehicles; use of unmarked vehicles.

Motor vehicles purchases or leased by the county for the sheriff's office shall be clerly marked on both sides with the words "SHERIFF'S DEPARTMENT." The use of large auto door decals shall constitute compliance with this section. Each such motor vehicle shall be marked on the sides or trunk top with the name of the county in clear letters of no less and four (4) inches in height. However, in instances where such identifying marks will hinder official investigations, the board of supervisors may authorize the sheriff's department to use a specified number of unmarked vehicles. The approval of the board shall be entered on its minutes and shall contain the manufacturer's serial number and the reason why the vehicle or vehicles should be exempt from provisions of this section. In addition, the manufacturer's serial number of all county-owned sheriff's department vehicles not subject to the exemption shall be included in such resolution or order of approval, and a certified copy thereof shall be furnished the State Department of Audit. Any vehicle found to be in violation of this paragraph shall be reported immediately to the sheriff and the board of supervisors, and fifteen (15) days shall be given for compliance; and if not complied with, such vehicles shall be impounded by the State Auditor until properly marked or exempted. 1992, 334; 1995, 466; 1997, 434.

19-25-17. Purchase of patrol boats for sheriffs in certain counties. [Applicable, apparently only to Desoto, Tate, Panola, Lafayette, Yalobusha and Grenada counties, by description.] 1958, 223.

19-25-19. Appointment, oath and compensation of deputy sheriffs. Sheriffs may appoint one or more deputies ... and to fix their compensation, subject to the budget for the sheriff's office approved by the board of supervisors. ... All sheriffs shall be liable for the acts of their deputies, and for money collected by them. 1968, 369; 1988, 463.

Cross references--

As to appointment of extra deputies, see §45-5-9.

As to salaries of deputies where there are two judicial districts, see §25-3-27.

As to supplemental tax levy in certain counties to pay the operating budget of sheriff, tax collector, and tax assessor, see §27-1-32.

19-25-21. Law enforcement deputies. The minimum number of deputies having law enforcement duties for each sheriff shall be based upon the total population of his county according to the latest federal decennial census in the following categories:

Population of more than 50,000, five deputies;

Population of more than 35,000 and not more than 50,000, four deputies;

Population of more than 25,000 and not more than 35,000, three deputies;  
Population of more than 15,000 and not more than 25,000, two deputies; and  
Population of less than 15,000, one deputy.

In Bolivar, Harrison, Hinds and Jones counties (by description) there shall be not less than two deputies in the judicial district in which the sheriff does not reside. In Carroll, Chickasaw, Jasper, Panola, Tallahatchie and Yalobusha counties (by description) there shall be at least one deputy in the judicial district in which the sheriff does not reside. This section also contains requirements for deputies attending the Mississippi Law Enforcement Officers' Academy or the Jackson Police Academy. 1972, 357.

**19-25-23. Maintenance of regular and auxiliary deputies; service on request of other counties.** Each sheriff shall maintain and cause to be paid a sufficient number of regular deputies, properly trained and adequately equipped, to insure the domestic tranquility within his county. In addition thereto, each sheriff may maintain an adequate number of properly trained auxiliary deputy sheriffs to be equipped, trained, and paid from the general county fund. The number of said auxiliary deputies shall be approved by the board of supervisors and may be increased or reduced from time to time by the board. All regular and auxiliary deputies may serve in any other county of the state when requested by the sheriff of such county to preserve law and order therein, the expense thereof to be paid by the county in which they serve. The request shall be made to the sheriff of the county in which said deputies are located and said deputies shall remain under the control of said sheriff except to the extent delegated by said sheriff to the sheriff of the requesting county. In addition, any sheriff may loan any regular or auxiliary deputy to any law enforcement agency of the state or of any political subdivision of the state for drug enforcement purposes, the expense of the officer to be paid by the agency to which the officer is assigned 1968, 369; 1998, 494.

**19-25-25. Remedy of sheriff against defaulting deputy.** The sheriff shall have the same remedy and judgment against his deputies and their sureties, for failing to pay money received on executions or other process to the sheriff, or to the party to whom the same is payable, or for any other act or default in office, as the creditor at whose suit such writ issued may have against the sheriff. 1942, 4237.

**19-25-27. Deputy liable on motion of sheriff.** When any fine, penalty, or judgment shall be assessed or rendered against a sheriff or his sureties, for or on account of any misconduct of a deputy, the court in which the fine, penalty, or judgment shall be rendered shall, upon motion by the sheriff or his sureties, give judgment against the deputy and his sureties, jointly and severally, for the full amount of all such fines, penalties, or judgments, and shall award execution therefor. The deputy and his sureties shall have five days' notice of such motion. 1942, 4238.

**19-25-31. Riding bailiffs.** Each judge of a circuit, chancery or county court, or a court of eminent domain may, in the judge's discretion, by order entered on the minutes of the court, allow the sheriff riding bailiffs to serve in the respective court of such judge, not to exceed four (4) bailiffs. Any such person so employed shall be paid by the county on allowances of the court on issuance of a warrant therefor in an amount of Fifty-Five Dollars (\$55.00) for each day, or part thereof, for which he serves as bailiff when the court is in session. No full-time deputy sheriff shall be paid as a riding bailiff of any court. County court judges shall be limited to one (1) bailiff per each court day. 1989, 487; 2004, 505.

**19-25-35. Duty of sheriff to attend courts.** The sheriff ... shall attend all sessions of the circuit and chancery courts and have also a sufficient number of deputies in attendance, etc. 1942, 4240.



19-25-41. Liability of sheriff for failure to return execution. If any sheriff or other officer authorized to act for him shall fail to return any execution directed to him, on the return day thereof, the plaintiff in execution shall be entitled to recover. ... The remedy given by this section shall apply in favor of county treasuries (sic), clerks and other officers and witnesses, for the recovery of all jury taxes, fees, and costs, with interest and damages thereon. 1942, 4242.

19-25-63. Jail docket to be kept by sheriff. It shall be the duty of every sheriff is to keep a record, to be called the "Jail docket," in which he shall note each warrant or mittimus by which any person shall be received into or placed in the jail of his county, entering the nature of the writ or warrant, by whom issued, the name of the prisoner, when received, the date of the arrest and commitment, for what crime or other cause the party is imprisoned, and on what authority, how long the prisoner was so imprisoned, how released or discharged, and the warrant therefor or the receipt of the officer of the penitentiary when sent there. All of said entries shall be full and complete, so as to give a perfect history of each case. The record shall be kept as a public record, and turned over to his successor. 1942, 4253; 1994, 521.

19-25-65. Sheriff to serve as county librarian. The sheriff shall be the custodian of the books, other than the record books, belonging to the county ... in a suitable and safe bookcase in the courtroom. Expenses incident thereto shall be paid out of the county treasury on allowance of the board of supervisors. He is liable to a \$10.00 fine for each volume that shall be out of the courtroom at any term of court. In his settlement with the clerk of the board of supervisors for the month of December of each calendar year, he shall report all books on hand and all books missing, and the clerk shall debit the said sheriff in his settlement at the rate of \$4.00 for each missing volume. 1968, 361.

Cross references--

For requirement that board of supervisors provide bookcases for courtroom, see §19-7-25.

As to establishment of public county law libraries, see §19-7-31.

As to library fees collected as costs in criminal cases, see §§19-1-13, 19-1-15.

19-25-67. Duty of sheriff to keep the peace, duties regarding bonds. 1995, 319.

19-25-69. Sheriff to have charge of courthouse, jail and protection of prisoners. 1942, 463; 1966, 369.

19-25-71. Sheriff to serve as jailor; separate rooms for sexes; jail supplies. 1968, 552; 1998, 486; 1999, 482.

19-25-73. Feeding of prisoners; alternative methods of funding.

(1) In respect to the feeding of prisoners by the sheriff's office, the board of supervisors is authorized to choose one of the following methods:

(a) It shall only contract with a local caterer or restaurant owner to bring in food for the prisoners, and the contract shall be awarded after taking bids as provided by law for other county contracts.

(b) The sheriff shall purchase, in the name of the county, all necessary food and related supplies to be used for feeding prisoners only in the county jail. All purchases of such food and supplies shall be invoiced to the county and placed on the claims docket of the board of supervisors for disposition in the same manner as all other claims against the county. All wages and other compensation for services rendered to the sheriff in

connection with the feeding of prisoners shall be submitted to and approved by the board of supervisors as other wages or compensation paid to employees of the sheriff. The total expenditure for such purpose under this method shall not exceed an amount equal to six dollars (\$6.00) per day per prisoner, except as provided in subsection (3) of this section. All payments and reimbursements from any source for the keeping of prisoners shall be received and paid into the general fund of the county.

(c) The board of supervisors may negotiate a contract with the board of trustees of the local public community hospital to bring in food for the prisoners.

(2) The board of supervisors may authorize the sheriff to maintain a bank account entitled "jail food allowance account" into which shall be deposited all receipts for feeding and keeping prisoners in the county jail, including payments from the board of supervisors at the rate of six dollars (\$6.00) per prisoner per day and all such receipts from municipalities, the United States and any other jurisdictions required to pay the cost of feeding or keeping prisoners contained in the jail. He shall maintain a receipts journal and a disbursements journal, in a form to be prescribed by the State Department of Audit, which will provide the information necessary to determine the actual cost of feeding the prisoners, which shall not exceed six dollars (\$6.00) per prisoner per day, except as provided in subsection (3) of this section. All costs and expenses for such feeding shall be paid from the jail food allowance account and supported by properly itemized invoices. Any funds accumulating in the jail food allowance account in excess of the monthly average expenditures, plus ten percent for contingencies, shall be paid into the county general fund at least once each calendar quarter.

(3) In the event that prisoners are housed in the county jail by any political subdivision of the state, the county may charge the political subdivision for housing, feeding and otherwise caring for such prisoners an amount not to exceed the payments provided under Section 47-5-112 ... for the keeping in the county jail of persons committed, sentenced or otherwise placed under the custody of the Department of Corrections. Nothing in this section shall be construed to affect payments by the Department of Corrections set by Section 47-5-112.. for the keeping in the county jail of persons committed, sentenced or otherwise placed under the custody of the Department of Corrections. 1972, 463; 1976, 457; 1979, 481; 1982, 337; 1991, 460.

19-25-74. Feeding of prisoners--log of meals served. In any event, regardless of which method of feeding prisoners is selected by the board of supervisors, the sheriff shall maintain a log, show the name of each prisoner, the date and time of incarceration and release, to be posted daily, which shall record the number of meals served to prisoners at each mealtime, and the hours of the day served, and shall make affidavit as to the correctness thereof and file the same monthly with the board of supervisors. Such log shall remain on file with the board of supervisors ... and shall be made available to the state department of audit upon request. No claims for the cost or expenses of feeding prisoners shall be approved by the board ... for any month unless and until such log for that month is filed. 1976, 457.

19-25-75. Additional guards for jail. Sheriff is authorized to obtain additional guards for jail if security is threatened. Sheriff shall summon such guards as would be needed to maintain peace. Any person who shall ignore such summons shall be punished as for a misdemeanor. ... 1966, 369.

19-25-87. Authority of sheriff to receive funds from federal government and to expend such funds. The sheriff of any county in which the federal government owns land is hereby authorized, with the approval of the board of supervisors, to receive funds from the corps of engineers of the United States Army for the purpose of defraying expenses incident to providing law enforcement on federally-owned land. Such funds shall be kept in a separate account and may be expended by the sheriff, with the approval of the board of supervisors, for equipment, supplies, materials and deputies' salaries as necessary to effectuate the purposes of this section. 1980, 381.

## **CHAPTER 27. SURVEYORS AND SURVEYS**

19-27-1 through 19-27-35. County surveyors and their surveys. 1942, 4268-4270; 1956-205; 1942, 4272-4282; 1946, 169; 1942, 4284; 1980, 515; 1986, 458.

## **CHAPTER 29. LOCAL AND REGIONAL RAILROAD AUTHORITIES**

19-29-1 through 19-29-51. [This chapter is known as the "Railroad Authorities Law."] 1980, 544; 1999, 376; 2007, 406.

## **CHAPTER 31. PUBLIC IMPROVEMENT DISTRICTS**

### **TITLE 23. ELECTIONS**

23-15-119. New books procured when necessary. When the registration books shall be filled, the board of supervisors of the county shall procure others, to be kept and used as herein directed, or they may cause the books in use at any time to be enlarged so as to contain the names of all persons who may be registered; and the board ... shall cause new poll books to be made from time to time as may be necessary or proper; and in case of the destruction or mutilation of the registration books or poll books, so as to make it proper to have the names of the electors on the old books transcribed into new ones, the board shall cause it to be done, and the new books so made shall have the same effect as the old ones. 1942, 3220; 1986, 495.

23-15-151. Clerks of circuit court to prepare and maintain list of convicts. The circuit clerk of each county is directed to prepare and keep in his office a full and complete list in alphabetical order of persons convicted of various crimes, specified in this section, etc. Said clerk shall receive ten cents for enrolling each name, to be paid out of the county treasury by the board of supervisors. 1908, 109; 1986, 495; 1987, 499.

#### 23-15-153. Commissioners to revise books annually.

(1) At the following times the commissioners of election shall meet at the office of the registrar and carefully revise the registration books and the pollbooks of the several voting precincts, and shall erase from those books the names of all persons erroneously on the books, or who have died, removed or become disqualified as electors from any cause; and shall register the names of all persons who have duly applied to be registered and have been illegally denied registration:

- (a) On the Tuesday after the second Monday in January 1987 and every following year;
- (b) On the first Tuesday in the month immediately preceding the first primary election for congressmen in the years when congressmen are elected;
- (c) On the first Monday in the month immediately preceding the first primary election for state, state district, legislative, county and county district offices in the years in which those offices are elected; and
- (d) On the second Monday of September preceding the general election or regular special election day in years in which a general election is not conducted.

Except for the names of those persons who are duly qualified to vote in the election, no name shall be permitted to remain on the registration books and pollbooks; however, no name shall be erased from the registration books or pollbooks based on a change in the residence of an elector except in accordance with procedures provided for by the National Voter Registration Act of 1993 that are in effect at the time of such erasure. Except as otherwise provided by Section 23-15-573, no person shall vote at any election whose name is not on the pollbook.

(2) Except as provided in subsection (3) of this section, and subject to the following annual limitations, the commissioners of election shall be entitled to receive a per diem in the amount of Eighty-Four (\$84.00), to be paid from the county general fund, for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and pollbooks as required in subsection (1) of this section:

(a) In counties having less than fifteen thousand (15,000) residents according to the latest federal decennial census, not more than fifty (50) days per year, with no more than fifteen (15) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(b) In counties having fifteen thousand (15,000) residents according to the latest federal decennial census but less than thirty thousand (30,000) residents according to the latest federal decennial census, not more than seventy-five (75) days per year, with no more than twenty-five (25) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(c) In counties having thirty thousand (30,000) residents according to the latest federal decennial census but less than seventy thousand (70,000) residents according to the latest federal decennial census, not more than one hundred (100) days per year, with no more than thirty-five (35) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(d) In counties having seventy thousand (70,000) residents according to the latest federal decennial census but less than ninety thousand (90,000) residents according to the latest federal decennial census, not more than one hundred twenty-five (125) days per year, with no more than forty-five (45) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(e) In counties having ninety thousand (90,000) residents according to the latest federal decennial census but less than one hundred seventy thousand (170,000) residents according to the latest federal decennial census, not more than one hundred fifty (150) days per year, with no more than fifty-five (55) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(f) In counties having one hundred seventy thousand (170,000) residents according to the latest federal decennial census but less than two hundred thousand (200,000) residents according to the latest federal decennial census, not more than one hundred seventy-five (175) days per year, with no more than sixty-five (65) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(g) In counties having two hundred thousand (200,000) residents according to the latest federal decennial census but less than two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census, not more than one hundred ninety (190) days per year, with no more than seventy-five (75) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(h) In counties having two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census but less than two hundred fifty thousand (250,000) residents according to the latest federal decennial census, not more than two hundred fifteen (215) days per year, with no more than eighty-five (85) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(i) In counties having two hundred fifty thousand (250,000) residents according to the latest federal decennial census but less than two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census, not more than two hundred thirty (230) days per year, with no more than ninety-five (95) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(j) In counties having two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census or more, not more than two hundred forty (240) days per year, with no more than one hundred five (105) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year.

(3) The commissioners of election shall be entitled to receive a per diem in the amount of Eighty-Four Dollars (\$84.00), to be paid from the county general fund, not to exceed ten (10) days for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the necessary time spent in the revision of the registration books and pollbooks prior to any special election. For purposes of this subsection, the regular special election day shall not be considered a special election. The annual limitations set forth in subsection (2) of this section shall not apply to this subsection.

(4) The commissioners of election shall be entitled to receive a per diem in the amount of Eighty-four Dollars (\$84.00), to be paid from the county general fund, not to exceed fourteen (14) days for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the necessary time spent in the revision of the registration books, pollbooks and in the conduct of a runoff election following either a general election or special election.

(5) The commissioners of election shall be entitled to receive only one (1) per diem payment for those days when the commissioners of election discharge more than one (1) duty or responsibility on the same day.

(6) The county registrar shall prepare the pollbooks and the county commissioners of election shall prepare the registration books of each municipality located within the county pursuant to an agreement between the county and each municipality within the county. The county commissioners of election and the county registrar shall be paid by each municipality for the actual cost of preparing registration books and pollbooks for the municipality and shall pay each county commissioner of election a per diem in the amount provided for in subsection (2) of this section for each day or period of not less than five (5) hours accumulated over two (2) or more days the commissioners are actually employed in preparing the registration books for the municipality, not to exceed five (5) days. The county commissioners of election and county registrar shall provide copies of the registration books and pollbooks to the municipal clerk of each municipality in the county. The municipality shall pay the county registrar for preparing and printing the pollbooks. A municipality may secure "read only" access to the Statewide Centralized Voter System and print its own pollbooks using this information; however, county commissioners of election shall remain responsible for preparing registration books for municipalities and shall be paid for this duty in accordance with this subsection.

(7) Every commissioner of election shall sign personally a certification setting forth the number of hours actually worked in the performance of the commissioner's official duties and for which the commissioner seeks compensation. The certification must be on a form as prescribed in this subsection. The commissioner's signature is, as a matter of law, made under the commissioner's oath of office and under penalties of perjury.

The certification form shall be as follows:

COUNTY ELECTION COMMISSIONER

PER DIEM CLAIM FORM

NAME: \_\_\_\_\_ COUNTY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_ DISTRICT: \_\_\_\_\_

CITY: \_\_\_\_\_ ZIP: \_\_\_\_\_

DATE WORKED	BEGINNING TIME	ENDING TIME	PURPOSE OF WORK	APPLICABLE MS CODE SECTION	ACTUAL HOURS WORKED	PER DIEM DAYS EARNED
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TOTAL NUMBER OF PER DIEM DAYS EARNED \_\_\_\_\_

PER DIEM RATE PER DAY EARNED X \$70.00

TOTAL AMOUNT OF PER DIEM CLAIMED \$ \_\_\_\_\_

I understand that I am signing this document under my oath as a commissioner of elections and under penalties of perjury. I understand that I am requesting payment from taxpayer funds and that I have an obligation to be specific and truthful as to the amount of hours worked and the compensation I am requesting.

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Commissioner's Signature

When properly completed and signed, the certification must be filed with the clerk of the county board of supervisors before any payment may be made. The certification will be a public record available for inspection and reproduction immediately upon the oral or written request of any person.

Any person may contest the accuracy of the certification in any respect by notifying the chairman of the commission, any member of the board of supervisors or the clerk of the board of supervisors of such contest at any time before or after payment is made. If the contest is made before payment is made, no payment shall be made as to the contested certificate until the contest is finally disposed of. The person filing the contest shall be entitled to a full hearing, and the clerk of the board of supervisors shall issue subpoenas upon request of the contestor compelling the attendance of witnesses and production of documents and things. The contestor shall have the right to appeal de novo to the circuit court of the involved county, which appeal must be perfected within thirty (30) days from a final decision of the commission, the clerk of the board of supervisors or the board of supervisors, as the case may be.

Any contestor who successfully contests any certification will be awarded all expenses incident to his contest, together with reasonable attorney's fees, which will be awarded upon petition to the chancery court of the involved county upon final disposition of the contest before the election commission, board of supervisors, clerk of the board of supervisors, or, in case of an appeal, final disposition by the court. The commissioner against whom the contest is decided shall be liable for the payment of the expenses and attorney's fees, and the county shall be jointly and severally liable for same.

(8) Any commissioner of election who has not received a certificate issued by the Secretary of State pursuant to Section 23-15-211 indicating that the commissioner of election has received the required elections seminar instruction and that the commissioner of election is fully qualified to conduct an election, shall not receive any compensation authorized by this section, Section 1, Senate Bill 2291, 2006 Regular Session, or Section 23-15-239. Effective June 29, 2006. 1988, 389; 1993, 510; 1994, 590; 2000, 430; 2001, 414; 2002, 444; 2004, 305; 2006, 592; 2007, 434.

Cross references--

Application of this section to compensation of county registrar of elections, see.....23-15-225.

§ 23-15-169.3. Federal funds; requirements for county voting system purchases

(1) The Secretary of State shall have the authority to accept federal funds authorized under the Help America Vote Act of 2002 and to meet all the requirements of the Help America Vote Act of 2002 in order to expend the funds.

(2) Counties that purchase or have purchased since January 1, 2001, voting systems that comply with the requirements of the Help America Vote Act of 2002 shall be eligible for federal funds accepted by the Secretary of State for Help America Vote Act of 2002 compliance efforts. The only restriction that the Secretary of State may place on the expenditure of federal funds for the purchase of voting systems is that the systems comply with the criteria and rules established in the Help America Vote Act of 2002 for voting systems.

(3) Counties may purchase voting systems under the Help America Vote Act of 2002 (HAVA) if:

(a) The system selected is HAVA compliant as determined by the rules promulgated to effectuate the Help America Vote Act of 2002 in this state; and

(b) The County Board of Supervisors spreads upon its minutes a certification of the following:

(i) The county determined it is in its best interest to opt out of any statewide bulk purchase to be effectuated by the Secretary of State pursuant to his duties under HAVA;

(ii) The voting system selected by the county meets all of the foregoing requirements under HAVA;

(iii) The county understands and accepts any and all liability for said system; and

(iv) The county is solely responsible for the purchase of said system.

Upon meeting the foregoing requirements, a county shall be reimbursed for its costs for said system from the HAVA funds for this purpose; however, the county shall be limited in its reimbursement to an amount to be determined by the Secretary of State based upon an objective formula implemented for the statewide, bulk purchase of said voting systems. Any costs over and above the set formula described herein shall be the sole responsibility of the county.

(c) In addition to other information required by paragraph (b) of this subsection, any county that purchases voting systems after the effective date of this act shall spread upon its minutes certification of the following:

(i) All voting systems within the county are the same, except those machines that are handicap accessible as required by HAVA; and

(ii) The voting systems have a device or mechanism that allows any votes cast to be verified by paper audit trail.

Added by [Laws 2004, Ch. 305, § 5, eff. July 12, 2004](#). Amended by [Laws 2005, Ch. 534, § 16, eff. June 6, 2005](#).

23-15-211. Board of election commissioners and registrar; elections training seminar; certification of seminar participants; compensation of commissioners attending seminar; authorization by Secretary of State of additional training days; comprehensive poll worker training program.

(1) There shall be:

(a) A State Board of Election Commissioners to consist of the Governor, the Secretary of State and the Attorney General, any two (2) of whom may perform the duties required of the board;

(b) A board of election commissioners in each county to consist of five (5) persons who are electors in the county in which they are to act; and

(c) A registrar in each county who shall be the clerk of the circuit court, unless he shall be shown to be an improper person to register the names of the electors in the county.

(2) The board of supervisors of each county shall pay members of the county election commission for attending training events a per diem in the amount provided in [Section 23-15-153](#); however, except as otherwise provided in this section, the per diem shall not be paid to an election commissioner for more than twelve (12) days of training per year and shall only be paid to election commissioners who actually attend and complete a training event and obtain a training

certificate.

(3) Included in this twelve (12) days shall be an elections seminar, conducted and sponsored by the Secretary of State. Election commissioners and chairpersons of each political party executive committee, or their designee, shall be required to attend.

(4) Each participant shall receive a certificate from the Secretary of State indicating that the named participant has received the elections training seminar instruction and that each participant is fully qualified to conduct an election. Commissioners of election shall annually file the certificate with the chancery clerk. If any commissioner of election shall fail to file the certificate by April 30 of each year, his office shall be vacated, absent exigent circumstances as determined by the board of supervisors and consistent with the facts. The vacancy shall be declared by the board of supervisors and the vacancy shall be filled in the manner described by law. Prior to declaring the office vacant, the board of supervisors shall give the election commissioner notice and the opportunity for a hearing.

(5) The Secretary of State, upon approval of the board of supervisors, may authorize not more than eight (8) additional training days per year for commissioners of election in one or more counties. The board of supervisors of each county shall pay members of the county election commission for attending training on these days a per diem in the amount provided in [Section 23-15-153](#).

(6) The Secretary of State shall develop a single, comprehensive poll worker training program to assist local election officials in providing uniform, secure elections throughout the state. The program shall include, at a minimum, training on all state and federal election laws and procedures.

(7) The Secretary of State shall develop, in conjunction with the State Board for Community and Junior Colleges:

(a) A computer skills training course for all newly elected circuit clerks that shall be completed within one hundred eighty (180) days of the commencement of their term of office; and

(b) A computer skills refresher course for all serving circuit clerks that shall be completed within one hundred eighty (180) days of the commencement of every odd-numbered term of service.

Effective June 29, 2006. 1990; 325; 2004, 305; 2006; 592; 2008, 528.

23-15-219. Commissioners may appoint investigators, legal counsel, etc. 1983, 363; 1986, 495.

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

(a) For counties with a total population of more than two hundred thousand (200,000), an amount not to exceed twenty-nine thousand nine hundred dollars (\$29,900.00), but not less than nine thousand two hundred dollars (\$9,200.00);

(b) For counties with a total population of more than one hundred thousand (100,000) and not more than two hundred thousand (200,000), an amount not to exceed twenty-five thousand three hundred dollars (\$25,300.00), but not less than nine thousand two hundred dollars (\$9,200.00);

(c) For counties with a total population of more than fifty thousand (50,000) and not more than one hundred thousand (100,000), an amount not to exceed twenty-three thousand dollars (\$23,000.00), but not less than nine thousand two hundred dollars (\$9,200.00);

(d) For counties with a total population of more than thirty-five thousand (35,000) and not more than fifty thousand (50,000), an amount not to exceed twenty thousand seven



hundred dollars (\$20,700.00), but not less than nine thousand two hundred dollars (\$9,200.00);

- (e) For counties with a total population of more than twenty-five thousand (25,000) and not more than thirty-five thousand (35,000), an amount not to exceed eighteen thousand four hundred dollars (\$18,400.00), but not less than nine thousand two hundred dollars (\$9,200.00);
- (f) For counties with a total population of more than fifteen thousand (15,000) and not more than twenty-five thousand (25,000), an amount not to exceed sixteen thousand one hundred dollars (\$16,100.00), but not less than nine thousand two hundred dollars (\$9,200.00);
- (g) For counties with a total population of more than ten thousand (10,000) and not more than fifteen thousand (15,000), an amount not to exceed thirteen thousand eight hundred dollars (\$13,800.00), but not less than eight thousand fifty dollars (\$8,050.00);
- (h) For counties with a total population of more than six thousand (6,000) and not more than ten thousand (10,000), an amount not to exceed eleven thousand five hundred dollars (\$11,500.00), but not less than eight thousand fifty dollars (\$8,050.00);
- (i) For counties with a total population of not more than six thousand (6,000), an amount not to exceed nine thousand two hundred dollars (\$9,200.00), but not less than six thousand three hundred twenty five dollars (\$6,325.00);
- (j) For counties having two (2) judicial districts, the board of supervisors of the county may allow, in addition to the sums prescribed herein, in its discretion, an amount not to exceed eleven thousand five hundred dollars (\$11,500.00).

(2) In the event of a re-registration within such county, or a redistricting which necessitates the hiring of additional deputy registrars, the board of supervisors may by contract compensate the county registrar amounts in addition to the sums prescribed herein, in its discretion.

(3) As compensation for their services in assisting the county election commissioners in performance of their duties in the revision of the registration books and the poll books of the several election districts of the several counties and in assisting the election commissioners, executive committees or boards of supervisors in connection with any election, the registrar shall receive the same daily per diem and limitation on meeting days as provided for the board of election commissioners as set out in Sections 23-15-153 and 23-15-227, to be paid from the general fund of the county.

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

(5) The circuit clerk shall, in addition to any other compensation provided for by law, be entitled to receive as compensation from the board of supervisors Two Thousand Five Hundred Dollars (\$2,500.00) per year. This payment shall be for the performance of his duties in regard to the conduct of elections and the performance of his other duties.

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

(7) The board of supervisors shall not allow any additional compensation authorized under this section for services as county registrar to any circuit clerk who is receiving fees as compensation for his services equal to the limitation on compensation prescribed in Section 9-1-43. 1977, 335; 1981, 500; 1983, 519; 1986, 495; 1991, 440; 1997, 570; 2008,473.

**23-15-227. Compensation of Election Commissioners, Managers, Clerks.** The managers and clerks shall be each entitled to Seventy-five Dollars (\$75.00) for each election; however, the board of supervisors may, in its discretion, pay the managers and clerks an additional amount not to exceed Fifty Dollars (\$50.00) per election. The manager or other person who shall carry to the place of

voting, away from the courthouse, the official ballots, ballot boxes, pollbooks and other necessities, shall be allowed Ten Dollars (\$10.00) for each voting precinct for so doing. The manager or other person who acts as returning officer shall be allowed Ten Dollars (\$10.00) for each voting precinct for that service. The compensation authorized in this section shall be allowed by the board of supervisors, and shall be payable out of the county treasury.

The compensation provided in this section shall constitute payment in full for the services rendered by the persons named for any election, whether there be one (1) election or issue voted upon, or more than one (1) election or issue voted upon at the same time. 1995, 446; 2007, 434.

### 23-15-239. Mandatory Training of Managers and Clerks.

(1) (a) The executive committee of each county, in the case of a primary election, or the commissioners of election of each county, in the case of all other elections, in conjunction with the circuit clerk, shall sponsor and conduct, not less than five (5) days prior to each election, training sessions to instruct managers as to their duties in the proper administration of the election and the operation of the polling place. No manager shall serve in any election unless he has received such instructions once during the twelve (12) months immediately preceding the date upon which such election is held; however, nothing in this section shall prevent the appointment of an alternate manager to fill a vacancy in case of an emergency. The county executive committee or the commissioners of election, as appropriate, shall train a sufficient number of alternates to serve in the event a manager is unable to serve for any reason.

(b) The executive committee of each county, in the case of a primary election, or the commissioners of election of each county, in the case of all other elections, in conjunction with the circuit clerk, shall sponsor and conduct annually an eight-hour training course for managers that meets criteria that the Secretary of State shall prescribe. Managers shall be required to attend this course every four (4) years from the effective date of this act. The Secretary of State shall develop a version of the course that may be taken by managers over the Internet. Training courses, including, but not limited to, online training courses, that meet criteria prescribed by the Secretary of State and are not sponsored or conducted by the executive committee or the commissioners of election, may be utilized to meet the requirements of this paragraph if the training course is approved by the Secretary of State.

(2) (a) If it is eligible under Section 23-15-266, the county executive committee may enter into a written agreement with the circuit clerk or the county election commission authorizing the circuit clerk or the county election commission to perform any of the duties required of the county executive committee pursuant to this section. Any agreement entered into pursuant to this subsection shall be signed by the chairman of the county executive committee and the circuit clerk or the chairman of the county election commission, as appropriate. The county executive committee shall notify the State Executive Committee and the Secretary of State of the existence of such agreement.

(b) If it is eligible under Section 23-15-266, the municipal executive committee may enter into a written agreement with the municipal clerk or the municipal election commission authorizing the municipal clerk or the municipal election commission to perform any of the duties required of the municipal executive committee pursuant to this section. Any agreement entered into pursuant to this subsection shall be signed by the chairman of the municipal executive committee and the municipal clerk or the chairman of the municipal election commission, as appropriate. The municipal executive committee shall notify the State Executive Committee and the Secretary of State of the existence of such agreement.

(3) The board of supervisors, in their discretion, may compensate managers who attend such training sessions. The compensation shall be at a rate of not less than the federal hourly minimum wage nor more than Twelve Dollars (\$12.00) per hour. Managers shall not be compensated for more than eight (8)

hours of attendance at the training sessions regardless of the actual amount of time that they attended the training sessions.

(4) The time and location of the training sessions required pursuant to this section shall be announced to the general public by posting a notice thereof at the courthouse and by delivering a copy of the notice to the office of a newspaper having general circulation in the county five (5) days before the date upon which the training session is to be conducted. Persons who will serve as poll watchers for candidates and political parties, as well as members of the general public, shall be allowed to attend the sessions.

(5) Subject to the following annual limitations, the commissioners of election shall be entitled to receive a per diem in the amount of Eighty-four Dollars (\$84.00), to be paid from the county general fund, for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the necessary time spent in conducting training sessions as required by this section:

(a) In counties having less than fifteen thousand (15,000) residents according to the latest federal decennial census, not more than five (5) days per year;

(b) In counties having fifteen thousand (15,000) residents according to the latest federal decennial census but less than thirty thousand (30,000) residents according to the latest federal decennial census, not more than eight (8) days per year;

(c) In counties having thirty thousand (30,000) residents according to the latest federal decennial census but less than seventy thousand (70,000) residents according to the latest federal decennial census, not more than ten (10) days per year;

(d) In counties having seventy thousand (70,000) residents according to the latest federal decennial census but less than ninety thousand (90,000) residents according to the latest federal decennial census, not more than twelve (12) days per year;

(e) In counties having ninety thousand (90,000) residents according to the latest federal decennial census but less than one hundred seventy thousand (170,000) residents according to the latest federal decennial census, not more than fifteen (15) days per year;

(f) In counties having one hundred seventy thousand (170,000) residents according to the latest federal decennial census but less than two hundred thousand (200,000) residents according to the latest federal decennial census, not more than eighteen (18) days per year;

(g) In counties having two hundred thousand (200,000) residents according to the latest federal decennial census but less than two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census, not more than nineteen (19) days per year;

(h) In counties having two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census but less than two hundred fifty thousand (250,000) residents according to the latest federal decennial census, not more than twenty-two (22) days per year;

(i) In counties having two hundred fifty thousand (250,000) residents according to the latest federal decennial census but less than two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census, not more than thirteen (13) days per year;

(j) In counties having two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census or more, not more than fourteen (14) days per year.

(6) Commissioners of election shall claim the per diem authorized in subsection (5) of this section in the manner provided for in Section 23-15-153(6). Effective June 29, 2006. 1995, 446; 2001, 523; 2006, 592; 2007, 565; 2008, 528.

23-15-259. Authority of boards of supervisors; election places; costs. The boards of supervisors are authorized to allow compensation to the officers rendering services in matters of registration and elections, to provide ballot boxes, registration and poll books, and all other things required by law in registration and elections. Said boards are also authorized, by order spread upon the minutes of the board setting forth the cost and source of funds therefor, to purchase improved or unimproved property and to construct, reconstruct, repair, renovate and maintain polling places or to pay to private property owners reasonable rental fees when the property is used as a polling place for a period not to exceed the day immediately preceding the election, the day of the election, and the day immediately following the election and to allow the sheriff such reasonable sum as he may expend in supplying voting compartments, tables or shelves for use at elections.

All facilities owned or leased by the ... county ... may be made available at no cost to the board of supervisors for use as polling places to such extent as may be agreed to by the authority having control or custody of such facilities. 1976, 350; 1985, 397; 1986, 495.

23-15-283. Alteration of boundaries. The board of supervisors shall have power to alter the boundaries of the supervisors districts, voting precincts and the voting place therein. If the board of supervisors orders a change in the boundaries, they shall notify the commissioners of election, who shall at once cause the registration books of voting precincts affected by the order to be changed to conform to the change, so as to contain only the names of the qualified electors in the voting precincts as made by the change of boundaries. Upon the order of change in the boundaries of any voting precinct or the voting place therein, the board of supervisors shall notify the office of the Secretary of State and provide the Office of the Secretary of State a legal description and a map of any boundary change. No change shall be implemented or enforced until the requirements of this section have been met. 1986, 495; 2008, 528.

23-15-301. Payment of expenses of county primaries. All the expenses of printing the tickets or primary election ballots, for necessary stationery, and for paying the managers, clerks, bailiffs and returning officers of every primary election ... shall be paid by the board of supervisors of each county out of the general county fund. But such election officers shall receive only such compensation as is provided general election officers under the provisions of Section 23-5-183. However, this section shall not apply to the expenses of a primary election held by any political party which at either of the last two preceding general elections for the office of governor or either of the last two preceding national elections for president of the United States did not vote as many as 20% of the total vote cast in the entire state. 1972, 366; 1986, 495.

23-15-355. Official ballot; expense of printing. The ballots in all elections shall be printed at county expense, cost of same to be paid out of the county treasury. 1942, 3255; 1986, 495; 2001, 301.

23-15-403. Purchase or rental of voting machines. The board of supervisors may purchase or rent voting machines or machines which shall be so constructed as to serve the same purposes as voting machines for all or certain precincts of the county. (See Section 19-7-15.) 1954, 360; 1986, 495.

23-15-463. Acquisition and use of electronic voting systems. The board of supervisors may purchase or rent voting devices and automatic tabulating equipment used in an electronic voting system, and may use same in all or certain precincts. 1966, 609; 1986, 495.

23-15-491. Commissioners of election authorized to sponsor and conduct training sessions to educate qualified electors regarding operation of electronic voting systems; compensation (Repealed effective July 1, 2009)

(1) The commissioners of election of each county, in conjunction with the circuit clerk, may sponsor and conduct training sessions to educate qualified electors regarding the operation of electronic voting systems authorized pursuant to Section 23-15-461 et seq. at such times and locations as may be determined by the commissioners of election.

(2) Subject to the following annual limitations, the commissioners of election shall be entitled to receive a per diem in the amount of Eighty-four Dollars (\$84.00), to be paid from the county general fund, for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the necessary time spent in conducting training sessions as required in subsection (1) of this section:

(a) In counties having less than fifteen thousand (15,000) residents according to the latest federal decennial census, not more than five (5) days per year;

(b) In counties having fifteen thousand (15,000) residents according to the latest federal decennial census but less than thirty thousand (30,000) residents according to the latest federal decennial census, not more than six (6) days per year;

(c) In counties having thirty thousand (30,000) residents according to the latest federal decennial census but less than seventy thousand (70,000) residents according to the latest federal decennial census, not more than seven (7) days per year;

(d) In counties having seventy thousand (70,000) residents according to the latest federal decennial census but less than ninety thousand (90,000) residents according to the latest federal decennial census, not more than eight (8) days per year;

(e) In counties having ninety thousand (90,000) residents according to the latest federal decennial census but less than one hundred seventy thousand (170,000) residents according to the latest federal decennial census, not more than nine (9) days per year;

(f) In counties having one hundred seventy thousand (170,000) residents according to the latest federal decennial census but less than two hundred thousand (200,000) residents according to the latest federal decennial census, not more than ten (10) days per year;

(g) In counties having two hundred thousand (200,000) residents according to the latest federal decennial census but less than two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census, not more than eleven (11) days per year;

(h) In counties having two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census but less than two hundred fifty thousand (250,000) residents according to the latest federal decennial census, not more than twelve (12) days per year;

(i) In counties having two hundred fifty thousand (250,000) residents according to the latest federal decennial census but less than two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census, not more than thirteen (13) days per year;

(j) In counties having two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census or more, not more than fourteen (14) days per year.

(3) Commissioners of election shall claim the per diem authorized in this section in the manner provided for in Section 23-15-153(6).

(4) This section shall stand repealed from and after July 1, 2009. Effective June 29, 2006. 2006, 592.

23-15-541 through 23-15-561. General provisions concerning opening of polls, receipt booklet, and the marking and casting of ballots, etc. 1986, 495; 1993, 528; 2001, 523; 2008,528.

23-15-833. Special elections to fill vacancies in county, county district, and district attorney offices. Except as otherwise provided by law, the first Tuesday after the first Monday in November of each year shall be designated the regular special election day, and on that day an election shall be held to fill any vacancy in county, county district, and district attorney elective offices.

All special elections, or elections to fill vacancies, shall in all respects be held, conducted and returned in the same manner as general elections, except that where no candidate receives a majority of the votes cast in such election, then a runoff election shall be held three (3) weeks after such election and the two (2) candidates who receive the highest popular votes for such office shall have their names submitted as such candidates to the said runoff and the candidate who leads in such runoff election shall be elected to the office. When there is a tie in the first election of those receiving next highest vote, these two (2) and the one receiving the highest vote, none having receiving a majority, shall go into the runoff election and whoever leads in such runoff election shall be entitled to the office.

In those years when the regular special election day shall occur on the same day as the general election, the names of candidates in any special election and the general election shall be placed on the same ballot, but shall be clearly distinguished as general election candidates or special election candidates.

At any time a special election is held on the same day as a party primary election, the names of the candidates in the special election may be placed on the same ballot, but shall be clearly distinguished as special election candidates or primary election candidates. 1986, 495; 2007, 434.

23-15-839. Board of supervisors shall make appointments to fill vacancies in county offices.

23-15-881. Increasing employees prohibited--records kept. It shall be unlawful for ... the board of supervisors ... or any member of the board of supervisors ... to employ, during the months of May, June, July, and August of any year in which a general election is held for ... members of the board of supervisors, a greater number of persons to work and maintain ... the public roads, in any supervisor's district ... than the average number of persons employed for similar purposes in said district ... during the same months of the three years immediately preceding the year in which such general election is held. Nor is the board allowed to expend more funds in the payment of wages, etc., during such months, than the average amount expended for such labor during the same months in the previous three years. Records shall be kept of the number of employees and the amounts expended during the pertinent months of each year. 1970, 506; 1986, 495.

Cross references--

As to exceptions to rule set out above, see §23-1-45.

23-15-883. Exceptions to prohibition against increasing employees, etc. The restriction imposed upon ... the boards of supervisors ... in the employment of labor, as provided in Section 23-1-43 hereof, shall not apply to road and/or bridge contractors engaged in the construction of roads and/or bridges under contracts awarded by the said board; nor shall the same apply when extra

labor is employed because of emergencies, storms, floods, and other unforeseen disasters. 1970, 506; 1986, 495.

23-15-887. Penalties for violating restrictions on increasing employees. Any member of a board of supervisors found in violation of the provisions of Sections 23-1-43 to 23-1-47 as to numbers of employees in election years, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of \$100.00 to \$500.00, or by a jail sentence, or both. 1970, 506; 1986, 495; 1987, 499.

23-15-895. Prohibition against distribution of campaign material within 150 feet of polling place; prohibition against appearance of certain persons at polling place while armed, uniformed, or displaying badge or credentials. It shall be unlawful for any candidate for an elective office, or any representative of such candidate, or for any proponent or opponent of any constitutional amendment, local issue or other measure printed on the ballot to post or distribute cards, posters or other campaign literature within one hundred fifty (150) feet of any entrance of the building wherein any election is being held. It shall be unlawful for any candidate or a representative named by him in writing to appear at any polling place while armed or uniformed, nor shall he display any badge or credentials except as may be issued by the manager of the polling place. As used in this section, the term "local issue" shall have the meaning ascribed to such term in Section 23-15-375. 1994, 494.

23-15-939. Expenses of judge hearing election contest. The reasonable traveling expenses of the judge or chancellor hearing an election contest shall be paid by order of the board of supervisors of the county or counties concerned. 1935, 19; 1986; 495.

## **TITLE 25. PUBLIC OFFICERS AND EMPLOYEES; PUBLIC RECORDS**

### **CHAPTER 1. PUBLIC OFFICERS; GENERAL PROVISIONS**

#### 25-1-15. Conditions of official bonds; new bonds to be secured every four years.

(1) The bonds of all public officers required to give individual bond shall be conditioned in the following form, to-wit:

"Whereas, the above bound A B was duly elected (or appointed) to the office of \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, for the term of \_\_\_\_\_ years from the \_\_\_ day of \_\_\_\_\_; therefore, if he shall faithfully perform all the duties of said office during his continuance therein, then the above obligation to be void."

A new bond in the amount required by law shall be secured at the beginning of each new term of office or every four (4) years, whichever is less.

(2) The bonds of all public employees required to give individual bond shall be conditioned in the following form, to-wit:

"Whereas, the above A B was duly employed (or appointed) to the position of \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_; therefore, if he shall faithfully perform all the duties of said position during his continuance therein, then the above obligation to be void."

A new bond in an amount not less than that required by law shall be secured upon employment and coverage shall continue by the securing of a new bond every four (4) years concurrent with the normal election cycle of the Governor or with the normal election cycle of the local government applicable to the employee.

(3) A failure to observe the form herein prescribed shall not vitiate any official bond; and all official bonds shall be valid and binding in whatever form they may be taken, except so far as they may be conditioned for the performance of acts in violation of the laws or policy of the state. Whether in the

proper penalty or without any penalty, whether correct or incorrect in its recitals as to the term of office or otherwise, whether properly payable, whether approved by the proper officer or not approved by any, or if irregular in any other respect, such bond, if delivered as the official bond of the officer or employee and serving as such, shall be obligatory on everyone who subscribed it for the purpose of making the official bond of such officer or employee to the full penalty or, if it has no penalty, to the full penalty of the bond which might have been required.

(4) All blanket bonds given on positions of public employment shall be conditioned upon the faithful performance of all the duties of the positions covered and insured by said blanket bond. A new bond in an amount not less than that required by law for public employees shall be secured at the beginning of each new term of office of the public or appointed official by whom they are employed, if applicable, or at least every four (4) years concurrent with the normal election cycle of the Governor. 1986, 458; 2000, 426.

25-1-19. Approval of bonds of county and beat officers and employees. The bond of the chancery clerk and circuit clerk of each county shall be approved by the board of supervisors of the county. The bond of the members of the board of supervisors of the county shall be approved by the chancery clerk of such county. The bonds of all other county officers or officers of any district, subdivision, board or commission of a county, including public school districts, shall be approved by the board of supervisors of such county. The bonds of all county employees, or employees of any district, subdivision, board or commission of a county, including public school districts, shall be approved by the chancery clerk of such county. All the bonds shall be filed and recorded in the office of the clerk of the chancery court of the county, except that the original of the chancery clerk's bond, after it is recorded, shall be deposited and filed in the office of the clerk of the circuit court. 1942, 4035; 1986, 458; 1988, 488.

25-1-31. Personal bonds. Bonds of all county officers or employees shall be made in a surety company and the premiums on same shall be paid out of the county treasury. Personal bonds may be used when any officer, by affidavit, when said affidavit shall contain two letters of refusal by bonding companies, shows that he has made diligent effort to obtain surety bond and has failed to do so. In such event, such officer or employee may make his official bond with two or more personal sureties, qualified as provided by law. 1981, 471; 1982, 423; 1986, 458.

25-1-45. Civil liability for failure to perform duty. If any county, or county district officer who has executed bond for the faithful performance of duty shall knowingly or willfully fail, neglect, or refuse to perform any duty required of him by law or shall violate his official obligations in any respect, the president, or in the absence or disability or default of the president, the vice-president of the board of supervisors in case of a county or county district officer, and the mayor in case of a municipal officer, or any person interested in either case shall cause suit to be brought on the bond of such officer for the recovery of the damages that may have been sustained thereby. 1959, Ex ch. 22.

25-1-53 and 25-1-55. Nepotism prohibited; penalty for nepotism. It shall be unlawful for any person elected, appointed, or selected in any manner whatsoever to any state, county, district, or municipal office, or for any board of trustees of any state institution to appoint or employ, as an officer, clerk, stenographer, deputy, or assistant who is to be paid out of public funds, any person related by blood or marriage within the third degree, computed by the rule of civil law, to the person or any member of the board of trustees having the authority to make such appointment, or contract such employment as an employer. This section shall not apply to any employee who shall have been in said department or institution prior to the time his or her kinsman, within the third degree, became the head of said department or institution or member of said board of trustees; and this section shall not apply to any person seeking appointment as an election worker who has served as an election worker in the election immediately preceding the commencement of a term of office as an election commissioner by his



kinsman within the third degree. The provisions herein contained shall not apply in the instance of the employment of physicians, nurses, or other medical technicians by governing boards of charity hospitals or other public hospitals. 1975, 333; 1994, 627.

25-1-63 through 25-1-65. Defaulting officers. If any public officer who is required by law to make any report to or settlement with another officer ... shall fail to make the report or settlement or to account within ten days ... publication may be made of the facts as set forth in this section. ... A penalty of \$500.00 may be assessed, \$250.00 of which may be paid into the county treasury, and the remainder to the person suing. The expense of such publication shall be paid by the board of supervisors out of the county treasury. 1916, 226; 1942, 4056.

25-1-67. Public moneys to be promptly paid by legal representatives. It is the duty of the legal representative of every tax collector or other officer who shall die having public money in his hands to promptly pay the same over to the proper authorities. The liability of such officer or his bondsmen shall not be affected or varied hereby. 1942, 4058.

Cross references--

As to penalty for conversion of public funds held in trust by public officer or personal representative,  
see §97-11-25.

25-1-69. Officer not to carry or deposit public funds outside state. No officer of this state may deposit, carry, send, or permit to be deposited, carried or sent to any point beyond the confines of this state any part of any fund, money, bonds, or securities of any kind belonging to the state, county or any political subdivision thereof. Violations may result in fine of not less than \$200.00, or prison term, or both. 1904, 107.

25-1-71. Public moneys are trust funds. All money deposited in a bank or with any depository by or for a tax collector or other officer having custody of public funds, state, county or subdivisions thereof, is prima facie public money and a trust fund. 1922, 177.

25-1-72. Deposit of funds. All county officers who receive funds payable into the county treasury shall deposit such funds into the county depository on the day when they are collected or on the next business day thereafter. 1986, 305.

25-1-73. Officers liable for costs of collection of public funds improperly withheld. Any officer who is a custodian of public funds or property who shall improperly withhold the same from the proper treasury ... shall be liable on his bond for all costs of collection or recovery. 1962, 588.

Cross references--

As to remedy against justice of the peace for money, fines or penalties withheld, see §9-11-23.

25-1-75. Duplicate receipt books upon transfer of funds. The governing authorities of all counties ... shall maintain duplicate receipt books, showing the date and the amount of money received from the state or any political subdivision. The receipt books shall be of permanent type and shall be approved by the state auditor. 1954, 386.

25-1-79. Use of state-owned automobiles. It shall be unlawful for any officer, employee, or other person whatsoever to use or permit or authorize the use of any automobile or any other motor vehicle owned by the State of Mississippi or any department, agency, or institution thereof for the purpose

other than upon the official business of the State of Mississippi or any agency, department, or institution thereof. Further, it shall be unlawful for any such officer or employee to be paid or to receive any sums whatsoever for travel expense until the expenses for which payment is made, and each item thereof, have been actually incurred by such officer or employee, and then only upon the presentation of an itemized expense account which shall be approved in writing by the head of the department, agency, or institution on whose behalf such travel is performed. However, it is expressly provided that any such officer or employee traveling on business for and in behalf of the State of Mississippi may, strictly in the discretion of an agency, institution, or department head, receive in advance from state funds for the purpose of such travel expense a sum to be specified by such aforementioned superior. Further, strict account of any sum so advanced must be kept in accord with section 25-1-81. 1950, 448; 2006, 537.

Cross references--

Departments and agencies allowed to purchase and operate automobiles, see §25-1-85.

Exemption of state-owned automobiles from motor vehicles safety responsibility provisions, see §63-15-5.

25-1-87. County-owned vehicles to be marked. All motor vehicles owned or leased by the State of Mississippi or any agency, department, or political subdivision thereof, which shall include counties and municipalities ... shall have painted on both sides in letters at least three inches in height, and on the rear in letters not less than one and one-half inches in height, the name of the state agency or department, or political subdivision, which shall include counties and municipalities, in a color which is in contrast with the color of the vehicle; and no privilege license tag shall be issued for such vehicle until the name has been painted thereon as required by this section. A permanent decal may be used in lieu of paint...the governor or governing authorities of a municipality may authorize the use of specified unmarked vehicles only in instances where such identifying marks will hinder official investigations. Penalty for noncompliance with this section is the withholding of any sales tax due for distribution to any such municipality and any excise tax on gasoline, diesel fuel, kerosene and oil due any such county and for any months thereafter, and shall continue to withhold said funds until compliance with this section is certified to the state tax commission by the state department of audit. County-owned vehicles of the sheriff's department or vehicles owned by a family court shall not be subject to the provisions of this section. 1972, 438; 1973, 480; 1974, 559; 1975, 489; 1983, 392; 1985, SB 2618; 1988, SB 2319; 1995, 543; 1997, 592; 1998, 547; 1999, 398; 2000, 588; 2003, 471.

Cross references--

As to identification tags on county automobiles, trucks and tractors, see §19-7-9.

As to identification of sheriff's motor vehicles, see §19-25-15.

25-1-99. County office hours. The clerks of the circuit and chancery courts, the county superintendent of education, the county tax assessors, and the sheriffs shall keep their offices at the courthouse ... or within one-half mile thereof ... except that the office of the county superintendent of education may be placed at any other place in the county determined by the county board of education to be the most feasible, regardless of distance from the courthouse. The offices of all circuit and chancery clerks and sheriffs shall be open...on all business days from 8:00 a.m. to 5:00 p.m., except that within the discretion of the board of supervisors ... the above county offices may be closed at 12:00 noon one business day of each week, or may be closed all day Saturday of each week, or may be closed at 12:00 noon on Saturday and at 12:00 noon on one additional business day of each week. ... Orders relative thereto must be spread upon the minutes and published in a newspaper once each week for four consecutive weeks. ... Provided, however, the courthouse shall be closed on all state holidays as set forth in Section 3-3-7, and when the holiday falls on Saturday, the courthouse may be closed on the Friday before and when such holiday falls on a Sunday, the courthouse may be closed on the following

Monday. The board of supervisors in its discretion, may close the county offices on those holidays created by executive order of the governor. 1974, 345; 1976, 304; 1988, 386.

**25-1-100. Certain personnel records exempt from public access requirements.**

The following records are to be exempt from the provisions of the Mississippi Public Records Act of 1983: personnel records and applications for employment, except those which may be released to or with the prior consent of the person who made the application; test questions and answers which are to be used in employment examinations; and letters of recommendation regarding any application for employment. 1983, 424; 1994; 401.

**Cross references--**

As to exemption of confidential information furnished by third parties from public access requirements, see §25-61-9.

**25-1-102. Certain attorneys' work products exempt from public access requirements.** Records in the possession of a public body, as defined by paragraph (a) of Section 25-61-3, which represent and constitute the work product of any attorney, district attorney or county prosecuting attorney representing a public body and which are related to litigation made by or against such public body, or in anticipation of prospective litigation, including all communications between such attorney made in the course of an attorney-client relationship, shall be exempt from the provisions of the Mississippi Public Records Act of 1983. 1983, 424.

**25-1-107. Date of postmark as proof of date of payment or report.**

### **CHAPTER 3. SALARIES AND COMPENSATION**

**25-3-1. Classification of counties.** Counties are divided into eight classes, according to the 1930 total assessed valuation of the real, personal, and public service corporation property of each county, said counties to be classified as to said assessed valuations as follows:

- Class 1: In excess of \$25,000,000.00
- Class 2: Between \$20,000,000.00 and \$25,000,000.00
- Class 3: Between \$15,000,000.00 and \$20,000,000.00
- Class 4: Between \$10,000,000.00 and \$15,000,000.00
- Class 5: Between \$8,000,000.00 and \$10,000,000.00
- Class 6: Between \$6,000,000.00 and \$8,000,000.00
- Class 7: Between \$3,000,000.00 and \$6,000,000.00
- Class 8: Less than \$3,000,000.00

In counties where oil or gas is produced, the actual value of such oil and gas at the point of production shall not be included in the assessed value of such counties in determining the classification thereof in the fixing of fees to tax collectors under Section 25-7-21, Code of 1972.

In any year the assessed value of a county shows that its class has changed to a higher class, such county shall remain in its original class until the succeeding January 1st and then be classed according to such assessed value. 1960, 199; 1997, 570.

**Cross references--**

As to salaries or fees determined by county classification: for county judges, see §9-9-11; for family court judges, see §43-23-39; for chancery clerks, see §25-7-9.

**25-3-3. Salaries of assessors also serving as tax collectors.**

(1) The term "total assessed valuation" as used in this section only refers to the ad valorem assessment for the county and, in addition, in counties where oil or gas is produced, the actual value of oil and gas at the point of production, as certified to the counties by the State Tax Commission under the provisions of Sections 27-25-501 through 27-25-525 and 27-25-701 through 27-25-723.

(2) The salary of assessors and collectors of the various counties is fixed as full compensation for their services as county assessors or tax collectors, or both if the office of assessor has been combined with the office of tax collector. The annual salary of each assessor or tax collector, or both if the offices have been combined, shall be based upon the total assessed valuation of his respective county for the preceding taxable year in the following categories and for the following amounts:

- (a) For counties having a total assessed valuation of Two Billion Dollars (\$2,000,000,000.00) or more, a salary of Sixty-four Thousand Dollars (\$64,000.00);
- (b) For counties having a total assessed valuation of at least One Billion Dollars (\$1,000,000,000.00) but less than Two Billion Dollars (\$2,000,000,000.00), a salary of Sixty-one Thousand Five Hundred Dollars (\$61,500.00);
- (c) For counties having a total assessed valuation of at least Five Hundred Million Dollars (\$500,000,000.00) but less than One Billion Dollars (\$1,000,000,000.00), a salary of Fifty-eight Thousand Five Hundred Dollars (\$58,500.00);
- (d) For counties having a total assessed valuation of at least Two Hundred Fifty Million Dollars (\$250,000,000.00) but less than Five Hundred Million Dollars (\$500,000,000.00), a salary of Fifty-six Thousand Dollars (\$56,000.00);
- (e) For counties having a total assessed valuation of at least One Hundred Fifty Million Dollars (\$150,000,000.00) but less than Two Hundred Fifty Million Dollars (\$250,000,000.00), a salary of Fifty-four Thousand Dollars (\$54,000.00);
- (f) For counties having a total assessed valuation of at least Seventy-five Million Dollars (\$75,000,000.00) but less than One Hundred Fifty Million Dollars (\$150,000,000.00), a salary of Fifty-two Thousand Five Hundred Dollars (\$52,500.00);
- (a) For counties having a total assessed valuation of at least Thirty-five Million Dollars (\$35,000,000.00) but less than Seventy-five Million Dollars (\$75,000,000.00), a salary of Forty-eight Thousand Five Hundred Dollars (\$48,500.00);
- (b) For counties having a total assessed valuation of less than Thirty-five Million Dollars (\$35,000,000.00), a salary of Forty-one Thousand Five Hundred Dollars (\$41,500.00).

(3) In addition to all other compensation paid pursuant to this section, the board of supervisors shall pay to a person serving as both the tax assessor and tax collector in their county an additional Five Thousand Dollars (\$5,000.00) per year.

(4) The annual salary established for assessors and tax collectors shall not be reduced as a result of a reduction in total assessed valuation. The salaries shall be increased as a result of an increase in total assessed valuation.

(5) In addition to all other compensation paid to assessors and tax collectors in counties having two judicial districts, the board of supervisors shall pay such assessors and tax collectors an additional Three Thousand Five Hundred Dollars (\$3,500.00) per year. In addition to all other compensation paid to assessors or tax collectors, in counties maintaining two full-time offices, the board of supervisors shall pay the assessor or tax collector an additional Three Thousand Five Hundred Dollars (\$3,500.00) per year.

(6) In addition to all other compensation paid to assessors and tax collectors, the board of supervisors of a county shall allow for such assessor or tax collector, or both, to be paid additional compensation when there is a contract between the county and one or more municipalities providing that the assessor or tax collector, or both, shall assess or collect taxes, or both, for the municipality or municipalities; and such assessor or tax collector, or both, shall be authorized to receive such additional compensation from the county and/or the municipality or municipalities in any amount allowed by the county and/or the municipality or municipalities for performing those services.

(7) When any tax assessor holds a valid certificate of educational recognition from the International Association of Assessing Officers or is a licensed appraiser under Sections 73-34-1 *et seq.*, Mississippi Code of 1972, he shall receive an additional One Thousand Five Hundred Dollars (\$1,500.00)

annually beginning the next fiscal year after completion. When any tax assessor is a licensed state certified Residential Appraiser (RA) or licensed state certified Timberland Appraiser (TA) under Sections 73-34-1 *et seq.*, ... or when any tax assessors holds a valid designation from the International Association of Assessing Officers as a Cadastral Mapping Specialist (CMS) or Personal Property Specialist (PPS) or Residential Evaluation Specialist (RES), he shall receive an additional Six Thousand Five Hundred Dollars (\$6,500.00) annually beginning the next fiscal year after completion. When any tax assessor holds the valid designation of Certified Assessment Evaluator (CAE) from the International Association of Assessing Officers or is a state certified General Real Estate Appraiser (GA) under Sections 73-34-1 *et seq.*, ... he shall receive an additional Eight Thousand Five Hundred Dollars (\$8,500.00) annually beginning the next fiscal year after completion.

(8) The salaries provided for in this section shall be the total funds paid to the county assessors and tax collectors and shall be full compensation for their services, with any fees being paid to the county general fund.

(9) The salaries provided for in this section shall be payable monthly on the first day of each calendar month by chancery clerk's warrant drawn on the general fund of the county; however, the board of supervisors, by resolution duly adopted and entered on its minutes, may provide that such salaries shall be paid semimonthly on the first and fifteenth day of each month. If a pay date falls on a weekend or legal holiday, salary payments shall be made on the workday immediately preceding the weekend or legal holiday. 1974, 349; 1977, 443; 1980, 497; 1983, 526; 1985, HB 642; 1988, HB 184; 1991, 382; 1993, 550, 1997, 570; 2004, 505.

#### 25-3-5. Salaries of assessors and tax collectors in separate offices.

Repealed effective October 1, 2004. 2004, 505.

25-3-7. State contribution to compensation of assessors. From the state treasury shall be paid up to one-fourth of the salary of each county tax assessor, but in no instance shall the payment exceed the figure paid for the fiscal year of 1970-71 to the assessor, whether or not the offices of assessor and tax collector are combined. 1968, 369.

#### 25-3-9. Salaries of county prosecuting attorneys.

(1) Except as provided in subsections (2),(3)and (4) of this section, the county prosecuting attorney may receive for his services an annual salary to be paid by the board of supervisors as follows:

- (a) For counties with a total population of more than two hundred thousand (200,000), a salary not to exceed Twenty-eight Thousand Five Hundred Dollars (\$28,500.00).
- (b) For counties with a total population of more than one hundred thousand (100,000) and not more than two hundred thousand (200,000), a salary not to exceed Twenty-six Thousand Five Hundred Dollars (\$26,500.00).
- (c) For counties with a total population of more than fifty thousand (50,000) and not more than one hundred thousand (100,000), a salary not to exceed Twenty-one Thousand Seven Hundred Dollars (\$21,700.00).
- (d) For counties with a total population of more than thirty-five thousand (35,000) and not more than fifty thousand (50,000), a salary not to exceed Twenty Thousand Four Hundred Dollars (\$20,400.00).
- (e) For counties with a total population of more than twenty-five thousand (25,000) and not more than thirty-five thousand (35,000), a salary not to exceed Nineteen Thousand Three Hundred Dollars (\$19,300.00).
- (f) For counties with a total population of more than fifteen thousand (15,000) and not more than twenty-five thousand (25,000), a salary not to exceed Seventeen Thousand Seven Hundred Dollars (\$17,700.00).

- (g) For counties with a total population of more than ten thousand (10,000) and not more than fifteen thousand (15,000), a salary not to exceed Sixteen Thousand One Hundred Dollars (\$16,100.00).
- (h) For counties with a total population of more than six thousand (6,000) and not more than ten thousand (10,000), a salary not to exceed Fourteen Thousand Five Hundred Dollars (\$14,500.00).
- (i) For counties with a total population of six thousand (6,000) or less, the board of supervisors, in its discretion, may appoint a county prosecuting attorney, and it may pay such county prosecuting attorney an annual salary not to exceed Twelve Thousand Nine Hundred Dollars (\$12,900.00).

In all cases of conviction there shall be taxed against the convicted defendant, as an item of cost, the sum of Three Dollars (\$3.00), which shall be turned in to the county treasury as a part of the general county funds; however, the Three Dollars (\$3.00) shall not be taxed in any case in which it is not the specific duty of the county attorney to appear and prosecute.

From and after October 1, 1993, in addition to the salaries provided for in this subsection, the board of supervisors of any county, in its discretion, may pay the county prosecuting attorney an additional amount not to exceed ten percent (10%) of the maximum allowable salary prescribed herein.

(2) In the following counties, the county prosecuting attorney shall receive for his services an annual salary to be paid by the board of supervisors, as follows:

- (a) In any county bordering upon the Mississippi River and having a population of not less than thirty thousand (30,000) and not more than thirty-five thousand five hundred (35,500) according to the federal census of 1990, and in counties having a population of not more than thirty-seven thousand (37,000) according to the federal census of 1990 in which Interstate Highway 55 and U.S. Highway 98 intersect, the county prosecuting attorney shall receive a salary equal to the justice court judge of such county; and in any county wherein is located the state's oldest state-supported institution of higher learning and wherein Mississippi State Highways 7 and 6 intersect, the county prosecuting attorney shall receive an annual salary equal to that of a member of the board of supervisors of such county.
- (b) In counties having a population in excess of fifty thousand (50,000) in the 1960 federal census, wherein is located a state-supported university and in which U.S. Highways 49 and 11 intersect, the salary of the county prosecuting attorney shall be not less than Seventeen Thousand Four Hundred Dollars (\$17,400.00) per year. The Board of Supervisors of Forrest County, Mississippi, may, in its discretion, and by agreement with the county prosecuting attorney, employ the county prosecuting attorney as a full-time elected official during his/her term of office, designate additional duties and responsibilities of the office and pay additional compensation up to, but not in excess of, ninety percent (90%) of the annual compensation and salary of the county court judge and the youth court judge of Forrest County as authorized by law and provide a reasonable office and reasonable office expenses to the county prosecuting attorney. The salary authorized by this paragraph (b) for the county prosecuting attorney shall be the sole and complete salary for such prosecuting attorney in each county to which this paragraph applies, notwithstanding any other provision of law to the contrary.
- (c) In any county wherein is housed the seat of State Government, wherein U.S. Highways 80 and 49 intersect, and having two (2) judicial districts, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary equal to the annual salary of members of the board of supervisors in the county.
- (d) In any county which has two (2) judicial districts and wherein Highway 8 and Highway 15 intersect, having a population of greater than seventeen thousand (17,000), according to the 1980 federal decennial census, the board of supervisors shall pay the county prosecuting attorney a salary equal to that of a member of the board of supervisors of such county; provided that if such county prosecuting attorney is paid a sum for the

purpose of defraying office or secretarial expenses, then the salary prescribed herein shall be reduced by that amount.

- (e) In any county bordering the State of Tennessee and in which Mississippi Highways No. 4 and 15 intersect, and having a population of less than twenty thousand (20,000) in the 1970 federal census, the salary of the county prosecuting attorney shall be no less than Six Thousand Dollars (\$6,000.00).
- (f) In any county having a population of more than twenty-five thousand (25,000) and in which U.S. Highways 72 and 45 intersect, the salary of the county attorney shall be paid not less than Eight Thousand Dollars (\$8,000.00). In addition, such county prosecuting attorney shall receive the sum of One Thousand Five Hundred Dollars (\$1,500.00) per month for the purpose of defraying secretarial expense.
- (g) In any county wherein I-20 and State Highway 15 intersect; and in any county wherein I-20 and State Highway 35 intersect, the salary of the county prosecuting attorney shall be not less than Eight Thousand Four Hundred Dollars (\$8,400.00).
- (h) In any Class 1 county bordering on the Mississippi River, lying in whole or in part within a levee district, wherein U.S. Highways 82 and 61 intersect, bounded by the Sunflower River and Steele's Bayou, the board of supervisors, in its discretion, may pay an annual salary equal to the annual salary of members of the board of supervisors in the county. In addition, such county prosecuting attorney shall receive the sum of One Thousand Dollars (\$1,000.00) per month for the purpose of defraying secretarial expenses.
- (i) In any county bordering on the Gulf of Mexico having two (2) judicial districts, and wherein U.S. Highways 90 and 49 intersect, the salary of the county prosecuting attorney shall be not less than Nineteen Thousand Dollars (\$19,000.00) per year. The Board of Supervisors of Harrison County, Mississippi, may, in its discretion, and by agreement with the county prosecuting attorney, employ the county prosecuting attorney and his/her assistant during his/her term of office, and designate additional duties and responsibilities of the office and pay additional compensation up to, but not in excess of, ninety percent (90%) of the annual compensation and salary of the county court judges of Harrison County as authorized by law and provide adequate office space and reasonable office expenses to the county prosecuting attorney and his/her assistant. The salary authorized by this paragraph (i) for the county prosecuting attorney and his/her assistant shall be the sole and complete salary paid by the county for such prosecuting attorney and his/her assistant in each county to which this paragraph applies, notwithstanding any other provision of law to the contrary.
- (j) In any county bordering on the State of Alabama, having a population in excess of seventy-five thousand (75,000) according to the 1980 decennial census in which is located an institution of higher learning and a United States military installation and which is traversed by an interstate highway, the salary of the county prosecuting attorney shall not be less than Twelve Thousand Dollars (\$12,000.00) nor more than the amount of the annual salary received by a member of the board of supervisors of that county.
- (k) In any county with a land area wherein Mississippi Highways 8 and 9 intersect, the salary of the county prosecuting attorney shall be not less than Eight Thousand Five Hundred Dollars (\$8,500.00) per year.
- (l) In any Class 2 county wherein Mississippi Highways 6 and 3 intersect, the salary of the county prosecuting attorney shall be not less than Twelve Thousand Dollars (\$12,000.00) per year nor more than the amount of the annual salary received by a member of the board of supervisors of that county.
- (m) In any county wherein Interstate Highway 55 and State Highway 8 intersect, the salary of the county prosecuting attorney shall be not less than Twelve Thousand Dollars (\$12,000.00) per year.

- (n) In any county wherein U.S. Highway 51 intersects Mississippi Highway 6, and having two (2) judicial districts, the salary of the county prosecuting attorney shall be not less than Three Thousand Six Hundred Dollars (\$3,600.00) per year.
- (o) In any county bordering on the Alabama state line, having a population of greater than fifteen thousand (15,000) according to the 1970 federal decennial census, wherein U.S. Highway 45 and Mississippi Highway 18 intersect, the salary of the county prosecuting attorney shall be not less than Three Thousand Six Hundred Dollars (\$3,600.00) nor greater than that of a member of the board of supervisors of such county. All prior acts, orders and resolutions of the board of supervisors of such county which authorized the payment of the salary in conformity with the provisions of this paragraph, whether or not heretofore specifically authorized by law are hereby ratified, approved and confirmed.
- (p) In any county wherein is located a state-supported institution of higher learning and wherein U.S. Highway 82 and Mississippi Highway 389 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary equal to the annual salary of members of the board of supervisors in the county.
- (q) In any county having two (2) judicial districts wherein Mississippi Highway 32 intersects U.S. Highway 49E, the salary of the county prosecuting attorney shall be not less than Twelve Thousand Seven Hundred Dollars (\$12,700.00).
- (r) In any county traversed by the Natchez Trace Parkway wherein U.S. Highway 45 and Mississippi Highway 4 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary equal to the annual salary of justice court judges in the county.
- (s) In any county having a population of more than fourteen thousand (14,000) according to the 1970 census and which county is bordered on the north by the State of Tennessee and on the east by the State of Alabama and in which U.S. Highway No. 72 and Highway No. 25 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary equal to the annual salary of justice court judges in the county.
- (t) (i) The Board of Supervisors of Madison County, in its discretion may pay the county prosecuting attorney an annual salary in the amount of Twenty-eight Thousand Dollars (\$28,000.00), if the county prosecuting attorney is not employed on a full-time basis.  
(ii) From and after October 1, 1993, in addition to the salary provided for item (i) of this paragraph, the board of supervisors, in its discretion, may pay the county prosecuting attorney an additional amount not to exceed ten percent (10%) of the maximum allowable salary prescribed herein. (iii) The Board of Supervisors of Madison County, in its discretion, may employ the elected county prosecuting attorney in a full-time basis during his or her term of office and may pay compensation to the full-time prosecuting attorney in an amount of not more than ninety percent (90%) of the annual compensation and salary of the county court judges of the county as authorized by law, and may provide adequate office space and reasonable office expenses to the county prosecuting attorney. The salary authorized by this subparagraph (iii) for the county prosecuting attorney shall be the sole and complete salary paid by the county for the prosecuting attorney in Madison County, notwithstanding any other provisions of the law to the contrary.
- (u) In any county having a population in the 1970 census in excess of thirty-five thousand (35,000) and in which U.S. Highways 49W and 82 intersect, and in which is located a state penitentiary, the annual salary of a county prosecuting attorney shall be Thirty Thousand Four Hundred Twenty Dollars (\$30,420.00).
- (v) In any county wherein Mississippi Highway 50 intersects U.S. Highway 45-Alternate, and having a population greater than twenty thousand (20,000) according to the 1980 federal decennial census, a salary equal to that of a member of the board of supervisors of such county; provided that if such county prosecuting attorney is paid a sum for the purpose of



defraying office or secretarial expenses, then the salary prescribed herein shall be reduced by that amount.

- (w) In any county in which the 1975 assessed valuation was Forty Million Seven Hundred Thirty-nine Thousand Four Hundred Sixty-six Dollars (\$40,739,466.00) and wherein U.S. Highway 45 and Mississippi Highway 8 intersect, the salary of the county prosecuting attorney shall be equal to that of a member of the board of supervisors of such county.
- (x) In any county bordering on the Mississippi River having a population greater than fifty thousand (50,000) according to the 1980 federal decennial census and also having a national military park and national cemetery, an annual salary of Twenty-five Thousand Dollars (\$25,000.00) or a salary equal to that of a member of the board of supervisors in such county, whichever is greater. In addition, such county prosecuting attorney shall receive the sum of One Thousand Dollars (\$1,000.00) per month for the purpose of defraying secretarial expenses.
- (y) In any county bordering on the Alabama state line, traversed by the Chickasawhay River, and wherein U.S. Highway 45 and U.S. Highway 84 intersect, a salary that shall be equal to the annual salary of a member of the board of supervisors of such county. All prior acts, orders and resolutions of the board of supervisors of such county which authorize the payment of the salary of the county prosecuting attorney in conformity with the provisions of this section as it existed immediately prior to the effective date of Chapter 506, Laws of 1985, are hereby ratified, approved, confirmed and validated.
- (z) In any county having a population greater than sixty-five thousand five hundred eighty (65,580) but less than sixty-five thousand five hundred ninety (65,590) according to the 1990 federal decennial census, wherein U.S. Highway 45 intersects with Mississippi Highway 6, an annual salary equal to Thirty Thousand Dollars (\$30,000.00).
- (aa) In any county where an institution of higher learning is located and wherein U.S. Highway 82 and U.S. Highway 45 intersect, the salary of county prosecuting attorney shall be not less than that of a member of the board of supervisors in such county, and the board of supervisors may, in its discretion, pay such county prosecuting attorney a salary in an amount not to exceed the amount of the salary of the District Attorney for the Sixteenth Judicial District of Mississippi.
- (bb) In any county having a population greater than six thousand (6,000) according to the federal decennial census and wherein U.S. Highway 61 and Highway 24 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary equal to the annual salary of the board of supervisors in the county.
- (cc) In any county having a population greater than thirty-one thousand (31,000) according to the 1990 federal decennial census and wherein U.S. Highway 61 and U.S. Highway 49 intersect, a salary of not less than the annual salary of justice court judges in the county.
- (dd) (i) The Rankin County prosecuting attorney, if such person is not employed on a full-time basis, shall receive an annual salary of Twenty-nine Thousand Dollars (\$29,000.00).  
(ii) The board of supervisors of Rankin County, in its discretion, may employ the elected county prosecuting attorney and an assistant on a full-time basis during his or her term of office and may pay compensation to such full-time prosecuting attorney in an amount of not more than ninety percent (90%) of the annual compensation and salary of the county court judges of the county as authorized by law, and may provide adequate office space and reasonable office expenses to the county prosecuting attorney and his/her assistant. The board of supervisors of Rankin County, in its discretion, may also employ a full-time assistant county prosecuting attorney and may pay such person an annual salary in such amount as determined by the board of supervisors. The salary authorized by this paragraph (dd)(ii) for the elected county prosecuting attorney and an assistant shall be the sole and complete salary paid by the county for the elected prosecuting attorney and assistant in Rankin County, notwithstanding any other provisions of law to the contrary.

- (ee) In any county having a population greater than eight thousand (8,000) but less than eight thousand two hundred (8,200) according to the 1990 federal census, and in which U.S. Highway 61 and Mississippi Highway 4 intersect, the board of supervisors may, in its discretion, pay the county prosecuting attorney an amount not to exceed Fourteen Thousand Dollars (\$14,000.00), in addition to the maximum allowable salary for that attorney under subsection (1), beginning on April 1, 1997.
- (ff) In any county having a population greater than thirty thousand three hundred (30,300) but less than thirty thousand four hundred (30,400) according to the 1990 federal census, and in which U.S. Highway 78 and Mississippi Highway 7 intersect, a salary of not less than the annual salary of a member of the board of supervisors in such county.
- (gg) In any county having a population greater than thirteen thousand three hundred (13,300) but less than thirteen thousand four hundred (13,400) according to the 1990 federal census, and in which Mississippi Highway 24 and Mississippi Highway 48 intersect, the board of supervisors may, in its discretion, pay the county prosecuting attorney an additional amount not to exceed ten percent (10%) of the maximum allowable salary for that attorney under subsection (1).
- (hh) In any county having a population greater than eight thousand three hundred (8,300) but less than eight thousand four hundred (8,400) according to the 1990 federal census, and in which U.S. Highway 84 and U.S. Highway 98 intersect, the board of supervisors may, in its discretion, pay the county prosecuting attorney an additional amount not to exceed ten percent (10%) of the maximum allowable salary for that attorney under subsection (1).
- (ii) After September 30, 1993, in any county having a population of more than thirty thousand four hundred (30,400) and which is traversed in whole or part by I-59, U.S. Highways 98 and 11 and State Highway 13, the annual salary of the county prosecuting attorney shall be Twenty-five Thousand Dollars (\$25,000.00). In addition, such county prosecuting attorney shall receive after September 30, 1993, the sum of Seven Hundred Fifty Dollars (\$750.00) per month for the purpose of defraying office or secretarial expenses.
- (jj) In any county having a population greater than twenty thousand (20,000) according to the 1990 federal census and wherein U.S. Highway 78 and Mississippi Highway 25 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary equal to the annual salary of justice court judges in the county.
- (kk) In any county having a population greater than twelve thousand four hundred (12,400) but less than twelve thousand five hundred (12,500) according to the 1990 federal census, and in which U.S. Highway 84 and Mississippi Highway 27 intersect, the board of supervisors may, in its discretion, pay the county prosecuting attorney an additional amount not to exceed ten percent (10%) of the maximum allowable salary for that attorney under subsection (1).
- (ll) In any county having a population greater than thirty thousand two hundred (30,200) but less than thirty thousand three hundred (30,300) according to the 1990 federal census, and in which U.S. Interstate 55 and Mississippi Highway 84 intersect, the board of supervisors may, in its discretion, pay the county prosecuting attorney an additional amount not to exceed ten percent (10%) of the maximum allowable salary for that attorney under subsection (1).
- (mm) In any county on the Mississippi River levee, having a population greater than forty-one thousand eight hundred (41,800) but less than forty-one thousand nine hundred (41,900) according to the 1990 federal census wherein U.S. Highway 61 and Mississippi Highway 8 intersect, the board of supervisors, in its discretion may pay the county prosecuting attorney an annual salary equal to the annual salary of members of the board of supervisors in the county. In addition, the board of supervisors, in its discretion, may pay the county prosecuting attorney the sum of One Thousand Dollars (\$1,000.00) per month for the purpose of defraying secretarial expenses.

- (nn) In any county having a population greater than twenty-four thousand seven hundred (24,700) and less than twenty-four thousand nine hundred (24,900) according to the 1990 federal census, wherein Mississippi Highways 15 and 16 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary equal to the annual salary of members of the board of supervisors in the county.
- (oo) In any county having a population greater than thirty-seven thousand (37,000) but less than thirty-eight thousand (38,000) according to the 1990 federal census, in which is located a state supported institution of higher learning, and in which U.S. Highway 82 and Mississippi Highway 7 intersect, the board of supervisors may, in its discretion, pay the county prosecuting attorney a salary in an amount not to exceed the amount of the salary of the District Attorney for the Fourth Judicial District of Mississippi.
- (pp) In any county in which U.S. Highway 78 and Mississippi Highway 15 intersect and which is traversed by the Tallahatchie River, a salary equal to that of members of the board of supervisors of the county, which salary shall be in addition to any sums received for the purpose of defraying office or secretarial expenses and sums received as youth court prosecutor fees.
- (qq) In any county bordering on the State of Tennessee and the State of Arkansas, wherein Interstate Highway 55 and Mississippi Highway 302 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary equal to the annual salary of justice court judges in the county.
- (rr) In any county that is traversed by the Natchez Trace Parkway and in which Mississippi Highway 35 and Mississippi Highway 12 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary in the amount of the annual salary of justice court judges in the county.
- (ss) In any county in which Mississippi Highway 14 and Mississippi Highway 25 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary in the amount of Twenty-two Thousand Dollars (\$22,000.00).
- (tt) In any county in which Interstate Highway 59 and U.S. Highway 84 intersect, the board of supervisors, in its discretion, may pay the county prosecuting attorney an annual salary equal to the annual salary of members of the board of supervisors in the county.
- (uu) (i) In any county bordering on the Mississippi River having a population greater than fifty thousand (50,000) according to the 1980 federal decennial census and also having a national military park and national cemetery, the board of supervisors of the county shall pay an annual salary of Twenty-five Thousand Dollars (\$25,000.00) or a salary equal to that of a member of the board of supervisors, whichever is greater, if not employed on a full-time basis. In addition, the county prosecuting attorney shall be paid the sum of One Thousand Dollars (\$1,000.00) per month for the purpose of defraying secretarial expenses, if not employed on a full-time basis; or  
(ii) The board of supervisors of the county described in subparagraph (i) of this act, in its discretion, may employ the elected county prosecuting attorney on a full-time basis during his or her term of office and may pay compensation to the full-time prosecuting attorney in an amount of not more than ninety percent (90%) of the annual compensation and salary of the County Court Judge of Warren County as authorized by law, and may provide adequate office space and reasonable office expenses to the county prosecuting attorney. The salary authorized herein by this subparagraph (ii) for the county prosecuting attorney shall be the sole and complete salary paid by the county for the prosecuting attorney in Warren County, notwithstanding any other provisions of law to the contrary.

(3) In any case where a salary, expense allowance or other sum is authorized or paid by the board of supervisors pursuant to this section, that salary, expense allowance or other sum shall not be reduced or terminated during the term for which the county attorney was elected.

(4) Notwithstanding any provision of this section to the contrary, no county prosecuting attorney shall receive for his services an annual salary less than the salary paid to a justice court judge in his respective county. 1992, 554; 1993, 550; 1997, 570; 1999, 564; 2003, 547; 2004, 505; 2007, 557; 2008,396.

25-3-11. Travel expense of county attorney in Bolivar County. The allowable travel expense of the county attorney of Bolivar County (by description) is set at \$100.00 per month, payable from the county general fund. 1956, 191.

25-3-13. Salaries of supervisors.

(1)The salaries of the members of boards of supervisors of the various counties are fixed as full compensation for their services.

The annual salary of each member of the board of supervisors shall be based upon the total assessed valuation of his respective county for the preceding taxable year in the following categories and for the following amounts:

- (a) For counties with a total assessed valuation of less than Thirty Million Dollars (\$30,000,000.00) , a salary of Twenty-nine Thousand Dollars (\$29,000.00);
- (b) For counties with a total assessed valuation of at least Thirty Million Dollars (\$30,000,000.00) but less than Fifty Million Dollars (\$50,000,000.00), a salary of Thirty-two Thousand Three Hundred Dollars (\$32,300.00);
- (c) For counties with a total assessed valuation of at least Fifty Million Dollars (\$50,000,000.00) but less than Seventy Five Million Dollars (\$75,000,000.00), a salary of Thirty-Three Thousand Seven Hundred Dollars (\$33,700.00);
- (d) For counties with a total assessed valuation of at least Seventy-five Million Dollars (\$75,000,000.00) but less than One Hundred Twenty-five Million Dollars (\$125,000,000.00), a salary of Thirty-four Thousand Seven Hundred Dollars (\$34,700.00);
- (e) For counties with a total assessed valuation of at least One Hundred Twenty-five Million Dollars (\$125,000,000.00) but less than Three Hundred Million Dollars (\$300,000,000.00), a salary of Forty Thousand Four Hundred Dollars (\$40,400.00);
- (f) For counties with a total assessed valuation of at least Three Hundred Million Dollars (\$300,000,000.00) but less than One Billion Dollars (\$1,000,000,000.00), a salary of Forty-four Thousand Seven Hundred Dollars (\$44,700.00);
- (g) For counties with a total assessed valuation of One Billion Dollars (\$1,000,000,000.00)but less than Two Billion Dollars (\$2,000,000,000.00), a salary of Forty-five Thousand Seven Hundred Dollars (\$45,700.00);
- (h) For counties with a total assessed valuation of Two Billion Dollars (\$2,000,000,000.00)or more, a salary of Forty-six Thousand Seven Hundred Dollars (\$46,700.00).

(2) The annual salary established for the members of the board of supervisors shall not be reduced as a result of a reduction in total assessed valuation.

(3) The salary of members of the board of supervisors shall not be increased under this section until said board shall have passed a resolution stating the amount of the increase and spread it on its minutes. Effective June 29, 2006. 1977, 457; 1980, 477; 1985, HB 185; 1993, 550, 1997, 570; 2004, 505; 2006, 435.

Cross references--

For effect of oil production valuation on supervisors' salaries, see §25-3-15.

25-3-15. Additions to assessed valuation for fixing supervisors' salaries in certain counties. In any county having producing oil or gas wells, the total valuation of such oil or gas produced ... may be combined with the total assessed valuation of said county in computing its category for the purpose of fixing the salary of the members of the board of supervisors; provided that in any county wherein 25% or more of the real property of the county is owned by an agency of the federal government and consequently exempt from ad valorem taxes, the salary of the members of the board of supervisors ... shall be established by the next highest rate from that determined by the total assessed value of the property in the county. 1970, 318; 1997, 570.

25-3-17. Payment of supervisors' salaries. Salaries of members of boards of supervisors shall be payable on the first day of each calendar month during the calendar year following that in which the total assessed valuation is determined; however, the board of supervisors, by resolution duly adopted and entered on its minutes, may provide that such salaries shall be paid semimonthly on the first and fifteenth day of each month. If a pay date falls on a weekend or legal holiday, salary payments shall be made on the workday immediately preceding the weekend or legal holiday. The chancery clerk shall draw his warrant on the general fund, the road and bridge fund, or any fund of the county available for said purpose. 1970, 318; 1997, 572.

25-3-19. Salaries of county auditors. The chancery clerks, as county auditors, shall receive compensation for their services as such the annual amount of Five Thousand Three Hundred Dollars (\$5,300.00) payable in equal monthly installments out of the county treasury; however, the board of supervisors, by resolution duly adopted and entered on its minutes, may provide that such salaries shall be paid semimonthly on the first and fifteenth day of each month. If a pay date falls on a weekend or legal holiday, salary payments shall be made on the workday immediately preceding the weekend or legal holiday. 1981, 497; 1996, 535; 1997, 572.

25-3-21. Allowance for copying assessment rolls. The board of supervisors may allow their clerks ... not to exceed one and one-half cents for each personal assessment or three cents for each separate assessment of lands per copy; but the board may allow as much as \$150.00 in any case for copying the personal roll, and each copy thereof shall be considered a roll. 1932, 193.

Cross references--

For duties of clerk of board of supervisors as to land assessment and homestead exemption rolls, see §27-33-35.

For duties of clerk as to completion and submission of assessment rolls, see §27-35-123.

25-3-23. Deputy chancery clerks in certain counties. Special provisions are made for deputy chancery clerks in certain counties having two judicial districts. In all cases the salary is fixed and paid by the board of supervisors from the general county fund. In Bolivar and Yalobusha counties, the deputy is required to reside and serve in a judicial district other than that in which the chancery clerk resides. In Chickasaw County the salary shall be such sum as the board allows. In Harrison County, the salary shall be a sum as set by the board, not to be less than \$400.00 monthly. In Bolivar County, the salary shall not exceed \$2,400.00 per annum and in Yalobusha County the salary shall not exceed \$350.00 monthly. In both Chickasaw and Bolivar counties it is provided that the amounts allowed the deputy clerk or the chancery clerk for a deputy clerk designated by him shall be in addition to all other compensation provided by law. The allowance may be made to either a deputy clerk or to the chancery

clerk for a deputy clerk in Chickasaw and Harrison counties. Provisions are also made for deputy clerks in counties having an assessed valuation of less than \$5,000,000.00, but there are no counties that fall into that valuation classification at this time. 1974, 422.

### 25-3-25. Salaries of sheriffs.

(1) Except as otherwise provided in subsections (2) through (9), the salaries of sheriffs of the various counties are fixed as full compensation for their services.

From and after October 1, 1998, the annual salary for each sheriff shall be based upon the total population of his county according to the latest federal decennial census in the following categories and for the following amounts; however, no sheriff shall be paid less than the salary authorized under this section to be paid the sheriff based upon the population of the county according to the 1980 federal decennial census:

- (a) For counties with a total population of more than two hundred thousand (200,000), a salary of Ninety Thousand Dollars (\$90,000.00).
- (b) For counties with a total population of more than one hundred thousand (100,000) and not more than two hundred thousand (200,000), a salary of Eighty-four Thousand Dollars (\$84,000.00).
- (c) For counties with a total population of more than forty-five thousand (45,000) and not more than one hundred thousand (100,000), a salary of Seventy-eight Thousand Dollars (\$78,000.00).
- (d) For counties with a total population of more than thirty-four thousand (34,000) and not more than forty-five thousand (45,000), a salary of Seventy-two Thousand Dollars (\$72,000.00).
- (e) For counties with a total population of more than twenty-five thousand (25,000) and not more than thirty-four thousand (34,000), a salary of Sixty-two Thousand Four Hundred Dollars (\$62,400.00).
- (f) For counties with a total population of more than fifteen thousand (15,000) and not more than twenty-five thousand (25,000), a salary of Sixty Thousand Dollars (\$60,000.00).
- (g) For counties with a total population of more than nine thousand five hundred (9,500) and not more than fifteen thousand (15,000), a salary of Fifty-six Thousand Four Hundred Dollars (\$56,400.00).
- (h) For counties with a total population of not more than nine thousand five hundred (9,500), a salary of Fifty-five Thousand Dollars (\$55,000.00).

(2) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Leflore County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars (\$10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county for the following reasons:

- (a) The Mississippi Department of Corrections operates and maintains a restitution center within the county;
- (b) The Mississippi Department of Corrections operates and maintains a community work center within the county;
- (c) There is a resident circuit court judge in the county whose office is located at the Leflore County Courthouse;
- (d) There is a resident chancery court judge in the county whose office is located at the Leflore County Courthouse;
- (e) The Magistrate for the Fourth Circuit Court District is located in the county and maintains his office at the Leflore County Courthouse;
- (f) The Region VI Mental Health-Mental Retardation Center, which serves a multicounty area, calls upon the sheriff to provide security for out-of-town mental patients, as well as patients from within the county;

- (g) The increased activity of the Child Support Division of the Department of Human Services in enforcing in the courts parental obligations has imposed additional duties on the sheriff; and
- (h) The dispatchers of the enhanced E-911 system in place in Leflore County has been placed under the direction and control of the sheriff.

(3) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Rankin County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars (\$10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county for the following reasons:

- (a) The Mississippi Department of Corrections operates and maintains the Central Mississippi Correctional Facility within the county;
- (b) The State Hospital is operated and maintained within the county at Whitfield;
- (c) Hudspeth Regional Center, a facility maintained for the care and treatment of the mentally retarded, is located within the county;
- (d) The Mississippi Law Enforcement Officers Training Academy is operated and maintained within the county;
- (e) The State Fire Academy is operated and maintained within the county;
- (f) The Pearl River Valley Water Supply District, ordinarily known as the "Reservoir District," is located within the county;
- (g) The Jackson International Airport is located within the county;
- (h) The patrolling of the state properties located within the county has imposed additional duties on the sheriff; and
- (i) The sheriff, in addition to providing security to the nearly one hundred thousand (100,000) residents of the county, has the duty to investigate, solve and assist in the prosecution of any misdemeanor or felony committed upon any state property located in Rankin County.

(4) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Neshoba County shall pay an annual supplement to the sheriff of the county an amount equal to Ten Thousand Dollars (\$10,000.00).

(5) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Tunica County, in its discretion, may pay an annual supplement to the sheriff of the county an amount equal to Ten Thousand Dollars (\$10,000.00), payable beginning April 1, 1997.

(6) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Hinds County shall pay an annual supplement to the sheriff of the county in an amount equal to Fifteen Thousand Dollars (\$15,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county for the following reasons:

- (a) Hinds County has the greatest population of any county, two hundred fifty-four thousand four hundred forty-one (254,441) by the 1990 census, being almost one hundred thousand (100,000) more than the next most populous county;
- (b) Hinds County is home to the state capitol and the seat of all state government offices;
- (c) Hinds County is the third largest county in geographic area, containing eight hundred seventy-five (875) square miles;
- (d) Hinds County is comprised of two (2) judicial districts, each having a courthouse and county office buildings;
- (e) There are four (4) resident circuit judges, four (4) resident chancery judges, and three (3) resident county judges in Hinds County, the most of any county, with the sheriff acting as chief executive officer and provider of bailiff services for all;
- (f) The main offices for the clerk and most of the judges and magistrates for the United States District Court for the Southern District of Mississippi are located within the county;
- (g) The state's only urban university, Jackson State University, is located within the county;
- (h) The University of Mississippi Medical Center, combining the medical school, dental school, nursing school and hospital, is located within the county;

- (i) Mississippi Veterans Memorial Stadium, the state's largest sports arena, is located within the county;
- (j) The Mississippi State Fairgrounds, including the Coliseum and Trade Mart, are located within the county;
- (k) Hinds County has the largest criminal population in the state, such that the Hinds County Sheriff's Department operates the largest county jail system in the state, housing almost one thousand (1,000) inmates in three (3) separate detention facilities;
- (l) The Hinds County Sheriff's Department handles more mental and drug and alcohol commitments cases than any other sheriff's department in the state;
- (m) The Mississippi Department of Corrections maintains a restitution center within the county;
- (n) The Mississippi Department of Corrections regularly houses as many as one hundred (100) state convicts within the Hinds County jail system; and
- (o) The Hinds County Sheriff's Department is regularly asked to provide security services not only at the Fairgrounds and Memorial Stadium, but also for events at the Mississippi Museum of Art and Jackson City Auditorium.

(7) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Wilkinson County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars (\$10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county because the Mississippi Department of Corrections contracts for the private incarceration of state inmates at a private correctional facility within the county.

(8) In addition to the salary provided for in subsection (1) of this section, the Board of Supervisors of Marshall County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars (\$10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county because the Mississippi Department of Corrections contracts for the private incarceration of state inmates at a private correctional facility within the county.

(9) In addition to the salary provided in subsection (1) of this section, the Board of Supervisors of Greene County, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars (\$10,000.00). The Legislature finds and declares that the annual supplement authorized by this subsection is justified in such county for the following reasons:

- (a) The Mississippi Department of Corrections operates and maintains the South Mississippi Correctional Facility within the county;
- (b) In 1996, additional facilities to house another one thousand four hundred sixteen (1,416) male offenders were constructed at the South Mississippi Correctional Facility within the county; and
- (c) The patrolling of the state properties located within the county has imposed additional duties on the sheriff justifying additional compensation.

(10) In addition to the salary provided in subsection (1) of this section, the board of supervisors of any county, in its discretion, may pay an annual supplement to the sheriff of the county in an amount not to exceed Ten Thousand Dollars (\$10,000.00). The amount of supplement shall be spread on the minutes of the board. The annual supplement authorized in this subsection shall not be in addition to the annual supplements authorized in subsections (2) through (9).

(11) The salaries provided in this section shall be payable monthly on the first day of each calendar month by chancery clerk's warrant drawn on the general fund of the county; however, the board of supervisors, by resolution duly adopted and entered on its minutes, may provide that such salaries shall be paid semimonthly on the first and fifteenth day of each month. If a pay date falls on a weekend or legal holiday, salary payments shall be made on the workday immediately preceding the weekend or legal holiday. 1942, 4234.5; 1968, 369; 1974, 542; 1975, 483; 1977, 454; 1980, 529; 1981, 340; 1983, 496; 1985, 421; 1988, 498; 1992, 478; 1993, 431; 1997, 570; 1998, 459; 2004, 505.



25-3-27. Salaries of deputy sheriffs where two judicial districts. The board of supervisors of any county having two judicial districts may pay a salary of not less than \$1,500.00 nor more than \$2,500.00 to a regularly appointed deputy sheriff, who shall reside in and serve the judicial district of the county other than that in which the sheriff resides.

Exceptions are provided as follows: In any county with two judicial districts and an assessed valuation of less than \$4,000,000.00 the salary shall be not less than \$1,000.00 nor more than \$1,500.00. [Assessed valuations of all counties have long since far surpassed the figure herein mentioned]; in Carroll County [by description] the salary shall be not less than \$2,400.00 nor more than \$5,400.00; in Yalobusha County [by description] the salary shall be \$1,500.00. 1971, 417.

25-3-29. Method of paying salaries. Unless otherwise specified the salaries of county officers shall be paid monthly out of the general county fund, and the said salaries and allowances shall be included in the budget of each county; however, the board of supervisors, by resolution duly adopted and entered on its minutes, may provide that such salaries shall be paid semimonthly on the first and fifteenth day of each month. If a pay date falls on a weekend or legal holiday, salary payments shall be made on the workday immediately preceding the weekend or legal holiday. 1926, 296; 1997, 572.

25-3-36. Compensation of justice court judges; disposition of fees, costs, fines and cash bonds; justice court clerk clearing account.

(1) Until October 1, 2008, every justice court judge shall receive as full compensation for his or her services and in lieu of any and all other fees, costs or compensation heretofore authorized for such justice court judge, an annual salary based upon the population of his or her county according to the latest federal decennial census; however, no justice court judge shall be paid less than the salary authorized under this section to be paid the justice court judge based upon the population of the county according to the 1980 federal decennial census. The amount of which salary shall be determined as follows:

- (a) In counties with a population of more than two hundred thousand (200,000), a salary of Fifty-Five Thousand Five Hundred Fifty-nine Dollars (\$55,559.00).
- (b) In counties with a population of more than one hundred fifty thousand (150,000) but not more than two hundred thousand (200,000), a salary of Fifty-one Thousand Five Dollars (\$51,005.00).
- (c) In counties with a population of more than seventy-five thousand (75,000) but not more than one hundred fifty thousand (150,000), a salary of Forty-six Thousand Four Hundred Fifty-one Dollars (\$46,451.00).
- (d) In counties with a population of more than forty-nine thousand (49,000) but not more than seventy-five thousand (75,000), a salary of Forty Thousand Seventy-five Dollars (\$40,075.00)
- (e) In counties with a population of more than thirty-four thousand (34,000) but not more than forty-nine thousand (49,000), a salary of Thirty-four Thousand Six Hundred Ten Dollars (\$34,610.00).
- (f) In counties with a population of more than twenty-four thousand five hundred (24,500) but not more than thirty-four thousand (34,000), a salary of Thirty-two Thousand Seven Hundred Eighty-nine Dollars (\$32,789.00).
- (g) In counties with a population of more than twenty-one thousand (21,000) but not more than twenty-four thousand five hundred (24,500), a salary of Twenty-nine Thousand One Hundred Forty-six Dollars (\$29,146.00).
- (h) In counties with a population of more than sixteen thousand five hundred (16,500) but not more than twenty-one thousand (21,000), a salary of Twenty-five Thousand Five Hundred Two Dollars (\$25,502.00).

- (i) In counties with a population of more than twelve thousand (12,000) but not more than sixteen thousand five hundred (16,500), a salary of Twenty-one Thousand Eight Hundred Fifty-nine Dollars (\$21,859.00).
- (j) In counties with a population of more than eight thousand (8,000) but not more than twelve thousand (12,000), a salary of Eighteen Thousand Dollars (\$18,000.00).
- (k) In counties with a population of eight thousand (8,000) or less, a salary of Fourteen Thousand Four Hundred Dollars (\$14,400.00).

The board of supervisors of any county having two (2) judicial districts and two (2) justice court judges for the county shall pay each justice court judge an amount equal to that provided in this subsection for judges in the next higher population category per year, if the justice court judge maintains regular office hours and is personally present in the office they maintain for at least thirty (30) hours per week.

In any county having a population greater than eight thousand (8,000) but less than eight thousand five hundred (8,500) according to the 1990 federal decennial census and in which U.S. Highway 61 and Mississippi Highway 4 intersect, the board of supervisors in its discretion, may pay such justice court judges an additional amount not to exceed the sum of Eleven Thousand Five Hundred Fifty Dollars (\$11,550.00) per year, payable beginning April 1, 1997.

In any county having a population greater than ten thousand (10,000) but less than ten thousand five hundred (10,500) according to the 1990 federal decennial census and in which Mississippi Highway 3 and Mississippi Highway 6 intersect, the board of supervisors, in its discretion, may pay such justice court judges an additional amount not to exceed One Thousand Four Hundred Fifty Dollars (\$1,450.00) per year, payable beginning April 1, 1997.

In any county having a population greater than twenty-four thousand seven hundred (24,700) and less than twenty-four thousand nine hundred (24,900), according to the 1990 federal census, wherein Mississippi Highways 15 and 16 intersect, the board of supervisors shall pay such justice court judge an additional amount equal to Two Thousand Five Hundred Dollars (\$2,500.00) per year.

(2) From and after October 1, 2008, every justice court judge shall receive as full compensation for his or her services, and in lieu of any and all other fees, costs or compensation heretofore authorized for such justice court judge, an annual salary in an amount that is the greater of the following:

- (a) The amount paid to a member of the board of supervisors in the same county in which the justice court judge presides; or
- (b) One hundred three percent (103%) of the salary authorized under this section as of September 30, 2008, for a justice court judge in that county.

If supervisors of a county receive a salary increase, justice court judges whose salary is determined under this paragraph shall be paid an amount reflecting a commensurate increase.

(3) Notwithstanding the provisions of subsection (1) of this section, in the event that the number of justice court judges authorized pursuant to Section 9-11-2(1) is exceeded pursuant to the provisions of Section 9-11-2(4), the aggregate of the salaries paid to the justice court judges of such a county shall not exceed the amount sufficient to pay the number of justice court judges authorized pursuant to Section 9-11-2(1) and such amount shall be equally divided among those justice court judges continuing to hold office under the provisions of Section 9-11-2(4).

(4) From and after January 1, 1984, all fees, costs, fines and penalties charged and collected in the justice court shall be paid to the clerk of the justice court for deposit, along with monies from cash bonds and other monies which have been forfeited in criminal cases, into the general fund of the county as provided in Section 9-11-19; and the clerk of the board of supervisors shall be authorized and empowered, upon approval by the board of supervisors, to make disbursements and withdrawals from the general fund of the county in order to pay any reasonable and necessary expenses incurred in complying with this section, including payment of the salaries of justice court judges as provided by subsection (1) of this section. The provisions of this subsection shall not, except as to cash bonds and other monies which have been forfeited in criminal cases, apply to monies required to be deposited in the justice court clerk clearing account as provided in Section 9-11-18, Mississippi Code of 1972.

(5) The salaries provided for in this section shall be payable monthly by warrant drawn by the clerk of the board of supervisors on the general fund of the county; however, the board of supervisors, by resolution duly adopted and entered on its minutes, may provide that such salaries shall be paid semimonthly on the first and fifteenth day of each month. If a pay date falls on a weekend or legal holiday, salary payments shall be made on the workday immediately preceding the weekend or legal holiday.

(6) Provided, that the salary of any justice court judge shall not be reduced during his term of office as a result of a population change following a federal decennial census.

(7) Any justice court judge who is unable to attend and hold court by reason of being under suspension by the Commission on Judicial Performance or the Mississippi Supreme Court shall not receive a salary while under such suspension. 1981, 471; 1982, 423; 1983, 2nd Ex Sess. ch. 7, Sec. 2; 1984, 502; 1985, 365; 1988, 502; 1991, 594; 1992, 476; 1993, 550; 1997, 570; 1998, 459; 2004, 505; 2008. 319.

Cross references--

As to appointment of justice court clerk, see §9-11-27.

25-3-41. Traveling expenses of state officers and employees.

(1) When any officer or employee of the State of Mississippi, or any department, agency or institution thereof, after first being duly authorized, is required to travel in the performance of his official duties, the officer or employee shall receive as expenses for each mile actually and necessarily traveled, when the travel is done by a privately owned automobile or other privately owned motor vehicle, the mileage reimbursement rate allowable to federal employees for the use of a privately owned vehicle while on official travel.

(2) When any officer or employee of any county or municipality, or of any agency, board or commission thereof, after first being duly authorized, is required to travel in the performance of his official duties, the officer or employee shall receive as expenses Twenty Cents (20¢) for each mile actually and necessarily traveled, when the travel is done by a privately owned motor vehicle; provided, however, that the governing authorities of a county or municipality may, in their discretion, authorize an increase in the mileage reimbursement of officers and employees of the county or municipality, or of any agency, board or commission thereof, in an amount not to exceed the mileage reimbursement rate authorized for officers and employees of the State of Mississippi in subsection (1) of this section.

(3) Where two (2) or more officers or employees travel in one (1) privately owned motor vehicle, only one (1) travel expense allowance at the authorized rate per mile shall be allowed for any one (1) trip. When the travel is done by means of a public carrier or other means not involving a privately owned motor vehicle, then the officer or employee shall receive as travel expense the actual fare or other expenses incurred in such travel.

(4) In addition to the foregoing, a public officer or employee shall be reimbursed for other actual expenses such as meals, lodging and other necessary expenses incurred in the course of the travel, subject to limitations placed on meals for intrastate and interstate official travel by the Department of Finance and Administration, provided, that the Legislative Budget Office shall place any limitations for expenditures made on matters under the jurisdiction of the Legislature. The Department of Finance and Administration shall set a maximum daily expenditure annually for such meals and shall notify officers and employees of changes to these allowances immediately upon approval of the changes. Travel by airline shall be at the tourist rate unless that space was unavailable. The officer or employee shall certify that tourist accommodations were not available if travel is performed in first class airline accommodations. Itemized expense accounts shall be submitted by those officers or employees in such number as the department, agency or institution may require; but in any case one (1) copy shall be furnished by state departments, agencies or institutions to the Department of Finance and Administration for preaudit or postaudit. The Department of Finance and Administration shall

promulgate and adopt reasonable rules and regulations which it deems necessary and requisite to effectuate economies for all expenses authorized and paid pursuant to this section. Requisitions shall be made on the State Fiscal Officer who shall issue his warrant on the State Treasurer. Provided, however, that the provisions of this section shall not include agencies financed entirely by federal funds and audited by federal auditors.

(5) Any officer or employee of a county or municipality, or any department, board or commission thereof, who is required to travel in the performance of his official duties, may receive funds before the travel, in the discretion of the administrative head of the county or municipal department, board or commission involved, for the purpose of paying necessary expenses incurred during the travel. Upon return from the travel, the officer or employee shall provide receipts of transportation, lodging, meals, fees and any other expenses incurred during the travel. Any portion of the funds advanced which is not expended during the travel shall be returned by the officer or employee. The Department of Audit shall adopt rules and regulations regarding advance payment of travel expenses and submission of receipts to ensure proper control and strict accountability for those payments and expenses.

(6) No state or federal funds received from any source by any arm or agency of the state shall be expended in traveling outside of the continental limits of the United States until the governing body or head of the agency makes a finding and determination that the travel would be extremely beneficial to the state agency and obtains a written concurrence thereof from the Governor, or his designee, and the Department of Finance and Administration. However, employees of state institutions of higher learning may expend funds for travel outside of the continental limits of the United States upon a written finding by the president or head of the institution that the travel would be extremely beneficial to the institution.

(7) Where any officer or employee of the State of Mississippi, or any department, agency or institution thereof, or of any county or municipality, or of any agency, board or commission thereof, is authorized to receive travel reimbursement under any other provision of law, the reimbursement may be paid under the provisions of this section or the other section, but not under both.

(8) 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 reimbursement for mileage and other actual expenses incurred in the performance of official duties before the appointment is confirmed by the Senate, as reimbursement for those expenses is authorized under this section.

(9)(a) The Department of Finance and Administration may contract with one or more commercial travel agencies, after receiving competitive bids or proposals therefor, for that travel agency or agencies to provide necessary travel services for state officers and employees. Municipal and county officers and municipal and county employees may also participate in the state travel agency contract and utilize these travel services for official municipal or county travel. However, the administrative head of each state institution of higher learning may, in his discretion, contract with a commercial travel agency to provide necessary travel services for all academic officials and staff of the university in lieu of participation in the state travel agency contract. Any such decision by a university to contract with a separate travel agency shall be approved by the Board of Trustees of State Institutions of Higher Learning and the Executive Director of the Department of Finance and Administration.

(b) Before executing a contract with one or more travel agencies, the Department of Finance and Administration shall advertise for competitive bids or proposals once a week for two (2) consecutive weeks in a regular newspaper having a general circulation throughout the State of Mississippi. If the department determines that it should not contract with any of the bidders initially submitting proposals, the department may reject all those bids, advertise as provided in this paragraph and receive new proposals before executing the contract or contracts. The contract or contracts may be for a period not greater than three (3) years, with an option for the travel agency or agencies to renew the contract or contracts on a one-year basis on the same terms as the original contract or contracts, for a maximum of two (2) renewals. After the travel agency or agencies have renewed the contract twice or have declined to renew the contract for the maximum number of

times, the Department of Finance and Administration shall advertise for bids in the manner required by this paragraph and execute a new contract or contracts.

(c) Whenever any state officer or employee travels in the performance of his official duties by airline or other public carrier, he may have his travel arrangements handled by that travel agency or agencies. The amount paid for airline transportation for any state officer or employee, whether the travel was arranged by that travel agency or agencies or was arranged otherwise, shall not exceed the amount specified in the state contract established by the Department of Finance and Administration, Office of Purchasing and Travel and Fleet Management unless prior approval is obtained from the office.

Laws 1950, Ch. 448, § 1; Laws 1958, Ch. 335, § 1; Laws 1962, Ch. 491, § 1; Laws 1970, Ch. 400, § 1; Laws 1974, Ch. 303, § 1; Laws 1978, Ch. 487, § 1(1); Laws 1980, Ch. 502, § 1; Laws 1984, Ch. 488, § 169; Laws 1985, Ch. 455, § 5; Laws 1986, Ch. 500, § 2; Laws 1990, Ch. 320, § 1; [Laws 1994, Ch. 612, § 1](#); [Laws 1998, Ch. 571, § 1, eff. July 1, 1998](#); [Laws 2000, Ch. 581, § 1, eff. July 1, 2000](#); [Laws 2001, Ch. 440, § 1, eff. January 1, 2001](#); [Laws 2002, Ch. 630, § 1, eff. July 1, 2002](#); [Laws 2005, Ch. 310, § 1, eff. July 1, 2005](#); 2006, 425, 537.

#### 25-3-57. Deduction for absence from court.

In case any judge of the Supreme Court or the Court of Appeals or of a circuit court or chancery court shall fail to attend at any term of court which either of them is required by law to hold, or in case the Attorney General or any district attorney shall fail to attend at any court which he is required to attend officially, it shall be the duty of the clerk of such court to certify the number of days such judge, chancellor, Attorney General, or district attorney was absent at each term of the court to the Auditor of Public Accounts, who shall deduct twice the number of days so certified from the time for which the salary of such officer may be estimated, unless such officer shall make oath, and file the same in the Auditor's office, that his absence was occasioned by sickness of himself or his family, or that his attendance was prevented by high water, the prevalence of an epidemic or contagious disease, or by accident not within his control. 1993, 518, effective from and after July 13, 1993.

### **CHAPTER 4. ETHICS IN GOVERNMENT**

#### 25-4-105. Certain actions, activities and business relationships prohibited or authorized; contracts in violation of section voidable.

(1) No public servant shall use his official position to obtain, or attempt to obtain, pecuniary benefit for himself other than that compensation provided for by law, or to obtain, or attempt to obtain, pecuniary benefit for any relative or any business with which he is associated.

(2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed or order made by any board of which he may be or may have been a member.

(3) No public servant shall:

- (a) Be a contractor, subcontractor or vendor with the governmental entity of which he is a member, other than in his contract of employment, or have a material financial interest in any business which is a contractor, subcontractor or vendor with the governmental entity of which he is a member, officer, employee, or agent.
- (b) Be a purchaser, direct or indirect, at any sale made by him in his official capacity or by the governmental entity of which he is an officer or employee, except in respect of the sale of goods or services when provided as public utilities or offered to the general public on a uniform price schedule.

- (c) Be a purchaser, direct or indirect, of any claim, certificate, warrant or other security issued by or to be paid out of the treasury of the governmental entity of which he is an officer or employee.
  - (d) Perform any service for any compensation during his term of office or employment by which he attempts to influence a decision of the authority of the governmental entity of which he is a member.
  - (e) Perform any service for any compensation for any person or business after termination of his office or employment in relation to any case, decision, proceeding or application with respect to which he was directly concerned or in which he personally participated during the period of his service or employment.
- (4) Notwithstanding the provisions of subsection (3) of this section, a public servant or his relative:
- (a) May be an officer or stockholder of banks or savings and loan associations or other such financial institutions bidding for bonds, notes or other evidences of debt or for the privilege of keeping as depositories the public funds of a governmental entity thereof or the editor or employee of any newspaper in which legal notices are required to be published in respect to the publication of said legal notices.
  - (b) May be a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee, or agent or have a material financial interest in a business which is a contractor or vendor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee, or agent where such contract is let to the lowest and best bidder after competitive bidding and three (3) or more legitimate bids are received or where the goods, services or property involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchase laws.
  - (c) May be a subcontractor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee, or agent or have a material financial interest in a business which is a subcontractor with any authority of the governmental entity other than the authority of the governmental entity of which he is a member, officer, employee, or agent where the primary contract is let to the lowest and best bidder after competitive bidding or where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws.
  - (d) May be a contractor, subcontractor or vendor with any authority of the governmental entity of which he is a member, officer, employee, or agent or have a material financial interest in a business which is a contractor, subcontractor or vendor with any authority of the governmental entity of which he is an officer or employee: (i) where such goods or services involved are reasonably available from two (2) or fewer commercial sources, provided such transactions comply with the public purchases laws; or (ii) where the contractual relationship involves the further research, development, testing, promotion or merchandising of an intellectual property created by the public servant.
  - (e) May purchase securities issued by the governmental entity of which he is an officer or employee if such securities are offered to the general public and are purchased at the same price as such securities are offered to the general public.
  - (f) May have an interest less than a material financial interest in a business which is a contractor, subcontractor or vendor with any governmental entity.

- (g) May contract with the Mississippi Veteran's Home Purchase Board, Mississippi Housing Finance Corporation, or any other state loan program, for the purpose of securing a loan; however, public servants shall not receive favored treatment.
- (h) May be employed by or receive compensation from an authority of the governmental entity other than the authority of the governmental entity of which the public servant is an officer or employee.
- (i) If a member of the Legislature or other public servant employed on less than a full-time basis, may represent a person or organization for compensation before an authority of the government entity other than an authority of the governmental entity of which he is an officer or employee.
- (j) If a constable, may be employed and receive compensation as a deputy sheriff or other employee of the county for which he serves as constable.

(5) No person may intentionally use or disclose information gained in the course of or by reason of his official position or employment as a public servant in any way that could result in pecuniary benefit for himself, any relative, or any other person, if the information has not been communicated to the public or is not public information.

(6) Any contract made in violation of this section may be declared void by the governing body of the contracting or selling authority of the governmental subdivision or a court of competent jurisdiction and the contractor or subcontractor shall retain or receive only the reasonable value, with no increment for profit or commission, or the property or the services furnished prior to the date of receiving notice that the contract has been voided.

(7) Any person violating the provisions of this section shall be punished as provided in Sections 25-4-109 and 25-4-111. 1992, 530; 1994, 586; 1998, 490; 2000, 578; 2008, 562.

Cross references--

Public officials and their partners and associates prohibited from deriving profit from issuance of bonds or disposition of property under provisions governing construction and improvement of public facilities, see §29-17-31.

Public officials not to derive income from issuance of bonds by Mississippi Home Corporation, see §43-33-763.

Prohibition against public official deriving income from issuance of bonds under Mississippi Major Economic Impact Act, see §57-75-25.

Application of this section to the Mississippi Gaming Commission, see §75-76-9.

25-4-107 through 25-4-119. Conflict of interest; improper use of office; penalties. 1983, 469; 1988, 2853; 1990, 573; 2008, 562.

**CHAPTER 7. FEES**

25-7-3. Clerk of the supreme court. The Clerk of the Supreme Court shall charge the following fees:

- (a) General docket fee, for filing the record on appeal in a civil or criminal case..... \$100.00
- (b) Miscellaneous docket fee ..... 25.00
- (c) Confidential miscellaneous docket fee ..... 100.00
- (d) Admission of new attorneys ..... 30.00
- (e) Act of Congress certificate..... 10.00
- (f) Certificate of admission replacement ..... 15.00
- (g) Certificate of good standing replacement..... 10.00
- (h) Attest stamp..... 2.50
- (i) Order from Minute Book ..... 5.00
- (j) Regular copying (per page) ..... .50

(k)	Copying from bound volumes or records (per page).....	2.00
(l)	Copy of mandate .....	3.00
(m)	Minimum copy charge .....	1.00
(n)	Notary fee .....	2.50
(o)	Decision list charge .....	5.00
(p)	Handling charge and retrieval and delivery charges on completed Supreme Court records (to be retained out of deposit)	
	On-site retrieval .....	10.00
	Off-site retrieval .....	15.00
(q)	Forfeited deposits on completed Supreme Court records.....	50.00
(r)	Petition for rehearing .....	25.00

Said general docket fee shall be collected from the appellant by the clerk of the lower court and forwarded to the Clerk of the Supreme Court. Provided, however, that the Clerk of the Supreme Court shall collect the actual cost for binding each volume of the record, which shall be paid in advance by appellant, the actual cost for postage, and for every other service, the same fees as are allowed the clerks of the circuit courts for similar services. All fees shall be paid in the form of cash, cashier's check, or money order or by a check on the account of the attorney for the appellant payable to the Clerk of the Supreme Court. All fees authorized to be assessed and collected by the Clerk of the Supreme Court shall be deposited into the State General Fund. 1989, 336; 1993, 386.

**25-7-7. Fees of clerk of supreme court from counties.** In state failed cases and the defendant appeals on pauper oath to the supreme court and the costs cannot be made out of his estate, the clerk of the supreme court may recover his fees on approval of the attorney general and allowance of the supreme court, to be paid by the board of supervisors of the county from which appeal was taken. 1942, 3931.

**25-7-9. Clerks of the chancery court.**

- (1) The clerks of the chancery courts shall charge the following fees:
- (a) For the act of certifying copies of filed documents, for each complete document ..... \$ 1.00
  - (b) (i) Recording each deed, will, lease, amendment, subordination, lien, release, cancellation, order, decree, oath, etc., per book and page listed where applicable;
    - for the first fifteen (15) pages ..... \$ 10.00
    - Each additional page ..... 1.00
  - (ii) Sectional index entries per section or subdivision lot ..... 1.00
  - (c) Recording each deed of trust, for the first fifteen (15) pages ..... \$ 15.00
    - Each additional page ..... 1.00
    - Sectional index entries per section or subdivision lot ..... 1.00
  - (d) (i) Recording oil and gas leases, cancellations, etc., including indexing in general indices; for the first fifteen (15) pages ..... \$ 18.00
    - Each additional page ..... 1.00
  - (ii) Sectional index entries per section or subdivision lot ..... 1.00
  - (iii) Recording each oil and gas assignment per assignee ..... 18.00
  - (e) (i)Furnishing copies of any papers of record or on file:
    - If performed by the clerk or his employee, per page ..... \$ .50
    - If performed by any other person, per page ..... .25
  - (ii)Entering marginal notations on documents of record ..... \$ 1.00
  - (f) For each day's attendance on the board of supervisors, for himself and one (1) deputy, each ..... \$ 20.00
  - (g) For other services as clerk of the board of supervisors an allowance shall be made to him (payable



semiannually at the July and January meetings) out of the county treasury, an annual sum not exceeding ..... \$3, 000.00

- (h) For each day's attendance on the chancery court, to be approved by the chancellor:  
For the first chancellor sitting only, clerk and two (2) deputies, each ..... \$ 50.00  
For the second chancellor sitting, clerk only ..... \$ 50.00  
Provided that the fees herein prescribed shall be the total remuneration for the clerk and his deputies for attending chancery court.
- (i) On order of the court, clerks and not more than two (2) deputies may be allowed five (5) extra days for each term of court for attendance upon the court to get up records.
- (j) For public service not otherwise specifically provided for, the chancery court may by order allow the clerk to be paid by the county on the order of the board of supervisors, an annual sum not exceeding ..\$5, 000.00
- (k) For each civil filing, to be deposited into the Civil Legal Assistance Fund ..... \$ 5.00

The chancery clerk shall itemize on the original document a detailed fee bill of all charges due or paid for filing, recording and abstracting same. No person shall be required to pay such fees until same have been so itemized, but said fees may be demanded before the document is recorded.

(2) The following fees shall be a total fee for all services performed by the clerk with respect to a complaint which shall be payable upon filing and shall accrue to the chancery clerk at the time of filing. The clerk or his successor in office shall perform all duties set forth without additional compensation or fee to wit:

- (a) Divorce to be contested ..... \$75.00
- (b) Divorce uncontested ..... 30.00
- (c) Alteration of birth or marriage certificate ... 25.00
- (d) Removal of minority ..... 25.00
- (e) Guardianship or conservatorship ..... 75.00
- (f) Estate of deceased, intestate ..... 75.00
- (g) Estate of deceased, testate ..... 75.00
- (h) Adoption ..... 75.00
- (i) Land dispute ..... 75.00
- (j) Injunction ..... 75.00
- (k) Settlement of small claim ..... 30.00
- (l) Contempt in child support ..... 75.00
- (m) Partition suit ..... 75.00
- (n) Any cross-complaint ..... 25.00

(3) For every civil case filed, an additional fee to be deposited to the credit of the Comprehensive Electronic Court Systems Fund established in Section 9-21-14 ..... \$10.00

(4) Cost of process shall be borne by the issuing party. Additionally, should the attorney or person filing the pleadings desire the clerk to pay the cost to the sheriff for serving process on one person or more, or to pay the cost of publication, the clerk shall demand the actual charges therefor, at the time of filing. Effective July 1, 2006. Laws 1940, Ch. 230, § 1; Laws 1950, Ch. 291, § 1; Laws 1968, Ch. 361, § 65; Laws 1970, Ch. 397, § 1; Laws 1970, Ch. 398, § 2; Laws 1981, Ch. 497, § 1; [Laws 1993, Ch. 481, § 2, eff. July 1, 1993](#); [Laws 2004, Ch. 505, § 10, eff. October 1, 2004](#); [Laws 2005, Ch. 323, § 1, eff. June 22, 2005](#); 2006, 447, 573, 577; 2007, 476.

Cross references--

As to chancery clerk's fee for examining records for names of lienors, see §27-43-11.

As to chancery clerk's fees for collection of delinquent taxes, see §25-7-21.

**25-7-10. Additional allowance for chancery court clerks in certain counties.**

In counties having two (2) judicial districts and having a regularly appointed deputy chancery court clerk, the chancery court clerk may be allowed One Thousand Dollars (\$1,000.00) per month. This amount may be

allowed and paid monthly to the chancery court clerk by the board of supervisors of each county affected by this section out of the general fund of the county and may be in addition to all other allowances provided by law. 1998, 583.

25-7-13. Fees of clerk of the circuit court.

(1) The clerks of the circuit court shall charge the following fees:

- (a) Docketing, filing, marking and registering each complaint, petition and indictment ..... \$85.00

The fee set forth in this paragraph shall be the total fee for all services performed by the clerk up to and including entry of judgment with respect to each complaint, petition or indictment, including all answers, claims, orders, continuances and other papers filed therein, issuing each writ, summons, subpoena or other such instruments, swearing witnesses, taking and recording bonds and pleas, and recording judgments, orders, fiats and certificates; the fee shall be payable upon filing and shall accrue to the clerk at the time of collection. The clerk or his successor in office shall perform all duties set forth above without additional compensation or fee.

- (b) Docketing and filing each motion to renew judgment, suggestion for a writ of garnishment, suggestion for a writ of execution and judgment debtor actions and issuing all process, filing and recording orders or other papers and swearing witnesses ..... \$35.00
- (c) For every civil case filed, an additional fee to be deposited to the credit of the Comprehensive Electronic Court Systems Fund established in Section 9-21-14 .....\$10.00

(2) Except as provided in subsection (1) of this section, the clerks of the circuit court shall charge the following fees:

- (a) Filing and marking each order or other paper and recording and indexing same ..... \$ 2.00
- (b) Issuing each writ, summons, subpoena, citation, capias and other such instruments ..... \$ 1.00
- (c) Administering an oath and taking bond ..... \$ 2.00
- (d) Certifying copies of filed documents, for each complete document ..... \$ 1.00
- (e) Recording orders, fiats, licenses, certificates, oaths and bonds: First page ..... \$ 2.00  
Each additional page ..... \$ 1.00
- (f) Furnishing copies of any papers of record or on file and entering marginal notations on documents of record: If performed by the clerk or his employee, per page ..... \$ 1.00  
If performed by any other person, per page ..... \$ .25
- (g) Judgment roll entry ..... \$ 5.00
- (h) Taxing cost and certificate ..... \$ 1.00
- (i) For taking and recording application for marriage license, for filing and recording consent of parents when required by law, for filing and recording medical certificate, filing and recording proof of age, recording and issuing license, recording and filing returns ..... \$20.00

The clerk shall deposit Fourteen Dollars (\$14.00) of each fee collected for a marriage license in the Victims of Domestic Violence Fund established in [Section 93-21-117](#), on a monthly basis.

- (j) For certified copy of marriage license and search of record, the same fee charged by the Bureau of Vital Statistics of the State Board of Health.
- (k) For public service not particularly provided for, the circuit court may allow the clerk, per annum, to be paid by the county on presentation of the circuit court's order, the following amount ..... \$5,000.00

However, in the counties having two (2) judicial districts, such above allowance shall be made for each judicial district.

- (l) For drawing jurors and issuing venire, to be paid by the county ..... \$ 5.00
- (m) For each day's attendance upon the circuit court term, for himself and necessary deputies allowed by the

- court, each to be paid by the county ..... \$50.00
- (n) Summons, each juror to be paid by the county upon the allowance of the court ..... \$ 1.00
- (o) For issuing each grand jury subpoena, to be paid by the county on allowance by the court, not to exceed Twenty-five Dollars (\$25.00) in any one (1) term of court ... \$ 1.00
- (p) For each civil filing, to be deposited into the Civil Legal Assistance Fund ..... \$ 5.00

(3) On order of the court, clerks and deputies may be allowed five (5) extra days for attendance upon the court to get up records.

(4) The clerk's fees in state cases where the state fails in the prosecution, or in cases of felony where the defendant is convicted and the cost cannot be made out of his estate, in an amount not to exceed Four Hundred Dollars (\$400.00) in one (1) year, shall be paid out of the county treasury on approval of the circuit court, and the allowance thereof by the board of supervisors of the county. In counties having two (2) judicial districts, such allowance shall be made in each judicial district; however, the maximum thereof shall not exceed Eight Hundred Dollars (\$800.00). Clerks in the circuit court, in cases where appeals are taken in criminal cases and no appeal bond is filed, shall be allowed by the board of supervisors of the county after approval of their accounts by the circuit court, in addition to the above fees, for making such transcript the rate of Two Dollars (\$2.00) per page.

(5) The clerk of the circuit court may retain as his commission on all money coming into his hands, by law or order of the court, a sum to be fixed by the court not exceeding one-half of one percent ( 1/2 of 1%) on all such sums.

(6) For making final records required by law, including, but not limited to, circuit and county court minutes, and furnishing transcripts of records, the circuit clerk shall charge Two Dollars (\$2.00) per page. The same fees shall be allowed to all officers for making and certifying copies of records or papers which they are authorized to copy and certify.

(7) The circuit clerk shall prepare an itemized statement of fees for services performed, cost incurred, or for furnishing copies of any papers of record or on file, and shall submit the statement to the parties or, if represented, to their attorneys within sixty (60) days. A bill for same shall accompany the statement. Effective July 1, 2006. 1978, 361; 1985, SB 2837; 1993, 481, 1995, 537; 1999, 485; 2001, 344; 2004, 505;2006, 327, 573, 577; 2008,473.

**25-7-14. Prepayment of chancery or circuit court fees by state or political subdivision.**

Neither the state, nor any county, city, town, or village, nor any state board, nor any state, county, city, town, or village officer, in his official character, may be required to prepay the cost of filing a document or an instrument with, or obtaining a copy of any filed document or instrument obtained from, the office of the chancery or circuit clerk. If the cost for filing a document or an instrument or obtaining a copy of a document or instrument is not paid at the time of filing or obtaining a copy of the document or instrument, then the clerk shall furnish an itemized statement and payment shall be paid in the same manner as other claims are paid by the governing body or official having authority to pay claims against the governing body. 1997, 419.

**Cross References--**

Security for costs not required, see Sec. 11-53-13.

**25-7-15. Allowances for deputy circuit court clerks.**

(1) In counties having two (2) judicial districts and having a regularly appointed deputy circuit court clerk who shall serve in the judicial district of the county other than the judicial district of the county in which the circuit court clerk resides, the circuit court clerk shall be allowed One Thousand Dollars (\$1,000.00) per month. This amount shall be allowed and paid monthly to the circuit court clerk by the board of supervisors of each

county affected by this section out of the general fund of the county and shall be in addition to all other allowances now provided by law.

(2) The boards of supervisors of every county shall pay to the circuit clerk the sum of Seven Hundred Dollars (\$700.00) for each session of the grand jury for preparing the grand jury docket, subpoenas, calendar and related services.

(3) The circuit clerks of every county having an assessed valuation in excess of Sixty-five Million Dollars (\$65,000,000.00) at the last federal census and having located therein two (2) municipalities with population in excess of thirty thousand (30,000) respectively at the last federal census and bordering on the Gulf of Mexico, of every county bordering on the Gulf of Mexico and the State of Alabama, and of counties having a population in excess of one hundred fifty thousand (150,000) according to the federal census of 1960, and any county with a population in excess of sixty-five thousand (65,000) at the last federal census of 1970 and having an assessed valuation in excess of One Hundred Twenty-five Million Dollars (\$125,000,000.00) according to the 1975 assessment, shall receive a sum of not less than Twelve Thousand Dollars (\$12,000.00) annually for employment of deputies whose duties are devoted substantially to registration of voters. The sum shall be payable monthly out of any available funds in the county treasury. 1996, 500.

25-7-19. Fees for sheriff for payment into county treasury.

(1) The sheriffs of the various counties of the State of Mississippi shall charge the following fees:

- (a) A uniform total fee in all criminal and civil cases for the service of any process, summons, warrant, writ or other notice as may be required by law or the court, each ..... \$35.00
- (b) In all cases where there is more than one (1) defendant residing at the same household, service on each additional defendant..... 1.00
- (c) After final judgment has been enrolled, notice of further proceedings involving levy of execution on judgments, and attachment and garnishment proceedings, shall be deemed a new suit and the sheriff shall be entitled to the following fee..... 35.00
- (d) Taking bonds of every kind (for purposes of this fee multiple bonds for criminal charges arising out of a single incident or transaction shall be considered a single bond) ..... 25.00
- (e) Attendance in habeas corpus proceeding in vacation, eminent domain court and commitment cases..... 25.00
- (f) On all money made by virtue of any decree, execution or attachment, or other process, the following commissions, to wit:  
 On the first \$100.00, five percent (5%)  
 On the second \$100.00, four percent (4%)  
 On all sums over \$200.00, three percent (3%)
- (g) For all service of all process of every kind and nature issued from without the county wherein it is to be served, a fee of..... 35.00

In civil cases, all process sent out of the county, where issued to another county for service, shall be accompanied by a fee of Thirty-five Dollars (\$35.00) to pay the sheriff's fee for his execution of such process unless the clerk or justice shall endorse on the process that the party at whose instance it issued had filed an affidavit of inability to pay costs thereof. All fees sent and unearned, and the whole of it, shall be unearned if the

writ be not legally and properly executed and returned, and shall be remitted by the sheriff with the writ at his own expense.

(2) The sheriff shall keep a complete account of every fee of every nature, commission or charge collected by him, and shall file an itemized statement thereof monthly, under oath, with the clerk of the board of supervisors of his county who shall preserve same as a part of the records of his office, and he shall make a remittance to the clerk of the board of supervisor of his county on or before the 15th of each month for deposit into the general fund of the county of all said fees, commissions and charges collected during the preceding month.

(3) Any sheriff who shall knowingly fail to collect any fee established by law which was in fact collectible by him or having collected the fee shall fail to keep account of such fee or fail to deposit the fee with the clerk of the board of supervisors as provided by subsection (2), or such other person or office entitled thereto, shall be guilty of a misdemeanor in office and, upon conviction therefor, shall be fined in an amount not to exceed double the amount he failed to collect or pay over, or imprisoned for not to exceed six months in county jail, or be punished by both such fine and imprisonment.

This provision shall in no way lessen the sheriff's civil liability on his bond, but shall be an additional penalty for misfeasance or nonfeasance in office. 1993, 366; 2007, 331.

25-7-21. Fees of tax collectors--for county treasuries--for publishers and chancery clerks.

(1) From and after October 1, 1985, there will be no fees for the services of the tax collector, with the exception of taxes collected for taxing authorities other than the board of supervisors. For collecting taxes for authorities other than the board of supervisors, the fee shall be five percent (5%) of the taxes collected or an amount authorized by contract between the county and the outside taxing authority. A tax collector shall keep a complete account of every such fee collected and shall file an itemized statement thereof monthly, under oath, with the clerk of the board of supervisors of the county who shall preserve same as a part of the records of the office. The tax collector shall make a remittance to the clerk of the board of supervisors of the county on or before the twentieth of each month for deposit into the general fund of the county of all said fees collected during the preceding month.

(2) For the purpose of the limitations set forth in [Section 27-39-321](#), commissions for levies set by the board of supervisors shall be added to base collections of the general county fund for the 1984-1985 year only.

(3) Fees of publisher for publication--To the publishers, payable by the delinquent taxpayer, and to be collected and paid over by the tax collectors; or if the land be sold to the state to be paid by the state:

For each separate publication advertising lands for sale for taxes, for each separately described subdivision, as described and set out in the assessment rolls for the county..... \$1.50

(4) Fees of chancery clerk for collection of delinquent taxes:

(a) For abstracting the list of lands sold for taxes, for each separately described section or subdivision lot ..... \$1.00

(b) For filing and recording deed to land sold for taxes ..... \$10.00

(c) For abstracting each deed in the sectional index, per section or subdivision lot ..... \$1.00

(d) For recording redemption of each..... \$10.00

(e) For abstracting each redemption in the sectional index, per section or subdivision lot ..... \$1.00

(f) And, in addition, three percent (3%) on the amount necessary to redeem.

The several officers' fees shall be collected by the tax collector or chancery clerk and paid over to those entitled to same.

Laws 1930, Ch. 119, § 1; Laws 1932, Ch. 201, § 1; Laws 1938, 1st Ex. Sess., Ch. 24, § 1; Laws 1944, Ch. 179, § 1; Laws 1944, Ch. 320, § 1; Laws 1950, Ch. 250, § 1; Laws 1952, Ch. 217, § 1; Laws 1958, Ch. 321, § 1; Laws 1958, Ch. 327, § 1; Laws 1960, Ch. 330, § 1; Laws 1960, Ch. 331, § 1; Laws 1964, Ch. 421, § 1; Laws 1966, Ch. 440, § 1; Laws 1968, Ch. 361, § 1; Laws 1970, Ch. 399, § 1; Laws 1973, Ch. 382, § 1; Laws 1977, Ch. 386, § 1;

Laws 1985, Ch. 425, § 2; [Laws 1995, Ch. 468, § 1](#), eff. from and after passage (approved March 27, 1995); [Laws 2005, Ch. 410, § 1, eff. June 22, 2005](#); 2007, 364.

Cross references--

As to fees of printer for publishing legal notices, generally, see §25-7-65.

25-7-25. Justice courts.

(1) Costs and fees in the justice court shall be charged as follows and shall be paid in advance to the clerk of the justice court in accordance with the provisions of [Section 9-11-10](#):

- (a) A uniform total fee in all civil cases, whether contested or uncontested, which shall include all services in connection therewith, except as hereinafter stated, each... \$25.00
- (b) For more than one (1) defendant, for service of process on each defendant..... 5.00
- (c) After final judgment has been enrolled, further proceedings involving levy of execution on judgments, and attachment and garnishment proceedings..... 15.00
- (d) For all services in connection with the issuance of a peace bond.....25.00
- (e) For celebrating a marriage, and certificate thereof..... 10.00
- (f) Commission to take depositions..... 5.00
- (g) Appeal with proceedings and bond..... 5.00
- (h) A clerk's fee to be collected in all criminal cases in which the defendant is convicted, as follows:
- (i) For all violations in Title 63 other than driving under the influence of intoxicating liquor or reckless driving..... 5.00
- (ii) All other criminal cases..... 25.00

(2) The justice court shall have the power to impose a fee not to exceed Fifty Dollars (\$50.00) for an expungement or dismissal of any criminal affidavit, complaint or charge.

(3) In addition to the salary provided for in [subsection \(1\) of Section 25- 3-36](#), each justice court judge may receive a fee of not more than Twenty-five Dollars (\$25.00) for each marriage ceremony he performs in the courtroom or offices of the justice court at any time the courtroom or offices are open to the public. This fee shall be paid by the parties to the marriage. Each justice court judge may receive money or gratuities for marriage ceremonies performed outside of and away from the courtroom and the offices of the justice court, that the parties to the marriage request to have performed at any time the courtroom or offices of the justice court are closed. These monies or gratuities, in an amount agreed upon by the parties to the marriage, are not considered fees for the justice court and are not subject to the requirements set forth in the provisions of [Section 9-11-10](#).

Laws 1944, Ch. 185, § 1; Laws 1952, Ch. 242, § 1; Laws 1958, Ch. 340, § 1; Laws 1966, Ch. 441, § 1; Laws 1972, Ch. 420, § 1; Laws 1975, Ch. 409, § 1; Laws 1978, Ch. 336, § 1; Laws 1979, Ch. 476, § 1; Laws 1982, Ch. 423, § 5; Laws 1985, Ch. 440, § 5; [Laws 1993, Ch. 435, § 1](#); [Laws 1994, Ch. 576, § 1](#); [Laws 1997, Ch. 591, § 1, eff. October 1, 1997](#); [Laws 2005, Ch. 454, § 1, eff. July 1, 2005](#); 2008, 403.

25-7-27. Constables and marshals.

(1) Marshals and constables shall charge the following fees:

- (a)(i) A uniform total fee in all civil cases, whether contested or uncontested, which shall include all services in connection therewith, except as stated otherwise in this section, each ..... \$35.00
- (ii) A uniform total fee in all criminal cases, whether contested or uncontested, which shall include all services in connection therewith, except as stated otherwise in this section, each ..... \$35.00
- (iii) In all cases where there is more than one defendant, for service on each additional defendant ..... \$5.00
- (iv) When a complaining party has provided erroneous information to the clerk of the court relating to the service of process on the defendant or defendants and process cannot be served after diligent search and inquiry, the uniform fee shall be assessed upon

subsequent successful service and an additional fee shall be due in the following amount . . . \$15.00

- (v) When a complaining party has provided erroneous information to the clerk of the court relating to the service of process on the defendant or defendants and process cannot be served after diligent search and inquiry, and a defendant is served in a county other than the county in which a suit was filed, the constable in the county in which the suit was filed shall receive an additional fee, upon successful service of the defendant, in the following amount.....\$15.00
- (b) After final judgment has been enrolled , further proceedings involving levy of execution on judgments, and attachment and garnishment proceedings shall be a new suit for which the marshal or constable shall be entitled to the following fee ..... \$35.00
- (c) For conveying a person charged with a crime to jail, mileage reimbursement in an amount not to exceed the rate established under Section 25-3-41(2). To be paid out of the county treasury on the allowance of the board of supervisors, when the state fails in the prosecution, or the person is convicted but is not able to pay the costs.
- (d) For other service, the same fees allowed sheriffs for similar services.
- (e) For service as a bailiff in any court in a civil case, to be paid by the county on allowances of the court on issuance of a warrant therefor, an amount equal to the per diem compensation provided under Section 25-3-69 for each day, or part thereof for which he serves as bailiff when the court is in session.
- (f) For serving all warrants and other process and attending all trials in state cases in which the state fails in the prosecution, to be paid out of the county treasury on the allowance of the board of supervisors without itemization, subject however to the condition that the marshal or constable must not have overcharged in the collection of fees for costs, contrary to the provisions of this section, annually ... \$1,800.00

(2) Marshals and constables shall be paid all uncollected fees levied under subsection (1) of this section in full from the first proceeds received by the court from the guilty party or from any other source of payment in connection with the case.

(3) In addition to the fees authorized to be paid to a constable under subsection (1) of this section, a constable may receive payments for collecting delinquent criminal fines in justice court pursuant to the provisions of Section 19-3-41(3). Effective June 29, 2006.

1995, 464, 550; 1998, 541; 1999, 516; 2004, 505; 2006, 325; 2007, 331.

**25-7-37. County surveyors.** County surveyors shall charge the following fees:

- (a) For each day's attendance in making a survey ..... \$15.00
- (b) For each day spent in the preparation of a plat thereof and statement of contents and certificate of survey..... 7.50
- (c) For each day spent in the preparation of additional plats with notes of reference and certificate of survey ..... 5.00
- (d) For each chain-carrier, for each day ..... 5.00
- (e) For recording each survey..... 2.00

1950, ch 235.

**25-7-43. Fees for approving bond of county officer.** The president of the board of supervisors, or other officer approving the bond of any officer, shall be entitled to a fee of \$1.00 for each bond. ... All bonds required by law to be made by (county officers and members of boards of supervisors) shall be made in a surety

company ... and the premiums thereon shall be paid out of the county treasury ... but the fees for the approval of the same shall be paid by the officer, as in other bonds. 1926, 296.

**25-7-45. Fees to all officers for administering oaths.** For administering and certifying an oath or affidavit, to all officers authorized so to do, twenty-five cents. 1942, 3951.

**25-7-47. Witness fees.**

Witnesses in the county, circuit, and chancery courts shall receive one dollar and fifty cents per day and five cents for each mile going to and returning from the courthouse to their homes by the nearest route, and such tolls and ferriages as they may actually be obliged to pay; but mileage, toll, and ferriage shall be charged but once at each term of court, and a charge shall not be made for mileage except that traveled in this state. Witnesses before a justice of the peace shall be allowed one dollar per day and no more. Witnesses in all other cases shall receive the same compensation as they receive before the circuit court. It shall not be necessary to issue subpoenas for police officers as witnesses in city cases of cities having a population of more than ten thousand according to the federal census of 1930; and such officers, when used as witnesses in such cases, are not to be allowed witness fees. A law enforcement officer who has retired or otherwise ceased employment as a law enforcement officer but who is required to testify in any case based on matters that arose during the course of the officer's employment shall be entitled to the same compensation and expenses from the former employing law enforcement agency as an officer on active duty under the same circumstances.

Laws 1936, Ch. 249, § 1, eff. from and after passage (approved March 26, 1936. Amended by [Laws 2005, Ch. 385, § 1, eff. July 1, 2005](#).

**25-7-57. Witness in criminal cases.** Witnesses in criminal cases shall be allowed the same compensation as in civil cases, but the prosecutor shall not be allowed compensation as a witness, nor shall any person be allowed compensation as a witness in more than one criminal case on the same day. ... Witness certificates issued by the court shall be paid by the county. A witness shall not receive compensation for attendance before the grand jury. 1962, 382.

**25-7-59. Report of witness certificates payable out of county treasury.** The circuit clerk shall, within 30 days after the adjournment of each term of the circuit court, make a report to the county auditor of all witness certificates issued by him, payable out of the county treasury ... and the county auditor shall enter the same upon the proper record in his office. 1942, 3958.

**25-7-61. Jurors.**

**[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]**

(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 shall have 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 shall have been sworn as provided by [Section 13-5-71](#).

(b) Jurors making inquisitions of idiocy, lunacy or of 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 such 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 wherein 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 which paid for such 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, Mississippi Code of 1972](#); or
- (d) Any other governmental agency.

**[Effective 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]**

(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.

No grand juror shall receive any compensation except mileage unless the juror shall have 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 the juror shall have been sworn as provided by [Section 13-5-71](#).

(b) Jurors making inquisitions of idiocy, lunacy or of 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 such 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 wherein 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 which paid for such 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, Mississippi Code of 1972](#); 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 Trail 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 such 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 commenced 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, prior to 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.

Laws 1932, Ch. 192, § 1; Laws 1936, Ch. 248, § 1; Laws 1946, Ch. 180, § 1; Laws 1958, Ch. 324, § 2; Laws 1962, Ch. 383, § 1; Laws 1964, Ch. 365, § 1; Laws 1974, Ch. 420, § 1; Laws 1975, Ch. 367, § 1; Laws 1986, Ch. 459, § 32; Laws 1989, Ch. 345, § 1; Laws 1989, Ch. 395, § 2; [Laws 1994, Ch. 643, § 2](#); [Laws 1996, Ch. 312, § 1, eff. October 1, 1996](#); Laws 2004, 1st Ex. Sess., Ch. 1, § 12, eff. January 1, 2007; 2006, 437; 2007, 443.

**25-7-63. Determination of compensation of jurors.** The amount of compensation due to each juror--whether grand, petit or special venire--shall be determined on the oath of the juror, allowed in open court, and entered on the minutes thereof. The clerk shall issue his certificate ... which shall be paid by the county treasury upon presentation. 1962, 382.

25-7-65. Fees of printers and publishers. Printers and publishers shall be entitled to the following fees:

(a) For publishing in a newspaper any summons, order, citation, advertisement or notice required by law to be published in a newspaper, Twelve Cents (12¢) for each word it contains for the first insertion, and Ten Cents (10¢) for each of the words for each subsequent insertion required by law; however, as an alternative, such printers and publishers may charge such fees per line which are acceptable to the party placing the publication not to exceed the Twelve Cents (12¢) and Ten Cents (10¢) per word as set out in this subsection.

When four (4) or more numerals appear consecutively in any such legal publication, four (4) numerals shall be considered as one (1) word, and if there remains a fractional portion of such unit of four (4) numerals therein such fraction shall also be counted as one (1) word. In the case of numbers containing less than four (4) numerals which are isolated from other numerals by words in such publication, the same shall be counted as one (1) word. When tables or tabular matter are included, each line of the standard newspaper column shall be considered as containing at least six (6) words.

The fees authorized in this paragraph (a) shall not be chargeable for any erroneous publication of a summons, order, citation, advertisement, or notice required by law to be published in a newspaper, if such error is not attributable to the person or entity requesting the publication.

(b) For making proof of publication, making a copy thereof, and for depositing to the same, either and all, Three Dollars (\$3.00); to be paid for both publications and proof on delivery of the proof of publication, but this section shall not apply to the publication of ordinances of municipalities, proceedings of the board of supervisors and school boards or audit reports. 1942, 3961; 1920, 305; 1944, 320; 1948, 428; 1958, 331; 1972, 401; 1983, 520; 1987, 474; 1998, 586.

Cross references--

As to fees of publishers for advertising land for taxes, see §25-7-21(3).

25-7-69. Fees for officers and jurors in ad quod damnum proceedings. Each juror summoned and attending the execution of a writ ad quod damnum [as to the damage] from the board of supervisors shall be entitled to \$2.00, the clerk to \$1.00 for the writ, and the sheriff to \$3.00 for summoning the jury and to \$3.00 for his attendance upon the inquest, to be paid by the party petitioning for the writ. 1942, 3963.

25-7-71. Fees to persons bringing back prisoner on extradition. Any party, acting under a requisition of the governor or acting without such where the person to be returned has waived extradition in writing, who brings back to this state and delivers to the sheriff of the county where the offense is alleged to have been committed a person charged with felony, shall receive twenty cents a mile for each mile necessarily traveled, to be paid by the board of supervisors from the county treasury; but the same shall not be paid to any party who has received or who claims a reward from the state, county, or person. 1950, 326.

Cross references--

As to expenses of returning felons, generally, see §25-7-73.

25-7-73. Expenses of returning felon. The circuit court or the judge thereof in vacation ... may allow all necessary and proper expenses to any person or persons acting upon the requisition of the governor, or without such requisition when the person to be returned has waived extradition in writing, who may travel out of this state for the purpose of identifying or assisting ... in the return to this state of a person charged with a felony. Such expenses may be allowed only ... upon petition of the district attorney. Such an order ... shall be presented to the board of supervisors for allowance. 1950, 325.

25-7-89. Fee for transcript of testimony and exhibits to testimony, or copy of such transcript and exhibits. Each court reporter shall receive Two Dollars and Forty Cents (\$2.40) per page for

each transcript of testimony and exhibits to the testimony, or copy of such transcript and exhibits, which shall be taxed as costs to each party or individual who may obtain such transcript or copy thereof. The court reporter shall file with the clerk an original and one (1) copy of the transcript, together with all exhibits to the testimony, for which copy no charge shall be made. 1994, 643; 2004, 446.

## **CHAPTER 9. STATEWIDE PERSONNEL SYSTEM**

### **25-9-173. Prohibition against dismissing or adversely affecting compensation or employment status of public employee for providing information to investigative body; reprisals and retaliatory actions; conditions for recovery of damages and other remedies.**

(1) No agency shall dismiss or otherwise adversely affect the compensation or employment status of any public employee because the public employee testified or provided information to a state investigative body whether or not the testimony or information is provided under oath.

(2) Any person who is a whistleblower, as defined in Section 25-9-171, and who as a result of being a whistleblower has been subjected to workplace reprisal or retaliatory action, is entitled to the remedies provided under Section 25-9-175. For the purpose of this section, "reprisal or retaliatory action" means, but is not limited to:

- (a) Unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations;
- (b) Demotion;
- (c) Reduction in pay;
- (d) Denial of promotion;
- (e) Suspension;
- (f) Dismissal; and
- (g) Denial of employment.

(3) An employee who has filed a valid whistleblower complaint may not recover the damages and other remedies provided under Section 25-9-175 unless the dismissal or adverse action taken against him was the direct result of providing information to a state investigative body.

(4) Nothing in this section prohibits a governmental entity from making any decision exercising its authority to terminate, suspend, or discipline an employee who engages in workplace reprisal or retaliatory action against a whistleblower.

(5) A governmental entity is not precluded from taking any action in accordance with established personnel policies against an employee who knowingly and intentionally provides false information to a state investigative body. 1991, 454; 1999, 424, effective March 18, 1999.

## **CHAPTER 11. SOCIAL SECURITY AND PUBLIC EMPLOYEES' RETIREMENT**

25-11-11. Contributions to state retirement system. Counties where a plan has been approved therefor for social security and state employees' retirement benefits for employees, shall pay into the contribution fund of said retirement system ... contributions in the amounts and at the rates specified in the law and in the agreement relating thereto. 1983, 449.

### **Cross references--**

As to payment of employer contributions to public employees' retirement system for certain fee paid public officers, see §25-11-125.

## **CHAPTER 14. GOVERNMENT EMPLOYEES' DEFERRED COMPENSATION PLAN LAW**

25-14-1 through 25-14-15. Deferred compensation plan for employees. The state, or any state agency, county, municipality, or other political subdivision may, by contract, agree with any employee to

defer, in whole or in part, any portion of that employee's income and may subsequently purchase a fixed or variable life insurance or annuity contract for the purpose of protecting its obligation to the deferred compensation program for the employee, from any life underwriter duly licensed by this state who represents an insurance company licensed to contract fixed and variable annuities and fixed or variable life insurance business in this state or to purchase any investments authorized for purchase by the Public Employees' Retirement System of Mississippi ... or to invest such moneys in a fund or funds maintained by a corporate trustee; which fund or funds are used as an investment media for retirement, pension or profit sharing plans that are tax qualified for such purpose. ... [The] deferred portion of the employee's compensation is exempt from any state, county or municipal tax until the deferred compensation is paid to the employee or beneficiary and exempt from levy, garnishment, attachment or any other process ... whatsoever ... The administration of the deferred compensation program shall be under the direction of the Public Employees' Retirement System of Mississippi or the appropriate officer designated by a county, municipality, or other political subdivision. Payroll deductions shall be made, in each instance, by the appropriate payroll officer. The administrator of a deferred compensation program may contract with a private corporation or institution for providing consolidated billing and other administrative services if deemed necessary by the administrator. The Board of Trustees may levy such charges and fees on participants' contribution as may reasonably be necessary to provide for the administrative expenses of operating the deferred compensation program, including, but not limited to, the services of auditors, consultants, money managers and third party administrators. ... The administrative agency (as set out herein above) is authorized to invest the moneys held under the provisions of this act. ... The deferred compensation plan is in addition to any other retirement, pension, or benefit systems established heretofore. ... Any compensation deferred under this plan shall be considered part of an employee's compensation for purposes of any other employee retirement, pension, or benefit program. No deferral of income (hereunder) shall effect a reduction of any retirement, pension, or other benefit program provided by law. ... Any sum deferred under [this] program shall not be included for the purposes of computation of any taxes withheld on behalf of any employee. 1973, 399; 1991, 513; 1987, 327; 2007, 505.

## **CHAPTER 15. GROUP INSURANCE FOR PUBLIC EMPLOYEES**

### **25-15-23. Withdrawals from State Employees Life and Health Insurance Plan**

**prohibited.** No agency, board, school district, community/junior college, public library, university, institution or authority of the state shall withdraw, or authorize any agency or institution under its management and control to withdraw, from the State and School Employees Life and Health Insurance Plan established under Title 25, Chapter 15, Mississippi Code of 1972. 1992, 568; 1999, 511.

### **25-15-101 through 25-15-103. Group insurance for employees of local governments**

**and their institutions and agencies.** The governing board of any county, municipality, municipal separate school district, other school district or junior college district, ..., are hereby authorized ... to negotiate for and secure for all or specified groups of employees and their dependents ... a policy or policies of group insurance covering the life, (except as hereinafter provided), salary protection, health, accident and hospitalization, as well as a group contract or contracts covering hospital and/or medical and/or surgical services or benefits, ... of such of their employees and dependents as may desire such insurance and other coverage ... Any employee who desires to reallocate or reduce any part of his or her salary or wages for a cafeteria fringe benefit plan ... shall authorize, in writing, the deduction from the salary or wages of such employee. ... Any amount so deducted shall be transferred into the general or contingent fund of such county or municipality, or the operating fund of such institution, department, agency or the county or municipality, or the maintenance fund of such municipal separate school district, ... and shall be supplemented by funds from the general fund, maintenance fund, or operating fund, as the case may be, in an amount to be determined by the governing board of such county, ... in order to pay the full costs. In no instance shall the amount of contributions by any governing board, or head of a political subdivision, ... exceed an average of 100% of the cost of all such group coverage for employees. Political subdivisions may elect to become a self-insurer with respect to all or any portion of group life, salary protection, health, accident and hospitalization. ... (other provisions are in sections 25-15-101 and 25-15-103). 1982, ex sess, Chapter 17, Section 28; 1982, 362; 1985, HB 1058; 1986, 477; 1991, 566; 1995, 492; 2002, 636; 2009

## CHAPTER 31. DISTRICT ATTORNEYS

25-31-5. Legal assistants to district attorneys. [This section sets forth the number of legal assistants that may be employed in the various circuit court districts of the state.] 1982, 492; 1984, 1st ex sess, Ch 7; 1985, HB 271; 1987, 458; 1988, 552; 1993, 597; 1996, 512; 1997, 577; 1999, 501; 2005, 506; 2006, 561; 2007, 558; 2009

25-31-8. Office operating allowance. From and after July 1, 2006, in all circuit court districts in the state existing now or hereafter created, the district attorney shall receive from sums appropriated for such purpose from the general fund or any special fund of the state of Mississippi, an office operating allowance for the necessary expenses of operating the office of the district attorney, including stenographic help, and other items and expenditures necessary and incident to the investigation of criminal cases, the general expenses of the office of the district attorney for preparing and/or trying felony cases and all other cases requiring the services of the district attorney, the sum of Thirty-five Thousand Dollars (\$35,000.00) for each district, and an addition Four Thousand Dollars (\$4,000.00) for each assistant authorized by Section 25-31-5(1). All expenditures made from such office operating allowances shall be upon written requisition of the duly elected district attorney to the state auditor, as otherwise provided by law. The district attorney may delegate to the board of supervisors of any county in his district the responsibility and authority to employ and set the salary of not more than one (1) employee for the office of such district attorney, such salary to be paid as other expenditures are paid from the funds provided by this section. Such employee shall be deemed to be appointed and employed by the board of supervisors and the salary shall not be deemed to be a pecuniary benefit provided by the district attorney's office. The district attorney shall be authorized to assign the duties of any employees regardless of the source of funding for such employees. Effective June 29, 2006. 1979, 490; 1981, 522; 1993, 391; 1994, 586; 1996, 493; 2006, 443; 2007, 413; 2009

### Cross references--

As to travel and other expenses of criminal investigators, see §25-31-10.

### 25-31-10. Criminal investigator.

- (1) Any district attorney may appoint a full-time criminal investigator.
- (2) The district attorneys of the Third, Fifth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth, Seventeenth and Twentieth Circuit Court Districts may appoint one (1) additional full-time criminal investigator for a total of two (2) full-time criminal investigators.
- (3) The district attorneys of the First, Second, Fourth and Seventh and Nineteenth Circuit Court Districts may appoint two (2) additional full-time criminal investigators for a total of three (3) full-time criminal investigators.
- (4) No district attorney or assistant district attorney shall accept any private employment, civil or criminal, in any matter investigated by such criminal investigators.
- (5) The full and complete compensation for all public duties rendered by said criminal investigators shall be not more than Fifty-nine Thousand Five Hundred Dollars (\$59,500.00) per annum, to be determined at the discretion of the district attorney based upon the qualifications, education and experience of the criminal investigator, plus necessary travel and other expenses, to be paid in accordance with Section 25-31-8. However, the maximum salary under this subsection for a criminal investigator who has a law degree may be supplemented by the district attorney from other available funds, but not to exceed the maximum salary for a legal assistant to a district attorney.
- (6) Any criminal investigator may be designated by the district attorney to attend the Law Enforcement Officers Training Program set forth in Section 45-6-1 et seq., Mississippi Code of 1972. The total expenses associated with attendance by criminal investigators at the Law

Enforcement Officers Training Program shall be paid out of the funds of the appropriate district attorney.

- (7) The district attorney shall be authorized to assign the duties of criminal investigators regardless of the source of funding for such criminal investigators. Effective July 1, 2006.

1974, 536; 1977, 453; 1978, 509; 1981, 522; 1988, 522; 1993, 550, 590; 1994, 616; 1996, 494; 1997, 303; 1999, 581; 2003, 563; 2006, 548; 2007, 558; 2009

Cross references--

As to exemption of certain attorneys' work products from requirement of public access, see §25-1-102.

25-31-15. To pass on public accounts. All accounts of a public nature, before they are allowed by the circuit court, shall be presented to the district attorney; and his opinion concerning the validity of the same, and whether the same should be allowed or disallowed, shall be obtained in writing and presented to the court. 1942, 3922.

Cross references--

As to duty of clerk of court to deliver list of allowances against county treasury to board of supervisors, see §9-7-129.

25-31-17. To give opinions and prosecute public debtors. It shall be the duty of the district attorney, when requested by the county depository or the board of supervisors, or the clerk thereof, to give his opinion in writing upon all cases concerning the revenue or expenses of the county, and with the approval of the attorney general to institute and prosecute ... all persons indebted to the state or any county within his district. 1942, 3923.

25-31-23. Duty as to fines. The district attorney, at each term of the circuit court ... shall ... see that executions have been issued for all fines, penalties, and forfeitures adjudged at such terms, and that the same have been properly proceeded on and returned, and what fines, etc., have been collected ... and shall deliver the same to the clerk of the board of supervisors of the county. He shall proceed against the officers and their sureties for any neglect of duty of which they may be guilty. 1942, 3925.

Cross references--

As to collection of fines and penalties, see §11-7-217.

25-31-31. Office of criminal records in Harrison County. 1975, 366; 1983, 415; 1992, 404.

25-31-33. Certain counties to contribute toward salaries of district attorney and legal assistants. The board of supervisors of any county having a population in excess of two hundred thousand (200,000) according to the federal decennial census of 1970 shall contribute a sum equal to Four Thousand Five Hundred Dollars (\$4,500.00) per year, payable monthly, to supplement the salary of the district attorney of that county, provided that he serves full time; and shall contribute a sum equal to Three Thousand Dollars (\$3,000.00) per year, payable monthly, per full-time legal assistant to supplement the salary of each full-time legal assistant to the district attorney of that county.

The board of supervisors of any Class 1 county bordering on the Gulf of Mexico and having two (2) judicial districts shall contribute a sum equal to Four Thousand Five Hundred Dollars (\$4,500.00) per year, payable monthly to supplement the salary of the district attorney of that county provided that he serves full time; and shall contribute a sum equal to Five Thousand Dollars (\$5,000.00) per year, payable monthly, to supplement the salary of each full-time legal assistant to the district attorney of that county. 1992, 396.

25-31-35. District attorneys shall not engage in private practice; exception.

(1) Except as otherwise provided in subsection (2) of this section, it shall be unlawful and shall constitute a high misdemeanor for any district attorney to hold himself out to the general public or otherwise as being engaged in the private practice of law, whether or not he anticipates receiving any form of remuneration from his clients or any person seeking his advice. Any district attorney who shall be found guilty of violation of this provision shall be removed from office by the circuit judge of the county where such violation occurred.

(2) Any person not serving as a legal assistant to the district attorney who is appointed by the governor to serve as district attorney to fill a vacancy occurring in such office until such office shall be filled by a special or regular election as provided by Sections 23-15-193, 23-15-833 and 23-15-843 shall be allowed to engage in the private practice of law while holding the office of district attorney pursuant to such appointment. 1977, 453; 1983, 322; 1992, 396.

**25-31-36. Right of district attorney to conclude civil cases pending at time of taking office; practice by appointees pending filling of vacancy by election.**

(1) Except as otherwise provided herein, no district attorney shall engage in the private practice of law. However, district attorneys may continue to practice for a period of time, not to exceed six (6) months from the date of taking office, in any of the courts so far as to enable them to bring to a conclusion civil cases actually pending in which such district attorneys were employed when they were appointed or elected.

(2) Any person not serving as a legal assistant to the district attorney who is appointed by the Governor to serve as district attorney to fill a vacancy occurring in such office until such office shall be filled by a special or regular election as provided by Sections 23-15-193, 23-15-833 and 23-15-843 shall be allowed to engage in the private practice of law while holding the office of district attorney pursuant to such appointment. 1992, 396.

**25-31-39. Abolition of part-time district attorneys and part-time legal assistants; exception.** There shall be no part-time district attorneys or part-time legal assistants to district attorneys; however, any person not serving as a legal assistant to the district attorney who is appointed by the Governor to serve as district attorney to fill a vacancy occurring in such office until such office shall be filled by a special or regular election as provided by Sections 23-15-193, 23-15-833 and 23-15-843 shall be allowed to engage in the private practice of law while holding the office of district attorney pursuant to such appointment. 1992, 396.

**CHAPTER 32. PUBLIC DEFENDERS**

**25-32-1 through 25-32-19. Public Defenders.** 1979, 509; 1980, 518.

**CHAPTER 41. OPEN MEETINGS**

**25-41-5. Official meetings of public bodies to be public and open.** All official meetings of any public body, unless otherwise provided in this chapter or in the Constitutions of the United States of America or the State of Mississippi, are declared to be public meetings and shall be open to the public at all times unless declared an executive session as provided in section 25-41-7. Provisions for video conferencing are included. 1975, 481; 2003, 496; 2007, 591; 2009

**25-41-7. Executive sessions.**

(1) Any public body may enter into executive session for the transaction of public business; provided, however, all meetings of any such public body shall commence as an open meeting, and an affirmative vote of three-fifths ( 3/5) of all members present shall be required to declare an executive session.

(2) The procedure to be followed by any public body in declaring an executive session shall be as follows: Any member shall have the right to request by motion a closed determination upon the issue of whether or not to declare an executive session. Such motion, by majority vote, shall require the meeting to be closed for a



preliminary determination of the necessity for executive session. No other business shall be transacted until the discussion of the nature of the matter requiring executive session has been completed and a vote, as required in subsection (1) hereof, has been taken on the issue.

(3) An executive session shall be limited to matters allowed to be exempted from open meetings by subsection (4) of this section. The reason for holding such an executive session shall be stated in an open meeting, and the reason so stated shall be recorded in the minutes of the meeting. Nothing in this section shall be construed to require that any meeting be closed to the public, nor shall any executive session be used to circumvent or to defeat the purposes of this chapter.

(4) A public body may hold an executive session pursuant to this section for one or more of the following reasons:

- (a) Transaction of business and discussion of personnel matters relating to the job performance, character, professional competence, or physical or mental health of a person holding a specific position.
- (b) Strategy sessions or negotiations with respect to prospective litigation, litigation or issuance of an appealable order when an open meeting would have a detrimental effect on the litigating position of the public body.
- (c) Transaction of business and discussion regarding the report, development or course of action regarding security personnel, plans or devices.
- (d) Investigative proceedings by any public body regarding allegations of misconduct or violation of law.
- (e) Any body of the Legislature which is meeting on matters within the jurisdiction of such body.
- (f) Cases of extraordinary emergency which would pose immediate or irrevocable harm or damage to persons and/or property within the jurisdiction of such public body.
- (g) Transaction of business and discussion regarding the prospective purchase, sale or leasing of lands.
- (h) Discussions between a school board and individual students who attend a school within the jurisdiction of such school board or the parents or teachers of such students regarding problems of such students or their parents or teachers.
- (i) Transaction of business and discussion concerning the preparation of tests for admission to practice in recognized professions.
- (j) Transaction of business and discussions or negotiations regarding the location, relocation or expansion of a business or an industry.
- (k) Transaction of business and discussions regarding employment or job performance of a person in a specific position or termination of an employee holding a specific position. The exemption provided by this paragraph includes the right to enter into executive session concerning a line item in a budget which might affect the termination of an employee or employees. All other budget items shall be considered in open meetings and final budgetary adoption shall not be taken in executive session.
- (l) Discussions regarding material or data exempt from the Mississippi Public Records Act of 1983 pursuant to Section 25-11-121.

(5) The total vote on the question of entering into an executive session shall be recorded and spread upon the minutes of such public body.

(6) Any such vote whereby an executive session is declared shall be applicable only to that particular meeting on that particular day. 1975, 481; 1981, 456; 1990, 541; 2007, 305.

**25-41-11. Minutes.** Minutes shall be kept of all meetings of a public body, whether in open or executive session, showing the members present and absent; the date, time and place of the meeting; an accurate recording of any final actions taken at such meeting; and a record, by individual member, of any votes taken; and any other information that the public body requests be included or reflected in the minutes. The minutes shall be recorded within a reasonable time not to exceed thirty (30) days after recess or adjournment and shall be open to public inspection during regular business hours.

Minutes of legislative committee meetings shall consist of a written record of attendance and final actions taken at such meetings. 1975, 481; 1981, 456; 2003, 496.

## **CHAPTER 43. ADMINISTRATIVE PROCEDURES**

25-43-1 through 25-43-19. [This section is concerned with rules for administrative procedures by such state boards, commissions, departments, or officer, other than the legislature or the courts, authorized to make rules or to determine contested cases.] 1976, 487; 1995, 499; 2003, 304.

## **CHAPTER 51. STATE DEPOSITORY FOR PUBLIC DOCUMENTS**

25-51-1 through 25-51-7. The library commission shall be the state depository for the public records issued by any government agency for public distribution. The libraries of state agencies, public junior colleges, colleges, public universities and public libraries located in the state may also become depositories of these records, when designated as such by the library commission upon their written request to this effect. [Regulations are contained in the sections.] 1975, 347.

## **CHAPTER 53. MISSISSIPPI DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES (MDITS)**

25-53-1 through 25-53-125. 1977, 400; 1986, 466; 1995, 622; 1997, 609; 1998, 430; 1999, 410; 2003, 527.

## **CHAPTER 55. LOST RECORDS**

25-55-1 through 25-55-31. Lost records and remedies therefor.

## **CHAPTER 58. GEOGRAPHIC INFORMATION SYSTEM AND MULTIPURPOSE CADASTRE**

25-58-1 through 25-58-3. 1990, 555; 1999, 466.

## **CHAPTER 59. ARCHIVES AND RECORDS MANAGEMENT**

25-59-1 through 25-59-31. 1981, 501; 1996, 453, 537.

## **CHAPTER 60. LOCAL GOVERNMENT RECORDS**

### 25-60-1. Local Government Records Committee

There is hereby created the Local Government Records Committee. The committee shall be composed of the following members: the Attorney General, or his designee; the Secretary of State, or his designee; the State Auditor of Public Accounts, or his designee; the Chairman of the State Tax Commission, or his designee; the Director of the State Department of Archives and History, or his designee; a representative from each of the following organizations, to be designated by the head of each organization for a term of two (2) years with a limit of not more than two (2) terms: the Family Research Association of Mississippi, Inc., the Mississippi Association

of Supervisors, The Mississippi Bar, the Mississippi Chancery Clerks' Association, the Mississippi Circuit Clerks' Association, the Mississippi City Clerks' Association, the Mississippi Historical Society, the Mississippi Municipal Association, the Mississippi Sheriffs' Association, the Mississippi Superintendents of Education Association, the Mississippi Tax Assessors' Association and the Mississippi Tax Collectors' Association; and one (1) resident of this state appointed by the Governor for a term of two (2) years with a limit of not more than two (2) terms. The Director of the Department of Archives and History shall be chairman of the committee. Members of the committee shall receive per diem as provided in Section 25-3-69, and shall be reimbursed for necessary expenses and travel as provided in Section 25-3-41.

It is the duty of the committee to review, approve, disapprove, amend or modify records control schedules submitted by the Local Government Records Office, municipalities, municipal courts and counties for the disposition of records based on administrative, legal, fiscal or historical value. When the Mississippi Supreme Court designates the Department of Archives and History as the records management agency for courts, it is the duty of the committee to review, approve, disapprove, amend or modify records control schedules submitted by justice, county, circuit and chancery courts. Such records control schedules, once approved, shall be authoritative and directive, and shall have the force and effect of law.

It is the duty of municipalities and counties to cooperate with the committee in complying with the provisions of this section.

The committee is authorized to promulgate any rules and regulations necessary to implement the authority granted to it in this section. Effective July 1, 2006.

1996, 537; 1997, 452; 2006, 495.

Cross reference-

Local Government Records Office, see § 39-5-9.

**25-60-3. Establishment of regional record centers; certification and administration.**

Counties and municipalities are hereby authorized to establish regional records centers for the storage, preservation, and use of permanently valuable county and municipal records and of inactive county and municipal records which are required to be retained for a prescribed period of time but which are not needed to be kept in the creating office. Such regional records centers may be jointly established and maintained pursuant to agreements executed under the Interlocal Cooperation Act of 1974. Any center established under this section must either be certified by the Department of Archives and History as provided for historical or archival groups or public libraries in Section 25-29-25(2), or be administered by the Department of Archives and History pursuant to a contract between the department and the local government which established the center. Effective July 1, 2006. 1996, 537; 2006, 495.

**25-60-5. Document filing fee.**

(1) Except as provided in subsection (2) of this section, any county or municipal official or employee who accepts documents for filing as public records shall, in addition to any other fee provided elsewhere by law, collect a fee of One Dollar (\$1.00) for each document so filed. In municipalities and counties that collect Three Hundred Dollars (\$300.00) or more per month from the filing fee, the official or employee collecting the fee shall, on or before the last day of each month, deposit the avails of Fifty Cents (50¢) of the fee into the general fund of the county or municipality, as appropriate, and remit the remainder to the State Treasurer who shall deposit it to the credit of a statewide local government records management fund which is hereby created in the State Treasury. In municipalities and counties that collect less than Three Hundred Dollars (\$300.00) per month from the filing fee, the avails of Fifty Cents (50¢) of the fee shall be remitted to the State Treasurer on a quarterly basis for deposit as provided in the previous sentence. Any monies remaining in the fund at the end of a fiscal year shall not lapse into the General Fund of the State Treasury. Counties and municipalities shall expend monies derived from the fee hereinabove imposed solely to support proper management of their official records in accordance with records

management standards established by the Department of Archives and History. Monies in the Local Government Records Management Fund shall be expended by the Department of Archives and History, pursuant to legislative appropriation, to support the Local Government Records Office of the department and to support a local records management grant program as funds permit.

(2) The fee provided in subsection (1) of this section shall not be collected in any county until the board of supervisors, by resolution spread upon its minutes, determines that it will collect the fee.

(3) Each municipality and participating county may collect the filing fee provided for in this section on filings in any court subject to their respective jurisdiction. Effective July 1, 2006. 1996, 537; 1997, 452; 2006, 495.

## **CHAPTER 61. PUBLIC ACCESS TO PUBLIC RECORDS**

25-61-1 through 25-61-17. Public access to records. [This section is known as the Mississippi Public Records Act of 1983.] Except for records furnished to public bodies by third parties which contain trade secrets or confidential information (which must still be released after notice has been given to said third parties [§25-61-9]) and records otherwise privileged by law, all public records are declared to be public property. Any person shall have the right to inspect, copy, mechanically reproduce or obtain a reproduction of any public record of a public body. Right to inspect and/or copy records shall be granted within one working day after such request is made. Denial of request to access to or copies of records shall be in writing and shall contain specific reasons for such denial. Any person who shall knowingly and willfully deny to any person access to any public record which is not exempt from the provisions of this chapter shall be liable civilly in a sum not to exceed \$100.00, plus all reasonable expenses incurred by such person bringing the lawsuit. Legislature may determine the rules of its own proceedings and regulate public access to its records.] 1983, 424; 1996, 453; 1999, 466.

### Cross references--

As to exemption of certain personnel records from chapter, see §25-1-100.

As to exemption of certain attorneys' work products from chapter, see §25-1-102.

As to exemption of certain judicial records from chapter, see §9-1-38.

As to exemption of certain jury records from chapter, see §13-5-97.

As to exemption of documents from third parties containing confidential information, see §25-61-9.

As to exemption of records otherwise imposed by law, see §25-61-11.

As to proceedings to compel public access to public records under this section, see §25-61-13.

As to penalty for wrongful denial of access to records, see §25-61-15.

As to application of this chapter to legislature, see §25-61-17.

## **TITLE 27. TAXATION AND FINANCE**

### **CHAPTER 1. ASSESSORS AND COUNTY TAX COLLECTORS**

27-1-1. Bond; oath. The assessor of each county, except in those counties wherein the office of assessor and the office of tax collector are combined as provided in Section 27-1-7, shall take and file the oath of office required by the Constitution and give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to Fifty Thousand Dollars (\$50,000.00). 1992, 440.

27-1-7. Assessor to be tax collector--bond. The assessor of each county, except as otherwise provided in this chapter, shall be the tax collector therein; and he shall give one bond for the combined office of assessor and tax collector, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to five percent (5%) of the sum of all the state and county taxes shown by the assessment rolls and the levies to have been collectible in the county for the year immediately preceding the commencement of the term of office for such collector; however, such bond shall not exceed the amount of One Hundred Thousand Dollars (\$100,000.00). He shall also take and file the oath of office as tax collector. Such assessors and tax collectors shall collect all taxes heretofore collected by the sheriffs in said counties, including but not limited to, ad valorem and privilege taxes, charges and fees of every kind and nature heretofore comprising a portion of the tax collecting duties of the sheriffs of said counties and shall, by the twentieth day of the month following collection, pay same to the collecting political subdivision without retaining any portion thereof for his services. Provided, however, regardless of the political subdivision or fund for which the tax was collected, the assessor and tax collector shall pay at least the percentage of such tax heretofore retained by the sheriff as his fee directly into the general fund of the concerned county, and said payment shall be made by the twentieth day of the month following collection. In case of the failure of the assessor to qualify as tax collector within the same time allowed for taking the oath of office and giving bond as assessor, he shall thereby vacate the office of assessor and the vacancy, as assessor and tax collector, shall be filled according to law. Such assessors and tax collectors shall perform all of the tax collecting duties heretofore performed by the sheriffs thereof with the full and complete authority and liabilities heretofore possessed by or imposed upon said sheriffs. However, an assessor and tax collector shall not be liable for ad valorem taxes, privilege taxes, charges and fees collected by him, payment for which was made by a check, draft or other order for the payment of money which has been returned to the assessor and tax collector because of insufficient funds in the amount on which such check, draft or order was drawn, if the assessor and tax collector has exhausted all reasonable means of collecting such instrument, including the filing of a civil suit or presentation to the district attorney for collection under Section 97-19-73 *et seq.* 1992, 400.

27-1-9. Office of assessor and tax collector--budget--finances. The following shall be applicable to all counties and shall pertain to the operation of the assessor and tax collector's office:

(a) Each assessor and tax collector shall appoint a sufficient number of deputies ... and fix their compensation, subject to the budget ... approved by the board of supervisors. No deputy shall receive a salary larger than that of the assessor and tax collector.

(b) The assessor and tax collector shall, at the July meeting of the board of supervisors, submit a budget of estimated expenses of his office for the ensuing fiscal year beginning October 1 in such form as may be prescribed by the director of the state department of audit ... The board shall examine the proposed budget and determine the amount to be expended by the assessor and tax collector ... and may increase or decrease said amount. ... The budget shall include amounts ... to cover ... all expenses incurred ... in the performance of the duties of the office.

(c) The board of supervisors shall, at its first meeting of each quarter, beginning on October 1, January 1, April 1, and July 1, appropriate a lump sum for the assessor and tax collector for the expenses of his office for the current quarter. The quarterly appropriation shall be for 1/4 of the amount approved in the annual budget ... unless the assessor and tax collector requests a different amount. Except in case of emergency, as provided in the budget law, the appropriation for the quarter beginning in October of the last year of the assessor's and tax collector's term shall not exceed 1/4 of the annual budget.

(d) The assessor and tax collector shall file a report of all expenditures of his office during the preceding month with the board of supervisors ... in a form to be prescribed by the director of the state department of audit ... and upon approval thereof, the clerk shall issue warrants therefor, but not in an amount in excess of the budget for that quarter.

(e) The budget for the assessor's and tax collector's office may be revised at any regular meeting of the board of supervisors ... and ... upon recommendation of the assessor and tax collector ... may make supplemental appropriations therefor.

(f) The budget for the assessor and tax collector's office may include amounts to cover necessary expenses to provide equipment and personnel to file, store, retain or reproduce all records, filings or documents using microfilm, microfiche, data processing, computers, magnetic tape, optical discs or any other electronic process which correctly and legibly stores and reproduces or which forms a medium for storing, copying or reproducing documents, files and records.  
1972, 407; 1973, 337; 1994, 521.

**27-1-11. Tax collector as separate officer in certain counties--reconsolidation of offices.**

In counties with a total assessed valuation of \$65,000,000.00 or above [Based upon 1974 tax rolls, this would include: Adams, Bolivar, Claiborne, Coahoma, Copiah, Desoto, Forrest, Grenada, Hancock, Harrison, Hinds, Jackson, Jones, Lamar, Lauderdale, Lee, Leflore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Oktibbeha, Pearl River, Pike, Rankin, Simpson, Sunflower, Warren, Washington, and Yazoo counties], the board of supervisors ... may separate the office of tax collector from the office of assessor, by resolution spread upon the minutes of the board ... such resolution not to take effect until the succeeding term of office and shall not affect any duly elected official during the term for which he has been elected. Any such resolution ... shall be adopted on or before February 1 of any year in which general county and statewide elections are held. After the offices have been separated, they shall remain separate until consolidated by like resolution for a succeeding term; provided, however, such resolution to consolidate the offices, having been once separated, shall become effective only by affirmative vote ... of the qualified electors ... in an election to be held ... for the purpose of such determination. 1968, 369.

**27-1-13. Tax collector as separate officer--election--bond--powers and duties.**

In any such county that has properly adopted a resolution to separate such offices, there shall be a separate tax collector therein who shall possess the same qualifications and be elected at the time and in the same manner as provided by law for the assessor. He shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to five percent (5%) of the sum of all the state and county taxes shown by the assessment rolls and the levies to have been collectible in the county for the year immediately preceding the commencement of the term of office for said collector, and he shall also take and file the oath of office as tax collector; however, such bond shall not exceed the amount of One Hundred Thousand Dollars (\$100,000.00). Such tax collector shall collect all taxes heretofore collected by sheriffs or assessors, as the case may be, in said counties, including but not limited to ad valorem and privilege taxes, charges and fees of every kind and nature heretofore comprising a portion of the tax collecting duties of the sheriffs or assessors of said counties and shall pay same monthly to the collecting political subdivision without retaining any portion thereof for his services. Provided, however, regardless of the political subdivision or fund for which the tax was collected, the tax collector shall pay at least the percentage of such tax heretofore retained by the sheriff as his fee directly into the general fund of the concerned county, and said payment shall be made by the twentieth day of the month following collection. Such tax collectors shall perform all of the tax collecting duties in such counties heretofore performed by the sheriffs or assessors thereof, as the case may be, with the full and complete authority and liabilities heretofore possessed by or imposed upon said sheriffs or assessors. However, a tax collector shall not be liable for ad valorem taxes, privilege taxes, charges and fees collected by him, payment for which was made by a check, draft or other order for the payment of money which has been returned to the tax collector because of insufficient funds in the account on which such check, draft or order was drawn, if the tax collector has exhausted all reasonable means of collecting such instrument, including the filing of a civil suit or presentation to the district attorney for collection under Section 97-19-73 *et seq.* 1972, 464; 1986, 458; 1991, 604.

**27-1-32. Supplemental tax levy in certain additional counties.** Should the board of supervisors of any county ... with a total assessed valuation of less than \$150,000,000.00 determine that the fees to be collected by the offices of sheriff, assessor, tax collector, or assessor and tax collector shall be insufficient to pay the operating budget of any one or more of said offices, said board may set aside, appropriate and expend moneys from the general fund for the purpose of supplementing the budget of any one or more of said offices.

Provided, further, the board of supervisors of any Class 1 county bordering on the Pearl River, having two (2) judicial districts, wherein is housed the seat of State Government, and wherein U. S. Highways 80 and 49 intersect is hereby authorized to set aside, appropriate and expend moneys from the general fund for the purpose of supplementing the budget of the offices of sheriff, tax collector and tax assessor.

Provided, further, the board of supervisors of any Class 1 county bordering on the State of Alabama traversed by U. S. Highway 90 and having an assessed valuation according to the 1972 assessment rolls of One Hundred Thirty-two Million Seven Hundred Seventy-two Thousand Sixty-seven Dollars (\$132,772,067.00) may, in its discretion, set aside, appropriate and expend moneys from the general fund for the purpose of supplementing the budget of the tax collector, tax assessor and sheriff. 1973, 461; 1975, 378; 1976, 461; 1986, 400.

### **CHAPTER 3. STATE TAX COMMISSION**

#### **27-3-52. Counties to have certified appraisal personnel.**

(1) The State Tax Commission shall promulgate rules and regulations setting forth the minimum requirements for which tax assessors and/or their deputy assessors or assistants, appropriate state employees and employees of planning and development districts or other persons may attain certification as an appraiser. The commission shall establish and conduct such educational and training programs as may be appropriate to assist such persons in attaining such certification.

Counties having not more than five thousand (5,000) applicants for homestead exemption shall have at least one (1) certified appraiser, and counties having more than five thousand (5,000) applicants for homestead exemption shall have at least two (2) certified appraisers; however, any county may employ any certified appraiser on a part-time basis.

(2) When any tax assessor and/or his deputies or assistants travel outside of their county to attend an appraisal school, seminar or workshop approved by the State Tax Commission, such persons shall receive as reimbursement of expenses of such travel the same mileage and actual and necessary expenses for food, lodging and travel by public carrier or private motor vehicles as is allowed under Section 25-3-41. However, mileage shall not be authorized when such travel is done by a motor vehicle owned by the county.

The county board of supervisors shall reimburse the assessors, tax collectors and deputies for reasonable and necessary expenses sustained in attending annual conferences, regional conferences, schools and seminars. The State Tax Commission shall have the authority to prescribe forms and to promulgate rules and regulations necessary to implement the provisions of this section. No expenses authorized herein shall be reimbursed unless the expenses have been authorized or approved by an order of the board duly made and spread upon the minutes of such board.

(3) When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Track II, Evaluator I, they shall receive an additional One Thousand Dollars (\$1,000.00) annually beginning the next fiscal year after completion.

When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Track II, Evaluator II, they shall receive an additional One Thousand Dollars (\$1,000.00) annually beginning the next fiscal year after completion.

When any tax assessor and/or his deputies or assistants attend and successfully complete all qualifications pursuant to the Mississippi Education and Certification Program and receive the certification level of Mississippi Assessment Evaluator (MAE), they shall receive an additional One Thousand Five Hundred Dollars (\$1,500.00) annually beginning the next fiscal year after completion.

When any deputy tax assessor successfully completes all qualifications to become a licensed certified residential real estate appraiser under Sections 73-34-1 through 73-34-63, on the recommendation of the tax assessor, the county board of supervisors may pay, in its discretion, an additional amount not to exceed Three Thousand Dollars (\$3,000.00) annually to the deputy beginning the next fiscal year after the completion of such qualifications.

When any deputy tax assessor successfully completes all qualifications to become a licensed certified general real estate appraiser under Sections 73-34-1 through 73-34-63, on the recommendation of the tax assessor, the county board of supervisors may pay, in its discretion, an additional amount not to exceed Five Thousand Dollars (\$5,000.00) annually to the deputy beginning the next fiscal year after the completion of such qualifications.

The accumulative total of all educational increases authorized under this subsection shall not exceed Eight Thousand Five Hundred Dollars (\$8,500.00) and shall be paid out of the common county fund from proceeds of the one (1) mill ad valorem tax as provided in Section 27-39-329.

In order to receive the additional annual payment or payments provided for in this subsection, the tax assessor or deputies or assistants who completed the Mississippi Education and Certification Program and were certified as provided herein shall be personally involved in the conduct, administration and/or supervision of the appraisal of the property of the county and in the maintenance of such appraisal. 1980, 505; 1984, 470; 1987, 507; 1989, 517; 1990, 447; 1997, 414; 2003, 468.

**27-3-59. Assessors' and collectors' conferences.** It shall be the duty of the state tax commission to call and hold an annual conference of the county tax assessors and collectors. ... It shall be the duty of every county tax assessor and collector to attend and participate in the meeting. ... Each tax assessor and collector attending and participating in such conference ... shall be entitled to receive as expenses for attending ... travel, meals, lodging and other necessary expenses at the rate provided ... in Section 23-5-41, which expenses shall be paid from the county general fund or proceeds from the levy imposed for the maintenance of the reappraisal program. 1972, 358; 1986, 500.

## **CHAPTER 5. MOTOR VEHICLE COMPTROLLER**

**27-5-101. Apportionment of gasoline tax made by comptroller.** Refer to code book for details concerning this lengthy statute. 1981, 309, 464; 1984, 446; 1987, 322; 1992, 548; 1994, 557; 1999, 461, 575; 2002, 582; 2005, 2<sup>nd</sup> Ext, 53 .

## **CHAPTER 15. STATEWIDE PRIVILEGE TAXES**

**27-15-7. Levy of privilege taxes by counties, municipalities and levee districts restricted.** The board of supervisors may not levy any tax upon the privilege upon which a statewide is levied under Chapter 15, Title 27, Code of 1972. 1944, 138.

**27-15-9. Classification of municipalities.** For the purpose of this chapter the municipalities of the state are hereby divided into seven classes, numbered from one to seven, which classes shall be according to the population thereof, as follows:

Class No. 1 shall include all municipalities having a population of 25,000 inhabitants or more.

Class No. 2 shall include all municipalities having a population of 15,000 inhabitants, and less than 25,000 inhabitants.

Class No. 3 shall include all municipalities having a population of 10,000 inhabitants, and less than 15,000 inhabitants.

Class No. 4 shall include all municipalities having a population of 5,000 inhabitants, and less than 10,000 inhabitants.

Class No. 5 shall include all municipalities having a population of 3,000 inhabitants, and less than 5,000 inhabitants.

Class No. 6 shall include all municipalities having a population of 1,000 inhabitants, and less than 3,000 inhabitants.

Class No. 7 shall include all municipalities having a population of 500 inhabitants, and less than 1,000 inhabitants.



The term "elsewhere in the state" as used in this chapter shall include all municipalities having a population of less than 500 inhabitants, and all other places outside of any municipality. 1944, 138.

## **CHAPTER 17. LOCAL PRIVILEGE TAXES**

27-17-1 through 27-17-9. Local privilege taxes--how assessed and collected; payable upon certain privileges; 27-17-35 Automobiles for hire or rent; 27-17-162 Flea market vendors; 27-17-230 coin-operated laundries; 27-17-299 pawn brokers; 27-17-365 stores; 27-17-392 travel agencies. The board of supervisors of each county and the governing body of each municipality shall levy, assess and collect all taxes upon the privilege of doing business as specified in this chapter, but only to the extent permitted and only upon such privileges as are specified herein. No municipality or county shall levy or collect any tax upon any privilege which is taxable or has been duly licensed for statewide purposes, except as otherwise provided. 1952, 419. (Section 27-17-61 repealed, per 1976, 365). 1976, 365; 1988, 505.

Every person desiring to engage in any business, or exercise any privilege hereinafter specified, if such business is located outside a municipality, shall first, before commencing the same, apply for, pay for and procure from the tax collector of the county in which such business is located, or if located within a municipality ... from the tax collector of the municipality, a privilege license authorizing him to engage in the business or exercise the privilege specified therein and the amount of tax shown herein below is hereby imposed for the privilege of engaging or continuing in the business set forth therein. 1964, 516; 1988, 505.

## **CHAPTER 19. MOTOR VEHICLE PRIVILEGE AND EXCISE TAXES**

27-19-1 through 27-19-171. Motor vehicle privilege taxes. [This entire chapter is devoted to privilege taxes upon motor vehicles. Much of this chapter deals with county fiscal matters.]

27-19-19. Trailers--collection of tax and issuance of tags and decals by county tax collectors. The privilege tax on trailers or semitrailers, to be used with and drawn by private carriers of passengers, on house trailers and on rental trailers shall be collected, and the license tags and decals issued therefor, by the tax collectors of the various counties ... provided, however, that decals shall not be required to be issued by the tax collectors for rental trailers. 1976, 361.

27-19-27. Applicability of tax to motor vehicles owned by United States, the state and political subdivisions. No privilege tax shall be imposed upon any motor vehicle owned by the United States Government or any agency or instrumentality thereof, or owned by the State of Mississippi or any county or municipality of the state or any instrumentality thereof, or upon any motor vehicle owned by any school district in the state, any motor vehicle owned by any fire protection district incorporated pursuant to Sections 19-5-151 through 19-5-207 or any motor vehicle owned by any levee district or drainage district. The exception herein granted to vehicles owned by the United States Government or any agency or instrumentality thereof, or owned by the State of Mississippi or any county or municipality of the state or any agency or instrumentality thereof, or to any motor vehicle owned by any school district in the state, any motor vehicle owned by any fire protection district incorporated pursuant to Section 19-5-151 through 19-5-207, ... shall not apply to vehicles owned by any officer or employee thereof, but shall be applicable only to those motor vehicles actually owned by the United States Government or one of its instrumentalities or agencies, or owned by the State of Mississippi or any county or municipality of the state or one of its instrumentalities or agencies, or to any motor vehicle owned by any school district in the state, any motor vehicle owned by any fire protection district incorporated pursuant to Section 19-5-151 through 19-5-207. ... All vehicles owned by any levee district or drainage district.

Each vehicle owned by the State of Mississippi, any county or any municipality or any agency or instrumentality thereof, and each motor vehicle owned by any school district in the state, each motor vehicle

owned by any fire protection district incorporated pursuant to Section 19-5-151 through 19-5-207, ... shall be registered with the State Tax Commission, which shall issue a license tag for the vehicle. The license tag issued will be valid for as long as the vehicle is in service and in the inventory of the state agency, county or municipality or any agency or instrumentality thereof, school district, fire protection district which registered the vehicle... and shall comply with marking requirements in Sections 25-1-87 and 27-19-59.

Exemption of motor vehicles owned by a county or municipality or any agency or instrumentality thereof from motor vehicle privilege taxes does not waive payment of the registration fee imposed in Section 27-19-43.

The exemption granted in this section shall be evidenced by special license plates of a design to be selected by the Chairman of the State Tax Commission, which design shall include as one of the features in large, easily legible letters the words "TAX EXEMPT". Each motor vehicle subject to the provisions of this section which is owned or leased... shall display such special license tag, except for (a) vehicles used for undercover law enforcement work where such identifying tags would hinder official investigations and (b) up to four passenger automobiles owned or leased by economic development districts or economic development authorities. Such undercover and economic development district/authority vehicles shall be issued regular license tags. 1976, 361; 1981, 524; 1983, 451; 1986, 420; 1990, 494; 1994, 465; 1996, 480.

27-19-32. License tags or plates and renewal license decals--mailing costs. No governmental subdivision shall bear the cost of mailing or delivering a license plate or decals to the purchaser of such license plate or decals. No charge to the purchaser for such mailing shall be in excess of the actual cost of the mailing. 1976, 361.

27-19-43. License tags or plates and renewal license decals; issuance; registration fees. License tags, substitute tags and decals for individual fleets and for private carriers of passengers, school buses (excluding school buses owned by a school district in the state), church buses, taxicabs, ambulances, hearses, motorcycles, and private carriers of property, private commercial carriers of property, and private commercial carriers of property of a gross weight of 10,000 pounds and less, shall be sold and issued by the tax collectors of the several counties.

Applications for license tags for motor vehicles in a fleet registered under 27-1-66, and applications for all other license tags, substitute tags and decals shall be filed with the commission or the local tax collector of the respective counties and forwarded to the commission for issuance to the applicant. All tags and decals for vehicles owned by the state or any agency or instrumentality thereof, and vehicles owned by a fire protection district, school district or a county or municipality, and all vehicles owned by a road, drainage, or levee district shall be issued by the commission.

In addition to the privilege taxes levied herein, there shall be collected the following registration or tag fee:

- (a) For the issuance of both a license tag and two (2) decals, a fee of Five Dollars (\$5.00).
- (b) For the issuance of up to two (2) decals only, a fee of Three Dollars and Seventy-five Cents (\$3.75).

No tag or decal shall be issued either by a tax collector or by the commission without the collection of such registration fee except substitute tags and decals and license tags for vehicles owned by the State of Mississippi.

Beginning July 1, 1987, through August 31, 2001, there shall be levied a registration fee of Five Dollars (\$5.00) in addition to the regular registration fee imposed in paragraphs (a) and (b) of this section. Such additional registration fee shall be levied in the same manner as the regular registration fee. 1992, 497; 1995, 413; 1996, 410; 1997, 377.

Cross references--

As to exemption of motor vehicles owned by county or municipality from motor vehicle privilege taxes not waiving payment of registration fee imposed by this section, see §27-19-27.

Collection procedures and disbursement of proceeds affecting fees imposed under paragraphs (a) and (b) of this section, see §27-19-99.

Tax imposed upon sale or use of motor vehicles, see §27-65-201.

27-19-45 through 27-19-56, et seq. These sections deal with special license tags or plates.

27-19-59. Owner of vehicle to make application for license. Application for license tags shall be made by the owner of the vehicle for which the tag is being purchased. All motor vehicles owned by the state of Mississippi or ... any political subdivision thereof, when used in the transportation of passengers, shall have painted on both sides and if practical, on the rear of each vehicle the name of the agency or department in letters at least three inches in height ... and no license tag or decal shall be issued for such vehicle until the name has been printed thereon as herein required. Applicants must show proof of insurance in an amount not less than \$5,000.00 for the death or injury of one person, \$10,000.00 for any one accident, and \$5,000.00 property damage for any one accident. No tag will be issued unless such proof is shown. 1982, 427; 1984, 508.

27-19-61. Ad valorem tax receipts to be presented with application for license. 1977, 484.

27-19-63. Payment of tax; penalties, etc. 1982, 427; 1992, 497; 1995, 413; 1996, 410; 1997, 347; 2001, 596; 2005, 5<sup>th</sup> Ex, 21.

27-19-69. Destruction of vehicles. 1977, 484; 1981, 524; 1995, 349; 1997, 377.

27-19-71. Replacement of vehicles. 1977, 484; 1981, 524.

#### 27-19-73. Issuance of refunds

The tax collector or the commission, as the case may be, is authorized and empowered to refund to any individual, firm or corporation any motor vehicle privilege license tax, permit or tag fee which has been paid or collected through error or otherwise when the person, individual, firm or corporation was not liable for such tax or fee or when the individual, firm or corporation has paid any such privilege tax or fee in excess of the sum properly due, whether such payments were made under protest or compulsion or not. Taxes erroneously paid within the meaning of this section shall include, but shall not be limited to, overpayments, double payments upon the same vehicle, payments upon vehicles not located within the State of Mississippi, and all other erroneous or illegal payments.

All claims for refunds under this section shall be made within twelve (12) months from the date of the erroneous payment of taxes or fees and the refunds, approved by the tax collector or commission, shall be made out of any monies collected by the tax collector or commission from the same source of revenue. If such source of revenue no longer exists, the refund shall come from the general fund collections. If such refund is approved by the tax collector, he shall issue a warrant to the claimant and deduct the proper amounts from his next settlement. If a claim for refund is disapproved, the claimant shall be notified of the disapproval and the reasons therefor. Laws 1946, Ch. 266, § 27; Laws 1981, Ch. 524, § 8; Laws 1985, Ch. 425, § 3, eff. from and after passage (approved March 26, 1985); [Laws 2005, Ch. 499, § 24, eff. July 1, 2005](#).

27-19-79. Oversize and overweight permits. 1995, 491.

27-19-81. Registration of vehicle in excess of weight limits; excess weight permits; excess size permits.

(1) No vehicle shall be registered by the State Tax Commission or by a tax collector, and no license tag whatsoever shall be issued therefor, where the gross weight of such vehicle exceeds the limits provided by law. In the event of an emergency requiring the hauling of a greater gross weight than permitted by law, the owner or operator of such vehicle shall obtain an excess weight authorization from the Mississippi Department of

Transportation or local authority having jurisdiction of the particular road, street or highway before operating such vehicle on the highways of this state to haul such a gross weight over a route to be designated by the aforesaid department. It shall then be necessary for the owner or operator of the vehicle to obtain a permit from the Transportation Department, which shall be issued by the department under the same provisions as are provided for the issuance of trip permits under Section 27-19-79, but which permit shall likewise be obtained prior to the operation of such vehicle on the highways. No persons or agencies other than the Mississippi Department of Transportation shall have authority to issue the permits provided for in this section. The fee to be charged for such permits shall be computed in the same manner provided in Section 27-19-79 for each one thousand (1,000) pounds, or fractional part thereof, of gross weight above the licensed capacity of the vehicle, up to the maximum legal weights provided by this article on the roads to be traveled.

This subsection shall apply, but not be limited to, any tractor, road roller or road machinery used solely and specifically in road building or other highway construction or maintenance work.

For each one thousand (1,000) pounds, or fractional part thereof, in excess of the weight authorized by Sections 63-5-29 and 63-5-33 for any such vehicle or in excess of the limits set by the Transportation Department for specified roads and bridges, the fee shall be Five Cents (5¢) per one thousand (1,000) pounds, or fractional part thereof, for each mile traveled upon the highways of the state, except that the fee for manufactured housing modular units, residential or commercial, shall be Two Cents (2¢) per one thousand (1,000) pounds, or fractional part thereof, for each mile traveled upon the highways of the state. Provided, however, no permit shall be issued for a fee of less than Ten Dollars (\$10.00).

The Transportation Department may provide for an annual permit which will allow pre-approved vehicles and loads to travel predesignated routes with self-issued permits. Under such self-issuance authority, the owner of the vehicle shall complete the permit in a format designated by the department, electronically transmit a copy to the department prior to the move, and ensure that a copy is in the possession of the operator. Vehicles having a gross weight exceeding the limits provided by law that have a nondivisible gross vehicle weight of ninety-five thousand (95,000) pounds or less, which are otherwise legal, shall not be restricted as to the hours of the day such vehicles may be operated on predesignated routes. The department shall bill the vehicle owner according to the provisions of the preceding paragraph. The department is authorized to modify predesignated routes at any time for cause, such as highway construction or hazardous highway conditions. The annual fee for the self-issuance permit authority obtained pursuant to this paragraph shall be Five Hundred Dollars (\$500.00) per owner, regardless of the number of vehicles which he will operate pursuant to such permit, in addition to any other fees required by this section. Any vehicle and load being operated pursuant to this paragraph for which the operator does not have the permit or a copy thereof in his possession, or for which a copy of the permit was not electronically transmitted to the department, shall be deemed not to have a permit and shall be penalized accordingly.

It shall not be necessary for the owner or operator of a vehicle to obtain a permit pursuant to this subsection if such owner or operator has obtained for his vehicle an annual special permit for vehicles transporting heavy equipment pursuant to Section 63-5-52.

(2) Before operating a vehicle where the size of the load being hauled is in excess of that permitted by law, the owner or operator of such vehicle shall obtain excess size authorization from the Transportation Department or proper local authority and an excess size permit from the Transportation Department. Such excess size permit shall be issued by the Mississippi Department of Transportation under the same provisions as are provided for the issuance of trip permits under Section 27-19-79, and it shall be obtained prior to the operation of such vehicle on the highways. The fee to be charged for such excess size permit shall be Ten Dollars (\$10.00) per trip. Such permits may be issued for an extended period of time and must coincide with the expiration date and other provisions of the carrier's permit or authorization issued by the Transportation Department or local authority. The fee for such extended permits shall be based upon an annual fee of One Hundred Dollars (\$100.00) per carrier. No permit shall be issued under this subsection if the issuance of the permit would violate federal law or would

cause the State of Mississippi to lose federal aid funds. This subsection shall not apply to any tractor, road roller or road machinery used solely and specifically in road building or other highway construction or maintenance work or to any machinery or equipment operated on the highways or transported thereon in the course of normal farming activities, including cotton module transporters.

(3) The Executive Director of the Mississippi Department of Transportation may authorize certain carriers of property to issue overweight and/or oversize permits for vehicles owned or operated by such carriers, provided such carriers have blanket authorization from the Transportation Commission and also meet other requirements established by the Transportation Commission.

(4) The owner or operator of a vehicle hauling sand, gravel, wood chips, wood shavings, sawdust, fill dirt, agricultural products or unprocessed forestry products may apply to the Mississippi Department of Transportation for a harvest permit for the purpose of authorizing any such vehicles to operate on the highways in this state (other than the federal interstate system or those highways designated by the Mississippi Department of Transportation as not capable of carrying more than fifty-seven thousand six hundred fifty (57,650) pounds at the maximum gross weight specified in Section 63-5-33). Harvest permits may be issued and are valid to permit any such vehicle to be operated on a highway in this state that has been designated by the Mississippi Department of Transportation as not capable of carrying more than fifty-seven thousand six hundred fifty (57,650) pounds only if such vehicle operates in compliance with the provisions of Section 63-5-29(3)(b). A fee of Twenty-five Dollars (\$25.00) shall be charged for each permit issued. The permit shall be in the form of a decal which shall be affixed to each permitted vehicle on the upper left corner of the windshield on the driver's side. Each permit shall expire one (1) year from its date of issue. The fees collected under this subsection shall be deposited into a special fund that is created in the State Treasury. Monies in the fund shall be allocated and distributed quarterly, beginning September 30, 1994, to each of the counties of the state on an equal basis. Monies distributed to the counties under this subsection shall be deposited in each county's road and bridge fund and may be expended, upon approval of the board of supervisors, for any purpose for which county road and bridge fund monies lawfully may be expended. This subsection (4) shall stand repealed from and after July 1, 2009.

(5) Any owner or operator who has met the requirements set by the Mississippi Transportation Commission may defer payment of permits issued by the department until the end of the current month. If full payment is not received by the twentieth of the following month, there may be added as damages to the total amount of the delinquency or deficiency the following percentages: ten percent (10%) for the first offense; fifteen percent (15%) for the second offense and twenty-five percent (25%) for the third and any subsequent offense. Upon the third offense, the department may suspend the privilege to defer payment. The balance due shall become payable upon notice and demand by the department.

(6) The permit fee monies collected under this section, except as provided for in subsection (4) of this section, shall be deposited into the State Highway Fund for the construction, maintenance and reconstruction of highways and roads of the State of Mississippi or the payment of interest and principal on bonds authorized by the Legislature for construction and reconstruction of highways.

(7) The department may waive the permits, taxes and fees set forth in this section whenever a motor vehicle is operated upon the public highways in this state in response to an emergency, a major disaster or the threat of a major disaster.

Laws 1946, Ch. 266, § 31; Laws 1948, Ch. 271, § 15; Laws 1950, Ch. 474, § 5; Laws 1954, Ch. 337, § 2; Laws 1958, Ch. 504, § 1; Laws 1960, Ch. 419; Laws 1966, Ch. 583, § 1; Laws 1968, Ch. 361, § 22; Laws 1974, Ch. 478, § 1; Laws 1981, Ch. 366, § 2; Laws 1986, Ch. 500, § 7; [Laws 1992, Ch. 497, § 14](#); [Laws 1994, Ch. 501, § 2](#); [Laws 1995, Ch. 349, § 2](#); [Laws 1995, Ch. 491, § 2](#); [Laws 1996, Ch. 408, § 1](#); [Laws 1997, Ch. 590, § 1](#); [Laws 1997, Ch. 548, § 1](#); [Laws 1998, Ch. 592, § 1, eff. July 1, 1998](#). Amended by [Laws 2000, Ch. 589, § 1, eff. July 1, 2000](#); [Laws 2002, Ch. 386, § 1, eff. July 1, 2002](#); [Laws 2003, Ch. 538, § 2, eff. July 1, 2003](#); [Laws 2005, Ch. 365, § 1, eff. July 1, 2005](#); 2006, 312.

27-19-99. Comptroller to furnish tags; tax collector to issue receipts, etc.; reports. 1976, 336; 1984, 508; 1987, 322, 450, 529; 1990, 415; 1999, 575; 2002, 582.

27-19-159. Distribution of collections. 1981, 309; 1984, 478; 1992, 497.

## CHAPTER 25. SEVERANCE TAXES

27-25-1 through 27-25-27. Severance taxes on gas, oil, salt and timber. [All of Chapter 25 of this title is devoted to severance taxes. Mention in any kind of detail will be limited here to those sections having to do with the apportionment and distribution of these taxes.]

27-25-11. Collection and disposition of tax--apportionment among counties. All timber severance taxes shall be collected by the state tax commissioner, who shall pay 80% of same into the state treasury to be credited to the special fund designated as the forest resources development fund and 20% shall be returned to the counties from which the timber or its products was severed. The state treasurer shall remit the counties' share of said funds on or before the 15th day of the month next succeeding the month in which the same was collected ...Upon receipt of said funds the county shall place same to the credit of its general fund, to be expended as follows: In maintaining county roads and bridges or for retiring general county bonds; and they are hereby authorized to apportion these funds to the various taxing districts of the county in a just and equitable manner for the payment of bonds and interest, or school and road maintenance purposes, in proportion to the amount of timber or its products severed therefrom. Provided, further, that any additional funds which accrue to any county as a result of the increase in tax provided in this article shall not be chargeable to the county in determining the state funds needed annually to support the minimum educational program under Section 37-19-37. 1977, 486; 1981, 457; 1984, 478.

27-25-311. Distribution of tax. This section provides for the distribution of the salt severance tax (if any there be) one-half to the state and one-half to the county in which the salt was produced. The amount returned to the county may be divided among the supervisors districts by the board of supervisors in consideration of the needs of the various districts and used for any authorized purpose. 1984, 478

27-25-505. Distribution of tax. [With regard to any county which is exempt from the provisions of Section 19-2-3, from and after July 1, 1993, this section shall read as follows:] This section provides for the distribution of the oil severance tax, as follows: on the first \$600,000.00 or any part thereof, 66 2/3% to the state and 33 1/3% to the county; on the next \$600,000.00 or any part thereof, 90% to the state and 10% to the county through June 30, 1989; 85% to the state and 15% to the county from July 1, 1989, through June 30, 1990; and 80% to the state and 20% to the county for each fiscal year thereafter; above and exceeding \$1,200,000.00, 95% to the state and 5% to the county through June 30, 1989; 90% to the state and 10% to the county from July 1, 1989, through June 30, 1990; and 85% to the state and 15% to the county for each fiscal year thereafter.

[With regard to any county which is required to operate on a countywide system of road administration as described in Section 190203, this section shall read as follows:] On the first \$600,000.00 or any part thereof, 66-2/3% to the state and 33-1/3% to the county. On the next \$600,000.00 or any part thereof, 90% to the state and 10% to the county through June 30, 1989; 85% to the state and 15% to the county from July 1, 1989, through June 30, 1990; 80% to the state and 20% to the county for each fiscal year thereafter. Above \$1,200,000.00, 95% to the state and 5% to the county through June 30, 1989; 90% to the state and 10% to the county from July 1, 1989, through June 30, 1990; and 85% to the state and 15% to the county for each fiscal year thereafter. 1982, 495; 1984, 472; 1985, HB 592; 1988, HB 766; 1992, 562; 2002, 450.

27-25-506. Special fund for deposit of state's share of oil and gas severance taxes collected. There is created a special fund in the State Treasury into which the state's share of proceeds collected under Sections 27-25-505 and 27-25-705 shall be deposited.

The state's share of all oil and gas severance taxes derived from oil and gas resources under state-owned lands or from severed state-owned minerals shall be deposited into the State Treasury to the credit of the trust fund created in Section 206A, Mississippi Constitution of 1890. The following amount of the remainder of tax collections apportioned to the state shall be deposited to the credit of the trust fund created in Section 206A, Mississippi Constitution of 1890:

- (a) For fiscal year 1994, all amounts collected in excess of Thirty-five Million Dollars (\$35,000,000.00);
- (b) For fiscal year 1995, all amounts collected in excess of Thirty-two Million Five Hundred Thousand Dollars (\$32,500,000.00);
- (c) For fiscal year 1996, all amounts collected in excess of Thirty Million Dollars (\$30,000,000.00);
- (d) For fiscal year 1997, all amounts collected in excess of Twenty-seven Million Five Hundred Thousand Dollars (\$27,500,000.00);
- (e) For fiscal year 1998, all amounts collected in excess of Twenty-five Million Dollars (\$25,000,000.00);
- (f) For fiscal year 1999, all amounts collected in excess of Twenty Million Dollars (\$20,000,000.00);
- (g) For fiscal year 2000, all amounts collected in excess of Fifteen Million Dollars (\$15,000,000.00);
- (h) For fiscal year 2001 through December 31, 2000 (ed. Note- probably intended to be 2004), all amounts collected and transferred in excess of Ten Million Dollars (\$10,000,000.00);
- (i) For fiscal year 2005, all amounts collected in excess of Ten Million Dollars (\$10,000,000.00); and
- (j) For fiscal year 2006, all amounts collected in excess of Five Million Dollars (\$5,000,000.00); and
- (k) For fiscal year 2007 and each fiscal year thereafter, all such tax collections apportioned to the state shall be deposited to the credit of the trust fund.

The monies collected under paragraphs (a) through (j) of this section that are not deposited into the trust fund shall be deposited into the State General Fund. For fiscal year 2005, the monies not deposited into the State General Fund shall be deposited into the Budget Contingency Fund created in Section 27-103-301. All monies deposited into the Budget Contingency Fund under this section shall be appropriated by the Legislature for the support of the Mississippi Adequate Education Program. 1992, 562; 2001, 521; 2002, 450; 2004, 595.

Cross references--

Deposit of state's share of oil severance taxes collected into special fund created by this section, see §27-25-505.

Deposit of state's share of gas severance taxes collected into special fund created by this section, see §27-25-705.

27-25-705. Distribution of tax. This section deals with the distribution of the gas severance tax. The municipalities' share of the amount of tax sent to the county is set forth in a formula in this section. 1982, 495; 1984, 478; 1985, 592; 1992, 562; 2002, 450.

27-25-706. Distribution of tax; pledge of county's share; issuance of bonds; effect of section. The board of supervisors of any county in the state of Mississippi bordering on the Pearl River and having a population according to the 1970 census of not less than forty thousand (40,000) and not more than fifty

thousand (50,000), and through which Interstate Highway 20 runs, and wherein there is being constructed or has been constructed a plant for the extracting of sulphur from natural gas, and the board of supervisors of any county in the state of Mississippi bordering on the Pearl River and having a population according to the 1970 census of not less than nineteen thousand (19,000) and not more than twenty-one thousand (21,000) and wherein U.S. Highway 49 and Mississippi Highway 28 intersect and wherein there is being constructed or has been constructed a plant for the extracting of sulphur from natural gas, are hereby authorized and empowered, in their discretion, to pledge all or any part of the county's share of the severance tax on gas extracted, handled or processed through such extraction plant, as additional security for the payment of bonds issued for the purpose of construction, reconstructing, overlaying and/or repairing, an access road or roads or publicly-owned railroads to and from such sulphur extraction plant. The amount so pledged for the payment of the principal of and the interest on such bonds shall be deducted and set aside by such board of supervisors prior to the distribution of such severance taxes in the manner provided by law, and only the amount of such severance taxes remaining after such deduction shall be subject to such distribution. The board of supervisors in such counties may pledge only up to fifty percent of such severance taxes as their respective county may receive to retire the bonds and interest pursuant to the authority of this section. The required local contribution of said counties to the cost of the minimum foundation education program shall not be reduced nor shall the obligation of the state under said minimum foundation program to said counties be increased because of the passage of this section.

Such bonds shall be issued under the provisions of Section 19-9-1 to Section 19-9-19, inclusive. 1972, 524; 1973, 436; 1982, 400.

## **CHAPTER 27. VENDING AND AMUSEMENT MACHINE TAXES**

### **27-27-5. Tax levied.**

- (1) The board of supervisors of each county and the governing authorities of each municipality may levy, assess and collect annual license taxes according to the following schedules:
  - (a) For each machine wherein may be seen any picture or heard any music, a license tax for each such machine the sum of Twenty-seven Dollars (\$27.00).
  - (b) For each machine (not elsewhere specifically taxed in this section) wherein or whereby any game may be played or any form of diversion had, a license tax for each such machine the sum of Forty-five Dollars (\$45.00).
  - (c) For each machine (not elsewhere specifically taxed in this section) wherein or by means of which children may obtain a ride upon a "hobby horse" or the figure of any animal, or upon the figure of a boat, airplane, rocket, or other such machine, a license tax of Eighteen Dollars (\$18.00) for each machine.
- (2) Any incorporated municipality may levy the tax authorized in subsection (1) of this section where such machines are located within the corporate limits of said municipalities, and where appropriate ordinance levying and imposing the tax has been adopted.
- (3) Any county may levy the tax authorized in subsection (1) of this section where such machines are located outside of an incorporated municipality and where the appropriate ordinance levying and imposing the tax has been adopted. 1994, 440.

## **CHAPTER 29. AD VALOREM TAXES--GENERAL PROVISIONS**

**27-29-1. Collectors to have certain credits.** The auditor, in his settlements with the tax collector, shall credit him with the amount of state taxes on all lands sold for taxes and struck off to the state, with the legal fees of the publisher of the newspaper for advertising such land for sale; and the collector shall also be credited in his settlement of county or any other state taxes with the amount of taxes on all lands sold to the state. Land purchased by the state for taxes shall not again be sold for taxes until redeemed; but if a tax collector should erroneously sell any state lands, the auditor, in his settlement with such tax collector, shall credit him with the correct amount of state taxes on only such state lands as are certified by the state land commissioner to belong to



the state, and with the legal fees of the newspaper for publishing such lands for sale; and the collector shall also be credited in his settlement of county or other taxes with the amount of taxes on such lands certified by the land commissioner. 1942, 9988.

Cross references--

As to county assessor and tax collectors, see §§27-1-1, *et seq.*

As to production of tax collector's cash book to auditor, see §27-41-41.

As to collector's credits for insolvencies, see §27-49-5.

As to redemption of land sold for taxes, see §§27-45-1, *et seq.*

27-29-3. No allowance until certain list produced. An allowance shall not be made by any auditing officer to any tax collector for the taxes on any land for which he claims credit until he shall present a list thereof, with his affidavit annexed that it is a correct list, and that he has not received any taxes thereon from any person. 1942, 9989.

27-29-5. Filing of lists of amendments to assessments. Before September 15th and before January 15th of every year, within which the tax collector's term of office shall expire, the clerk of the board of supervisors shall file, with the auditor of public accounts, on blanks to be furnished by said auditor, the following lists of the amendments in assessments made by the board of supervisors: additional and raised assessments of real and of personal property; reductions in assessments of real and of personal property; erroneous assessments of real and of personal property. 1914, 122.

27-29-7. Certification of correctness of lists. The clerk of the board of supervisors shall certify to the truth and correctness of such lists of amendments to assessments referred to in Section 27-29-5 and shall further certify that he has compared the items listed for credit with the stub tax receipts and that no taxes have been collected on any such items. 1914, 122.

27-29-9. Clerk penalized for failure to make lists. Any such clerk of the board of supervisors, who shall fail to make such list or lists, referred to in Section 27-29-5, by the time specified, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not exceeding \$100.00 for each offense. 1914, 122.

27-29-11. Tax collector's report monthly--taxes paid over. The tax collector shall make reports, in writing ... on the first day of each month, or within 20 days thereafter, except as hereinafter provided, to the Auditor of Public Accounts and to the clerk of the board of supervisors, of all taxes collected by him during the preceding month for the state, levee and county respectively, and if he has collected none, the report shall be made out and state that fact. He shall, at or within the same time, pay over all taxes collected to the State Treasurer; however, all taxes collected by him for the county shall be paid into the county treasury on the day such taxes are collected or on the next business day thereafter. 1918, 137; 1985, HB 1226; 1986, 305.

Cross references--

As to collector's report of insolvencies, see §27-49-1.

As to debits and credits to tax collector by county auditor, see §19-17-13, *et seq.*

As to penalty on tax collector for failure to make settlement, see §97-11-47.

27-29-13. Final report at end of fiscal year. The tax collector's final report and settlement ... for the taxes of any fiscal year shall be made on or within 15 days after the first day of November next thereafter. If the tax collector fails to make any report, or to pay over any taxes ... due, he shall pay damages of 30% thereon, and interest on said amount and damages at the rate of 6% per annum. 1934, 188.

27-29-21. Suits against tax collector for default in payment. If any collector fail to pay into the treasury the amount of taxes due the county within the time prescribed, the district attorney or any attorney employed by the board of supervisors shall proceed to institute suit against him on notification of same by the clerk of the board of supervisors. 1942, 10001.

27-29-25. Failure of collector to report--suspended. A tax collector, having received tax money, is under a positive duty to pay over the same to the proper authorities on the first day of the month immediately following such collection, or within 20 days thereafter, under the penalty of being subject to suspension from office, and the payment of 30% damages. 1942, 10003.

27-29-27. Clerk to examine the report. Whenever the tax collector shall make a report as provided, it shall be the duty of the clerk of the board of supervisors to examine the same and to carefully compare it with the duplicate tax receipts, the cash book, and all other books and records in the tax collector's office pertaining to the collection of taxes, and to certify that the report be true and correct or not. 1888, 33-34.

27-29-29. Liability of assessor and collector. The assessor and collector, with their sureties, shall be severally held liable ... and bound to pay the county or state the full amount of all sums lost to either or both, from the failure or neglect of the assessor to assess, return, or otherwise faithfully to complete his assessment, or from any neglect of the collector to collect the taxes assessed. ... The failure of the assessor to assess or the collector to collect shall not relieve any taxpayer of the liability to pay the taxes in question. 1942, 1005.

27-29-31. Tax collector about to go out of office--duties required of him and his sureties and of the board of supervisors and county auditor. Every tax collector, at the expiration of his term of office, shall file with the clerk of the board of supervisors, on the first Monday in January, a list of all the uncollected taxes for the current fiscal year, which shall show the name of every person owing taxes, the amount of personalty assessed thereto and the description, section, township, range, and assessed valuation of realty assessed thereto. Said list shall be copied from the assessment rolls in the order that the assessments appear thereon. The board of supervisors and the county auditor shall carefully examine said taxes on so much of said list that they find to be truly and correctly uncollected, and the board shall charge the succeeding tax collector with all taxes so found to be uncollected, etc. 1942, 10006.

27-29-33. Statement furnished auditor and payment by collector. The clerk of the board of supervisors shall furnish to the auditor of public accounts a certified copy of the list of uncollected taxes, furnished by the retiring tax collector, on or before the first day of February, after it has been filed, together with certified transcripts of orders of the board of supervisors relative thereto. The retiring tax collector shall, within 10 days after the expiration of his term of office, pay into state, county, and levee treasuries all taxes collected by him and payable therein, and shall, within such time limit, make his final settlement. 1942, 10007.

## **CHAPTER 31. AD VALOREM TAXES--GENERAL EXEMPTIONS**

27-31-1 through 27-31-117. Ad valorem taxes--general exemptions. These sections, comprising the whole of Chapter 31, Title 27, deal with general exemptions from ad valorem taxation.

27-31-77 through 27-31-87. Mineral documentary tax. There is levied and shall be paid and collected a documentary or transfer tax, to be known as the mineral documentary tax, upon the filing or recording of every lease and other writing executed whereby there is created a leasehold interest in any nonproducing oil, gas or other minerals from any lands in Mississippi...The said tax shall be a lien upon interest leased,

assigned,...and the amount to be paid shall be determined from a formula contained in Section 27-31-79 hereof. The tax shall be payable by the grantee or grantees named in and the beneficiary or real party in interest under said lease, deed, conveyance...The tax shall be paid to the chancery clerk of the county in which the land affected is situated, and the clerk shall note on the document the fact of payment, amount of payment, and the county name...From the taxes so collected the chancery clerk shall retain 5% as a fee for the collection thereof, and shall pay the remainder into the county depository, one-half to the common county fund and one-half to the common school fund. 1946, 409; 1985, SB 2718; 1985, 455; 2008, 381.

27-31-105. Revise procedure by which applications are made to local governments for tax exemption. 1995, 544; 2000, 591.

27-31-109. Board of supervisors may grant industrial tax exemptions.

### **CHAPTER 33. AD VALOREM TAXES--HOMESTEAD EXEMPTIONS**

27-33-1 through 27-33-65. Homestead exemption, generally. [All of Chapter 33 is devoted to the general provisions of the laws relating to homestead exemption from ad valorem taxes. Only a few sections will be included here.]

27-33-3. Homestead exemptions. Homes legally assessed on the land roll and actually occupied as a bona fide home by bona fide residents of this state who are heads of families shall be exempt from the ad valorem taxes herein enumerated, on not in excess of \$7,500.00 of the assessed value including an area of land not in excess of that specified hereinafter in this article. Remainder of statute details persons eligible for homestead exemptions. 1974, 508; 1975, 457; 1979, 302; 1980, 505; 1984, 453.

#### Cross references--

As to levy to defray cost of reappraisal not being reimbursable under homestead exemption law, see §27-39-325.

As to exclusion of ad valorem tax levy to support operation of youth court from reimbursement under homestead exemption, see §19-9-96.

As to inapplicability of homestead exemption to levies for assistance of veterans, see §35-3-21.

#### 27-33-31. Duty of applicant for homestead exemption.

(1) It shall be the duty of every person who is eligible for, and desires the homestead exemption provided for in this article, to comply with the following provisions:

(a) He shall make annual written application to the county tax assessor on the prescribed form, on or before the first day of April. Applications not on file on or before April 1 of the current year may not be filed, may not be dated back, may not be accepted by the assessor, may not be allowed by the board of supervisors, and may not be considered by the commission, excepting as provided in paragraph (b) of this section.

Any person who has on file with the tax assessor a valid allowed claim for homestead exemption filed on or after January 1, 1991, shall not be required to annually thereafter reapply for such claim for exemption but shall be credited with such exemption each year so long as such person is entitled to homestead exemption on the same property and there has been no change in the property description, ownership, use or occupancy since January 1 of the preceding year. In the event changes have occurred in the status of the homestead in the property description, ownership, use or occupancy since January 1 of the preceding year, and in the event such person is still eligible for homestead

- exemption, he shall file a new application and provide all the information required under this section as for the initial application. However, the requirement to file a new application shall not apply to a surviving spouse who is still eligible for homestead exemption. If the deceased spouse qualified for the exemption provided in Section 27-33-67(2), but the surviving spouse does not qualify for such exemption, the surviving spouse must file a new application for homestead exemption.
- (b) In cases where the governor declares by written proclamation that the courthouse or other place that the tax assessor's office may be located is damaged to such an extent that it is not possible to accept applications for homestead exemption, then the governor may extend the period for filing by a period not to exceed thirty days.
  - (c) He shall make the application in quadruplicate.
  - (d) He shall make separate applications, as provided above, to the respective assessors if the property claimed for exemption lies in two counties, first with the assessor of the county of residence, and then with the assessor of the other county, submitting at the same time two copies of the first application, certified by the chancery clerk as specified by Section 27-33-23(f).
  - (e) He shall deliver to the assessor the application marked "original," the copy marked "duplicate," and the copy marked "triplicate."
  - (f) He shall retain the copy marked "quadruplicate" as evidence that the application was made and filed, which quadruplicate may be filed with the board if the original and duplicate are lost; and certified copies of the quadruplicate may be used when so ordered by the board, not later than the meeting of the board held in March of the year following the year in which the application was executed, under such rules and regulations as the commission shall prescribe.
  - (g) He shall state on the application the name of the owner of the property, and the number and status of all occupants of the home, other than the owner's family.
  - (h) He shall state the full name of the applicant, whether the same as the name of the owner or not.
  - (i) He shall give a parcel number, which shall clearly locate and identify it, and state the acreage contained, as prescribed in Section 27-33-27.
  - (j) He shall state the kind of title, or ownership right held, from whom and how obtained, and the names of all present owners.
  - (k) He shall state the number of book and page where the deed, or other conveyance or evidence of ownership, is of public record, or attach to both the original and duplicate application a certified copy of the conveyance by which title is claimed, or copies supported by affidavit of the holder, or by one who has seen and verified the original; or such other evidence of title as may be required by the commission; and the instrument by which title is claimed shall be placed of record, if it may be admitted to record.
  - (l) He shall state the price for which the property was sold and conveyed to the owner, the amount of the unpaid principal, if any, and the terms of payment thereof, if it was acquired by the owner after July 1, 1938, as evidenced by the date of the acknowledgment of the conveyance. The purchase price and the amount of unpaid principal shall not be required more than one time.
  - (m) He shall state if any part of the dwelling or land is rented or leased, and the kind of business conducted in the home or on the land.
  - (n) He shall furnish all the information required by the application, which must be true and correct, and he must supply it in the event he does not prepare the application with his own hand. Except as otherwise provided in Section 27-33-33(2), the information given on the application must not be made or inserted by the assessor or by anyone, except as furnished by the applicant.
  - (o) He shall make the original application in person or in such manner as may be provided under the rules and regulations of the commission; or it may be made by his agent or

attorney, duly constituted in writing, and a copy of such written authority, duly sworn to and acknowledged or attested by two competent witnesses shall be attached to each the original, the duplicate, and the triplicate application for homestead exemption; but the husband or wife may sign for the other if living in the same dwelling.

- (p) He shall make affidavit to the application and to the truth of all statements made and answers to questions contained therein, and the oath may be administered by the tax assessor, a member of the board of supervisors, or any other officer authorized by law to take acknowledgments.
- (q) He shall give such other pertinent information as may be required by the commission, and he shall promptly give any information requested, and answer any question propounded by the assessor or member of the board of supervisors.
- (r) When an applicant has filed a timely application but has failed to make known his eligibility for an additional exemptions provided for in Section 27-33-67(2), then an application for additional homestead exemption may be filed under such rules and regulations as the commission shall prescribe.

(2) The board of supervisors may authorize a charge of fifty cents per subsequent annual renewal application, which is returned by the applicant by mail, to be used toward defraying the expense of the mailing process of the subsequent annual renewal application. The charge provided for herein shall not be assessed against any person returning the subsequent annual renewal application in person.

(3) In addition to any other fine, imprisonment or sentence which may be imposed for violation of the Mississippi Homestead Exemption Law of 1946, any person who violates such law through fraudulent application or by willful failure to notify the tax assessor of changes in the status of the homestead, when required to do so under subsection (1)(a) of this section, shall be guilty of a felony and upon conviction may be punished by a fine of not more than five thousand dollars (\$5,000.00) or by imprisonment for not more than two (2) years, or both. 1975, 457; 1976, 426; 1979, 302; 1984, 453; 1991, 390, 602; 1993, 513; 1998, 450; 2002, 436; 2003, 327.

### 27-33-33. Duty of tax assessor.

(1) The county tax assessor shall perform such duties as are generally required by him by this article and with respect to exempt homesteads, and the application therefor, and his duties are specifically defined as follows:

(a) He shall, in each year the land roll is made, require that all lands and buildings which have been or are claimed for homestead exemption be separately assessed on the land roll; and he shall, in the case of homestead lands not already separately assessed on the land roll, prepare proper notice to the board of supervisors requesting that the land assessment roll be changed so that all homestead property shall be separately assessed; and in the case of newly constructed dwellings, he shall carefully inspect the same and recommend to the board the value at which such dwellings should be assessed; and when rural lands are divided and a part included in the homestead exemption, he shall assess the respective tracts at the value used for cultivable lands and for uncultivable lands, and fairly assess homesteads and nonhomesteads at the same proportion to true value.

(b) He shall keep available a supply of the prescribed blank homestead exemption applications, and he shall require each applicant to properly execute the application in entire conformity with the requirements of [Section 27-33- 31](#).

(c) He shall aid the applicant in executing the application.

(d) He shall notify the applicant if an application for homestead exemption is incorrect or incomplete in any substantial particular, and require that it be properly and completely executed before accepting it for delivery to the clerk.

(e) He shall, when an application is accepted by him, retain the original, the duplicate and the triplicate. He shall endorse "filed" on the quadruplicate with the date and his official signature and return it to the applicant as evidence of the application and that it was filed.

(f) He shall promptly give to the board of supervisors any knowledge or information he may have, or any fact he may have knowledge of, bearing on the eligibility of the applying person or property and not revealed in the application; and note on the application any condition requiring special consideration.

(g) He shall, on the first day of each month, deliver to the clerk of the board of supervisors all originals and duplicates of applications for homestead exemption received and accepted by him during the preceding month.

(h) He shall attend all meetings of the board when any matter with respect to homestead exemptions is being considered by it and shall render such assistance and perform such services as the board may direct from time to time.

(i) He shall, at least ten (10) days but not more than thirty (30) days prior to April 1 of each year, publish notice in a newspaper having general circulation in the county in which he serves as tax assessor informing persons who are receiving homestead exemption that the tax assessor must be notified if changes have occurred in the status of the homestead in the property description, ownership, use or occupancy since January 1 of the preceding year and that, in the event such persons are still eligible for homestead exemption, a new application for homestead exemption must be filed.

(2)(a) If the tax assessor discovers a change in ownership in a portion of the homestead property that may result in the homestead exemption being applied to ineligible property and the owner of the homestead property fails to file a new application during the preceding year as required by [Section 27-33-31](#), the tax assessor may amend the application to reflect such change on or before June 1 of that roll year.

(b) If parcel number changes occur due to reappraisal, mapping maintenance or updates, the tax assessor may amend the homestead application to reflect such changes on behalf of the owner of the homestead on or before June 1 of that roll year.

(c) If a change in ownership occurs because of the death of an owner and the surviving spouse of the owner is still eligible for homestead exemption and not required to file a new application, the tax assessor may amend the application by removing the name of the deceased spouse and adding the surviving spouse's birth date for the purpose of correcting the land roll and the supplemental roll.

(d) Should eligible property on an initial or renewed application fail to be listed due to a clerical error, such application may be amended by the tax assessor on behalf of the applicant to list such eligible property prior to the last Monday in August.

(e) Amendments made to applications under this subsection may be allowed by the board of supervisors and certified to the commission.

Laws 1940, Ch. 127, § 16; Laws 1946, Ch. 261, § 16; Laws 1960, Ch. 470, § 2; Laws 1975, Ch. 457, § 6; Laws 1984, Ch. 453, § 13; [Laws 1991, Ch. 390, § 3](#); [Laws 1991, Ch. 602, § 4](#); [Laws 1993, Ch. 324, § 2, eff. June 30, 1993](#). Amended by [Laws 2003, Ch. 327, § 1, eff. July 1, 2003](#).

**27-33-35. Duties of clerk of board of supervisors.** The clerk of the board of supervisors shall keep all records and documents relating to homestead exemption matters coming before the board and perform such services as are generally required of him by Section 19-3-27, and in addition to such general duties.

(a) He shall receive applications for homestead exemption as they are delivered to him by the tax assessor, as required in Section 27-33-33(g); and before June 1 and in the manner prescribed by the rules and regulations of the Tax Commission, he shall forward the originals of all applications to the commission in Jackson, Mississippi, and (1) on the first day of each regular monthly meeting of the board of supervisors he shall present to it all applications for homestead exemption in his hands at that time for the board's consideration, as directed hereafter in this article, (2) when not in use, said applications shall be kept on file in alphabetical order, and (3) at the end of each current year he shall deliver said duplicate homestead exemption applications to the chancery clerk of the county to be held by him as a public record for at least three years. This shall also include all applications disallowed by the board.

(b) He shall make the supplemental roll of homestead exemptions granted from the applications therefor (not from the land roll), the year the land roll is made, as soon as reasonably possible after the roll has

been approved by the commission and has been finally approved of minute record by the board of supervisors, and only after the board has approved or disapproved all applications.

(c) He shall make the supplemental roll as prescribed by the commission.

(d) He shall make the proper entry in all columns on the supplemental roll, as defined in Section 27-33-11(m), and shall add truly and correctly each column of values of said roll and carry the results thereof to the grand total; and shall certify a copy of the supplemental roll to the tax collector in the same manner as the regular assessment roll is certified.

(e) He shall make in triplicate the supplemental roll and the original shall be forwarded immediately to the commission, one copy shall be attached to the original land assessment roll, and the other copy shall be delivered to the tax collector as a legal part of the regular land assessment roll, as provided by Section 27-33-11(m). In counties having two judicial districts, he shall make four copies, one for each judicial district, or separate rolls for each district, as may be directed by order of the board of supervisors. The original supplemental roll shall be forwarded to the commission no later than December 31 of each year.

(f) He shall also prepare two certificates of tax loss from the approved applications for homestead exemption and from current legally completed land assessment roll, including the supplemental roll as defined in Section 27-33-11(n), which certificates shall be made on forms to be prescribed and furnished by the commission. One certificate shall reflect the tax loss incurred because of the exemptions provided to applicants under the age of sixty-five and not disabled as defined in this article, and the other shall reflect the tax loss incurred because of the exemptions provided to applicants aged sixty-five or over and disabled as defined in this article.

The certificates shall show truly and correctly the total number of applications allowed for homestead exemption and the total tax loss resulting from applications allowed for homestead exemption; and such additional information as the commission may require.

The certificates shall be made in triplicate and be certified by him as being true and correct; and not later than December 31 of each year he shall forward the original certificates to the commission, deliver the duplicate certificates to the tax collector, and retain the triplicate certificates in his file as a public record. Certificates received later than June 1 of the year following the year in which the supplemental roll is made shall not be considered for reimbursement by the commission. 1975, 457; 1984, 453; 1991, 390, 602; 1993, 513; 2001, 334; 2002, 369.

**27-33-37. Duties and powers of the board of supervisors.** The board of supervisors shall perform the duties imposed by this article on the members, the president, and the board as a unit, with the powers and authority granted and as necessary for the proper administration of the article, and specifically as set out in this section.

(a) At each regular monthly meeting the president of the board shall require of and receive from the clerk of the board all applications for homestead exemption having come into his hands as provided in Section 27-33-35 of this article.

(b) As soon as practicable after convening, at each regular monthly meeting, the board, in the light of public records, personal knowledge, information given by the assessor, and any other reliable source of information that may be available, shall examine each application which has been delivered to the clerk by the tax assessor, and pass upon its correctness and the eligibility of the property and of the person, under the law, as fully as may be done before final approval, after the land roll has been finally approved of minutes record; and the board shall carefully consider and construe the relationship between buyers and sellers of property on which homestead exemption is sought, and the terms, conditions, rate of interest, payments made and to be made, of all conveyances doubtful in such respect. One (1) member of the board shall check each application prior to the time for final approval, and shall indicate if it should be approved, disapproved, or if it required further investigation.

(c) If any application be found incorrect or incomplete in any particular required by law, or deficient in any respect, the board shall give notice immediately to the applicant, in writing, by mail, advising the applicant of the defect and the nature thereof, so that the applicant may correct same, if it can be corrected, before the time for final action by the board.

(d) The year in which the land roll is made, at the meeting of the board of supervisors at which the certificate of the commission finally approving the land assessment roll is received and entered in its minutes, and at the September meeting the board of supervisors shall complete the consideration of each and every application for homestead exemption; and all applications, or claims, not clearly within the provisions and requirements of this article shall be disallowed by the board. Where it appears to the board, in a case or cases involving transactions completed after July 1, 1938, that conveyances have been made without bona fide consideration, and liens taken with questionable consideration or values, or where the payments on the principal have not been made as required, or there is evidence of any kind that the transactions were not bona fide in every particular, and were entered into for the purpose of obtaining a homestead exemption contrary to the letter and spirit of law, the application shall be disallowed.

(e) Each application shall be plainly endorsed "allowed" or "disallowed" as the case may be, over the date, and the signature of the president of the board, who may use a facsimile stamp for the purposes; and, in the space provided on the application for that purpose, there shall be entered for each assessment, (1) the page and line number of the assessment on the land roll, (2) the total number of acres, (3) the total assessed value of the land, (4) the assessed value of the buildings, (5) the total assessed value of the exempted land and buildings, (6) the assessed value of the land and buildings not exempted, (7) the name of the road district, if any, in which the property lies, and (8) the name of the school district in which the property lies.

(f) All applicants, whose applications are finally disallowed by the board, shall be given notice immediately by the board, in writing, by mail. Petitions and objections by applicants for correction or amendment shall be heard by the board at the next regular meeting of the board after notice that the application was finally disallowed.

(g) It shall not be necessary that an order be entered on the minutes of the board which allows or disallows an application as provided by paragraph (f) hereof, unless there be a division among the board members, then an order shall be entered on the minutes recording the aye and nay vote.

(h) The board of supervisors shall have, and is hereby given, the power and authority to summon and examine witnesses under oath, to examine records, and to do any and all other things necessary and proper to ascertain the facts with respect to any application, or claim, for homestead exemption presented to it. The board shall disallow any application for homestead exemption when it is found that the person or the property was ineligible, after the supplemental roll is approved and within one (1) year after than in which the application was executed; and it shall correct, likewise, any and all errors found in the supplemental roll. When an application is disallowed by the board after the supplemental roll has been approved, it shall give notice and proceed as in the case of a rejection by the commission. A certified copy of the order finally disallowing an application, and making a correction in the supplemental roll must be adopted before the last Monday of August and shall be received by the commission no later than September 15 of the year following the year in which the supplemental roll was made.

(i) At the first regular or special meeting of the board of supervisors held after the supplemental roll, required by Section 27-33-35 of this article, has been made, it shall examine the said roll, and if found correct shall enter in the minutes an order approving the same; and the applications disallowed shall be listed in the minutes by name and amount, with the reason for disallowance. A copy of said order shall be attached to the supplemental roll and sent to the commission.

(j) All applicants whose applications are rejected for reimbursement of tax loss by the commission, after having been allowed by the board, shall be given notice immediately by the board, in writing, by mail, with the reasons for the rejection by the commission, and the applicants shall have thirty (30) days in which to file objections thereto, which objections shall be heard by the board at the same or the next regular meeting after the application shall be allowed, it shall continue the matter in its record, and present its objection to the rejection, with evidence in support of same, to the commission. All applications finally rejected by the commission shall be disallowed by the board, and entered of minute record.

(k) When the board shall receive notice from the commission that an application for homestead exemption has been rejected by the commission for reimbursement of tax loss, the board shall proceed in the manner prescribed in paragraph (j) hereof. Upon the hearing of objections of the applicant, if the board finds that the application should be disallowed, it shall so order and notify the commission that its rejection has been "accepted." If the board is of the opinion that the application shall be allowed, it shall notify the commission that it objects to the rejection of the application, and shall submit, in writing, its reasons for the "objection." All such



matters between the board and the commission may be concluded by correspondence, or by personal appearance of the board, or one or more of its members, the clerk, or the assessor, or by a representative of the commission present at any meeting of the board. The decision of the commission rejecting an application for reimbursement of the tax loss shall be final, and the board shall disallow the application and proceed as hereinafter provided.

(l) It shall be the duty of the board, and it is hereby given the power to order the tax collector, by an order entered on its minutes, to reassess, and list as subject to all taxes, the property described in an application for homestead exemption and as entered on the regular land assessment roll, under the following circumstances:

- (i) When an application for homestead exemption is finally rejected by the commission for reimbursement of tax loss which has been regularly approved by the board and entered on the supplemental roll; or
- (ii) Where an application has been wrongfully allowed by the board.

When any property has been reassessed as herein provided, all additional taxes due as a result of such reassessment shall become due and be payable on or before the first day of February of the year following that in which notice to make the reassessment is issued; and if not paid, the tax collector shall proceed to sell the property for the additional taxes in the same manner and at the same time other property is sold for the current year's taxes, or he may collect the taxes by all methods by which other taxes on real estate may be collected. Provided, no penalty or interest shall be applied for any period prior to February 1 of the year following that in which the reassessment is made, and provided further, that such reassessment shall not take effect or become a lien on the property of bona fide purchases or encumbrances for value without notice thereof, unless there shall have been filed prior to their attaining such status a notice of rejection in the chancery clerk's office in the county in which the property is located, which notice shall be recorded and indexed as are deeds; but the applicant shall in all cases remain personally liable for such reassessment.

(m) The board of supervisors may employ the clerk of the board to collect and assemble data and information and to perform the services required of the board by paragraph (e) of this section and to make investigations required in connection with the duties of the board in determining the eligibility of homestead exemptions and to perform all other ministerial duties required of the board in connection with administering the Homestead Exemption Law and as directed by the board. If the board employs the clerk, he shall be paid out of the general county fund as follows: for the first two thousand (2,000) applications he may, in the discretion of the board, be paid not exceeding One Dollars (\$1.00) each, for the next two thousand (2,000) applications he may be paid not exceeding Seventy-five Cents (\$.75) each, for the next two thousand (2,000) application he may be paid not exceeding Fifty Cents (\$.50) each, for the next two thousand (2,000) applications he may be paid not exceeding Thirty-five Cents (\$.35) each, all over the above number he shall be paid not exceeding Twenty-five Cents (\$.25) each. The board shall require the assessor to correctly describe all lands included in any applications for homestead exemption, and to assess all such lands on the land assessment roll, separately from other lands, as required by this article; and to present to the board all proper and necessary notices for the correction of land descriptions on the roll, changes in ownership, and for increases and decreases in the assessments of exempt homes. 1984, 453; 1991, 390, 602; 1993, 513; 1997, 345.

#### 27-33-41. Duties and powers of state tax commission; administration; reimbursement.

See code.

27-33-51. Duties of tax collectors. The tax collectors of the several counties of the state shall perform such duties as are generally imposed upon them by the laws of this state with respect to the collection of taxes and the payment of same into the proper accounts; and in addition to such general duties:

(a) He shall, upon receipt of a duly certified copy of the order of the board of supervisors, adopted under the provisions of Section 27-33-37(l), correct the supplemental roll as required by said order and list as subject to all taxes the assessed value of homes in all cases to the extent directed by the order of the board; and he shall change the supplemental roll for the year, or years, in accord with the order of the board, so as to show the additional taxes due and he shall prepare a tax receipt therefor, with proper references to the board, the year

or years for which the additional taxes are levied, and to the page and line of the supplemental roll where the assessment is listed.

(b) He shall collect all additional taxes on or before the first day of February of the year following that in which the notice is issued to make the correction and reassessment, and the collection of taxes shall be made in the same manner and at the same time taxes are collected on other property, if any, of the same owner; and he shall give to the taxpayer a separate receipt for such additional taxes.

(c) He shall give to all taxpayers having an exempted home under the terms of this article a tax receipt made in the manner and form directed by Sections 27-41-33 and 27-41-35, and this requirement shall apply to receipts given for additional taxes as provided by paragraphs (a) and (b) of this section.

(d) He shall collect all taxes due to the extent required by this article; and it shall be his duty to collect said taxes, including additional taxes as provided by paragraphs (a) and (b) of this section, by sale of the property in the manner provided by law in the case of other real property, and by any other method or means provided by law for the collection of taxes levied against real property. 1975, 457; 1984, 453.

### 27-33-63. Chapter provisions modified and clarified; restrictions on eligibility; limitations on reimbursement; persons in armed services.

(1) The provisions of the "Homestead Exemption Law of 1946" are hereby modified and clarified as stated in the subsequent subsections of this section, and all restrictions, limitations and changes made by this section are supplemental to and cumulative of the provisions now contained in said law of 1946.

(2) A home, as defined in this article, shall be the legal domicile of the owner and his family group, excepting in those cases where the law permits exemption to an owner who maintains a home for dependents of the claimant or where the law permits an exemption to an owner who holds a remainder interest in the dwelling and eligible land as defined in Section 27-33-17(h). All eligible claimants for homestead exemption in all instances shall have their legal domicile in the state of Mississippi, shall be subject to the jurisdiction of this state, shall be subject to and comply with the income tax laws, shall be subject to and comply with the road and bridge privilege tax laws thereof, and shall not be an elector in any other state.

No claimant for homestead exemption shall be eligible for exemption if the claimant or the claimant's spouse has failed to comply with the income tax laws of this state or if the claimant or the claimant's spouse claims that he or she is a resident of some other state when assessed with income taxes in this state.

No claimant for homestead exemption shall be eligible for exemption if the claimant or the claimant's spouse in the homestead has failed to comply with the road and bridge privilege tax laws or asserts that any motor vehicle owned by and/or in the possession of any one or more of such persons, in whole or in part, has its legal situs in some other state. Displaying a license plate of some other state on such motor vehicle shall be prima facie proof that such assertion has been made.

Homestead exemption applications disapproved or disallowed exclusively because of the failure of the claimant or the claimant's spouse to comply with the income tax laws and/or road and bridge privilege tax laws of this state may be subsequently approved or allowed, as the case may be, when sufficient proof is submitted that such tax laws have been fully complied with by such persons.

(3) The provisions of this section shall apply to and govern the taxes levied for the fiscal year ending in 1948 and to each fiscal year thereafter. 1975, 457; 1984, 453; 1991, 602; 1994, 561.

## **CHAPTER 35. AD VALOREM TAXES--ASSESSMENT**

27-35-1 through 27-35-163. Ad valorem taxes--assessment. [The entirety of Chapter 35 is concerned with ad valorem taxes and assessments.]

### 27-35-4. Rate of assessments.

(1) All Class I property, as defined in Section 112, Mississippi Constitution of 1890, shall be assessed at the rate of ten percent of true value.

(2) All Class II property and Class III property, as defined in Section 112, Mississippi Constitution of 1890, shall be assessed at the rate of fifteen percent of true value.

(3) All Class IV property and Class V property, as defined in Section 112, Mississippi Constitution of 1890, shall be assessed at the rate of thirty percent of true value. 1986, 447.

27-35-55. How land roll made up. 1986, 388.

27-35-63. Land sold to state assessed. Lands which have been sold to the state for taxes shall be assessed in proportion to their true value, if the time for redemption has not expired, and if any of that, subject to redemption, be redeemed from the state, all taxes for which it was sold and damages and costs, and all subsequently accruing state, county or other taxes due on it up to and including the year of redemption, if the county taxes have been levied at the date of redemption, shall be paid by the person redeeming it. 1980, 505.

27-35-67. Land redeemed or purchased from state assessed. All lands redeemed under the provisions of this chapter, or purchased from the state in any manner, shall thereafter be assessed as the property of individuals, and the tax collector shall thereafter, in his settlement of state, county, or other taxes, be required to account for all taxes on such lands which may be lawfully due, and which he should collect. 1942, 9778.

27-35-71. School lands taxable when leased. All school lands known as the 16th sections, reserved for the use of schools, or lands reserved or granted in lieu of or as a substitute for the 16th sections, shall be liable, after the same shall have been leased, to be taxed as other lands are taxed during the continuance of the lease; but in case of sale thereof for taxes, only the title of the lessee or his assignee shall pass by the sale. 1942, 9780.

27-35-73. Assessor not to be paid unless whole county on roll. Compensation shall not be allowed to the assessor unless he show on the assessment roll an assessment of all the land in his county; and it shall be the duty of the board of supervisors to carefully compare the assessment roll with the township maps of the county, with a view to the enforcement of this provision. 1942, 9781.

27-35-83. Supervisors to equalize rolls--notice to taxpayers. The board of supervisors shall immediately at the July meeting proceed to equalize such rolls and shall complete such equalization at least ten days before the August meeting, and shall immediately by newspaper publication notify the public that such rolls so equalized are ready for inspection and examination. In counties having two judicial districts, the board shall by order designate on what days during August it will begin in each of the two districts upon its hearing of objections, and these days shall be named in the said notice, and the board shall be authorized to hold its sessions in the two districts respectively as designated in the order aforesaid. The foregoing provision with reference to counties with two judicial districts shall apply to any subsequent meetings whereof notice to taxpayers is necessary to be given. Hemingway's 1921 Supp § 7769c1; 1930, 3162; 1942, 9786; 1920, 323.

Cross references--

Changes in assessments, see §§ 27-35-143 to 27-35-149.

Duties and powers of board of supervisors as to homestead exemptions, see § 27-33-37.

Equalization of assessments by board of supervisors, see § 27-35-131.

Validation, correction, or revision of land roll, see § 27-35-133.

Consideration of land roll and procedure for changes, see § 27-35-135.

27-35-101. Surveys and appraisals authorized.

The board of supervisors of any county in this state is hereby authorized in its discretion, to have the cultivatable, uncultivable, or timbered lands of any owner, or of the entire county or any part thereof, surveyed

and the acreage thereof determined and the value of the lands and of any timber, buildings or improvements thereon appraised by a competent person or persons, to be selected by the board of supervisors, the cost thereof to be paid from the general county fund. The board of supervisors of any county is hereby authorized to have the lots and blocks or other tracts in the municipalities of the county surveyed and the area determined, and the valuation thereof and of any buildings, structures, or other improvements thereon, appraised for the purpose of taxation in the same manner and at the same time that lands outside of municipalities are surveyed and appraised. In case a survey and appraisal is ordered, at least thirty (30) days' notice by publication shall be given and competitive bids received for the work. When such survey and appraisal is made, a permanent record thereof shall be made and preserved by the clerk of the board of supervisors, to which the tax assessor of the county shall at all times have access.

The board of supervisors of any county in this state having within its boundaries a municipality with a population in excess of one hundred fifty thousand (150,000) according to the latest federal census, is authorized to secure from such municipality surveys, appraisals and related materials made or caused to be made by it for the valuation for assessment purposes of property located in such municipality, and to pay to such municipality therefor out of the general county fund such sum or sums as may be agreed upon between such board of supervisors and the governing authorities of such municipality, all of which may be done without the necessity of publication of notice for or the reception of bids. 1922, 267; 1930, 3170; 1942, 9794; 1972, 391.

27-35-103. Pay of persons employed as estimators, surveyors and appraisers. Any person or persons employed by the board of supervisors as estimators, surveyors or appraisers for the purpose of assisting in the proper assessment of land and/or timber, shall be paid for their services out of the general fund. No person related to any member of the board of supervisors by affinity or consanguinity, shall be appointed estimator or inspector or surveyor for said board. The compensation for these services shall not exceed five cents per acre for estimating timber on upland land, ten cents per acre for estimating timber on lowlands, etc. 1918, 185.

27-35-109. Changes in rolls--duty of chancery clerk. All changes made in the assessment rolls by the supervisors shall be entered on said rolls by its clerk, and all certificates required to be furnished by the board of supervisors relating in any way to the assessment of property shall be made by the chancery clerk. 1920, 323.

27-35-113 Tax commission to examine recapitulations of assessment rolls. It shall be the duty of the tax commission to carefully examine the recapitulations of the assessment rolls of the counties ... The commission shall, by regulation, establish performance standards and acceptable parameters for evaluation of the accuracy of assessments ... The commission shall annually conduct assessment/ratio studies of each county or utilize other means ... to determine if each county's assessment records comply with acceptable performance standards ... Any county not in compliance ... shall, within ninety days ... adopt and submit to the commission for approval a plan for achieving compliance ... Failure ... shall cause the commission to withhold the county's homestead exemption reimbursement monies. 1996, 510.

27-35-117. Duty of board of supervisors to make changes as directed by tax commission; appeal of decision of commission. When the president of the board of supervisors shall receive the copy of the instructions from the State Tax Commission, he shall immediately call a meeting of the board of supervisors of his county and shall give notice thereof by publication, five days before the date of the meeting and shall set forth in said notice the purpose of the meeting and notifying all taxpayers that at the said meeting the board of supervisors will carry out the orders of the commission and that any taxpayer aggrieved by the action of the board may present objections to said action. When the board of supervisors convenes pursuant to the said call and notice of the president, it shall proceed to consider the instructions of the State Tax Commission, and if the board be dissatisfied with the decision of the State Tax Commission, the board may, by order, appeal the decision as provided in Section 27-35-113. The members of the board, its attorney, tax assessor and chancery clerk may appear before the commission and give evidence with reference to the said

decision. In its aforesaid order, the board may fix a day for its meeting for the further performance of its duties required under this section. The said witnesses shall appear before the State Tax Commission in its office at Jackson within the time established by the commission, or they shall lose their right to be heard. The compensation and expenses, if any, shall be paid by the board of supervisors of the county affected. The commission shall hear the complaints and objections of any board of supervisors and witnesses and may adopt an order modifying or rescinding its former order as the evidence so requires but not inconsistent with the provisions of Section 27-35-113. The decision of the commission when made shall be final and it shall be the duty of the board of supervisors to immediately take the appropriate action in accordance with the instructions of the commission. 1990, 498.

**27-35-123. Completion of rolls--clerk to prepare and file copies--penalty for failure.**

When the roll is finally completed by the board of supervisors (after equalization of same), the clerk shall make two copies of each roll, but in counties having two judicial districts two for each district. One copy shall be transmitted to the state tax commission and one copy shall be delivered to the tax collector upon receipt of approval of the roll by the state tax commission. The original roll shall be preserved in the office of the clerk. The clerk shall make proper extensions of the total amount of property assessed to each taxpayer, and shall add every page of said copies and carry the results to the recapitulation. He shall add the recapitulation and certify as to the correctness. 1984, 422.

**27-35-153. Addition to rolls by assessor.** The assessor, after returning his roll, may add any person or thing to it at any time before the adjournment of the first equalization term of the board of supervisors. 1942, 9820.

**27-35-519. Clerks of board of supervisors to apportion payments between municipalities and taxing districts.** Payments as determined by the State Tax Commission shall be sent to the clerk of the board of supervisors of the counties of the state to which payments have been allocated, and the respective clerks shall apportion the county payment to the municipalities and other taxing districts in proportion to the number of miles of railroad in the municipality or other taxing districts to the number of miles of railroad in the entire county. 1989, 477.

**27-35-701. Taxation on Airline Company Aircraft.** 1968, 594.

## **CHAPTER 37. AD VALOREM TAXES--T.V.A. LIEU PAYMENTS**

**27-37-3. Board of supervisors may enter into lieu payment agreements with United States.**

**27-37-301. Payments by T.V.A. in lieu of taxes--apportionment.** The payments received ... by the state of Mississippi and counties therein from the Tennessee Valley Authority ... shall be shared and apportioned among the state and the counties' school districts and municipalities on a monthly basis thereof in which the said T.V.A. owns or operates power property, on a formula contained in this section. 1976, 492; 1980, 442; 1986, 506; 1987, 518; 1994, 418.

**27-37-303. Distribution of state receipts.** At the end of each fiscal year, the state fiscal management board shall ascertain from the Tennessee Valley Authority to the extent it has the necessary data

available, and from other sources, including electric power associations and other power distributors, to the extent it does not, the amount of power sales or kilowatt-hour sales to consumers in each county and municipality in this state by the Tennessee Valley Authority or any facility distributing such power and the book value of Tennessee Valley Authority power property in each Mississippi county and municipality in which the Tennessee Valley Authority holds such property, and the minimum amounts paid or payable by the Tennessee Valley Authority in replacement of former county and municipal ad valorem taxes on power properties purchased and operated by the Tennessee Valley Authority in Mississippi, if such information is necessary to determine the apportionment of funds under Section 27-37-301. Thereafter, as funds are received from the Tennessee Valley Authority, but not more frequently than monthly, the State Tax Commission shall apportion the amount received by the state treasurer of Mississippi in accordance with Section 27-37-301 hereof, and shall issue his warrant therefor to the various counties and municipalities entitled thereto, and the same shall be paid by the state treasurer from the funds received from the Tennessee Valley Authority. Said funds so received by the state treasurer shall be deposited to a special fund until disbursements are made as herein authorized and directed, and that portion found to be due the State of Mississippi shall be transferred to the general fund of the state as a part of the general revenues of the state of Mississippi. 1986, 506; 1987, 518; 1994, 418.

27-37-305. Receipt of T.V.A. lieu tax funds for counties. The board of supervisors in counties receiving from the Tennessee Valley Authority payments in lieu of taxes, are authorized to receive same in this section. 1958, 581.

27-37-307. Supervisors to distribute county receipts from T.V.A. The payments from the Tennessee Valley Authority shall be deposited to a special fund and the board of supervisors shall ... cause transfer of such sums from the special funds to the general funds of such taxing districts, to be expended or applied as the governing authority of each taxing district might determine ... for current expenses or to the payment of bonds and interest. The said payments received by the board of supervisors and the municipal governing authorities from the state, under the provisions of subsection (1) or (4) of Section 27-37-301 and Section 27-37-303 hereof, shall be paid by the said board of supervisors and governing authorities into their respective general funds.

The board of supervisors of any county and the governing authorities of any municipality are hereby authorized and empowered to distribute out of their general funds to school districts of the county or municipality, as the case may be, all or any portion of amounts received by them as Tennessee Valley Authority payments in lieu of taxes.

Payments received pursuant to this article by the counties, school districts and municipalities shall not be included or considered as proceeds of ad valorem taxes for the purpose of the statutory growth limitations on ad valorem taxes. 1959, ex, 16; 1986, 506; 1987, 518.

## **CHAPTER 39. AD VALOREM TAXES--STATE AND LOCAL LEVIES**

27-39-203. Advertisement of intention to increase ad valorem tax; form; notice of public hearing.

(1) All taxing entities operating under the January 1 through December 31 fiscal year shall hold a public hearing at which the budget for the following fiscal year will be considered, regardless of whether that budget will be increased or decreased from the current budget or will remain the same as the current budget, and shall notify the county of the date, time and place of the public hearing. The county shall include that information with the tax notice.

(2) Unless the increased revenue in a budget is derived solely from the expansion of a taxing entity's ad valorem tax base, a taxing entity shall not budget an increased amount of revenue derived from the classes of ad valorem property described in Section 112, Mississippi Constitution of 1890, unless it first advertises the intention to do so at the same time that it advertises its intention to fix its budget for the next fiscal year.

(3)(a) For taxing entities operating under an October 1 through September 30 fiscal year, this advertisement may be combined with the advertisement required by Section 27-39-205. For all taxing entities, the advertisement shall meet the size, type, placement and frequency requirements established under Section 27-39-205.

(b) When the advertisement is required, it shall be in the following form:

**"NOTICE OF TAX INCREASE- (Name of the taxing entity)**

The (name of taxing entity) will hold a public hearing on its proposed budget for fiscal year (insert the year) on (date and time) at (meeting place). At this meeting, a proposed ad valorem tax revenue increase in the proposed budget will be considered.

The (name of taxing entity) is now operating with projected total budget revenue of \$\_\_\_\_\_. (\_\_\_\_\_ percent) or \$\_\_\_\_\_ of such revenue is obtained through ad valorem taxes. For the next fiscal year, the proposed budget has total projected revenue of \$\_\_\_\_\_. Of that amount, (\_\_\_\_\_ percent) or \$\_\_\_\_\_, is proposed to be financed through a total ad valorem tax levy.

This increase in ad valorem tax revenue means that you will pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property.

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed ad valorem tax revenue increase in the budget and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken.

1994, 414; 1995, 481; 1999, 499.

**27-39-205. Procedures prerequisite to increasing certain certified tax rates; form and content of public notice; hearings.**

(1) A tax rate in excess of the certified tax rate shall not be levied under Sections 21-33-45, 27-39-307, 27-39-317 and 27-39-320 until a resolution has been approved by the governing body of the taxing entity in accordance with the following procedure:

(a) The taxing entity shall advertise its intent to exceed the certified tax rate in a newspaper of general circulation in the county. A taxing entity collecting taxes in more than one (1) county shall make the advertisement required under this section by publication in each county where the taxing entity collects taxes. The advertisement shall be no less than one-fourth (1/4) page in size and the type used shall be no smaller than eighteen (18) point and surrounded by a one-fourth-inch solid black border. The advertisement shall not be placed in any portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least five (5) days a week, unless the only newspaper in the county is published less than five (5) days a week. The newspaper selected shall be one of general interest, readership and circulation in all areas of the community. The advertisement shall be published once each week for the two (2) week period preceding the adoption of the final budget. The advertisement shall provide that the taxing entity will meet on a certain day, date, time and place fixed in the advertisement, which shall be no less than seven (7) days after the day the first advertisement is published. The meeting on the proposed increase may coincide with the hearing on the proposed budget of the taxing entity.

(b) When the advertisement is required, it shall be in the following form:

**"NOTICE OF TAX INCREASE- (Name of the taxing entity)**

The (name of taxing entity) will hold a public hearing on a proposed ad valorem tax revenue increase for fiscal year (insert the year) on (date and time) at (meeting place).

The (name of taxing entity) is now operating with projected total budget revenue of \$\_\_\_\_\_. (\_\_\_\_\_ percent) or \$\_\_\_\_\_ of such revenue is obtained through ad valorem taxes. For the next

fiscal year, the proposed budget has total projected revenue of \$\_\_\_\_\_. Of that amount, (\_\_\_\_\_ percent) or \$\_\_\_\_\_, is proposed to be financed through a total ad valorem tax levy.

For next fiscal year, the (name of the taxing entity) plans to increase your ad valorem tax millage rate by \_\_\_\_\_ mills from \_\_\_\_\_ mills to \_\_\_\_\_ mills. This increase in ad valorem tax revenue means that you will pay more in ad valorem taxes on your home, automobile tag, utilities, business fixtures and equipment and rental real property.

Any citizen of (name of the taxing entity) is invited to attend this public hearing on the proposed ad valorem tax revenue increase, and will be allowed to speak for a reasonable amount of time and offer tangible evidence before any vote is taken.

(2) After the hearing has been held in accordance with the above procedures, the governing body of the taxing entity may adopt a resolution levying a tax rate on classes of property designated by Section 112, Mississippi Constitution of 1890, in excess of the certified tax rate. If the resolution adopting the tax rate is not adopted on the day of the public hearing, the scheduled date, time and place for consideration and adoption of the resolution shall be announced at the public hearing and the governing body shall advertise the date, time and place of the proposed adoption of the resolution in the same manner as provided under subsection (1).

(3) All hearings shall be open to the public. The governing body of the taxing entity shall permit all interested parties desiring to be heard an opportunity to present oral testimony within reasonable time limits and offer tangible evidence.

(4) Each taxing entity shall notify the county or municipal governing body of the date, time and place of its public hearing. No taxing entity may schedule its hearing at the same time as another overlapping taxing entity in the same county, but all taxing entities in which the power to set tax levies is vested in the same governing authority may consolidate the required hearings into one (1) hearing. The county or municipal governing body shall resolve any conflicts in hearing dates and times after consultation with each affected taxing entity. 1994, 414; 1995, 481; 1999, 499.

**27-39-303. General county ad valorem tax levy.** The board of supervisors of any county is hereby empowered to levy ad valorem tax on taxable property in the respective counties in any one year, as shown by the assessment roll containing assessments of property made as of January 1 of the year, and the assessment of motor vehicles as made according to the provisions of the Motor Vehicle Ad Valorem Tax Law of 1958 (Sections 27-51-1 *et seq.*) for all general county purposes, exclusive only of levies for roads and bridges and schools at the rate necessary to fund such purposes.

The board ... is further empowered to expend the proceeds of this levy for any purpose authorized for any other levy which the board ... is authorized to make, excluding the levy for roads and bridges, and the board may authorize general fund expenditures for school purposes when necessary to meet the minimum local ad valorem tax effort required by Section 37-57-1. The board ... is further empowered to distribute from the county general fund a portion of the county's share of payments made by the Tennessee Valley Authority to the state in lieu of taxes (a) to the school districts of said county and (b) for construction on the roads and bridges of said county in an amount which bears the same proportion to the total amount of the county's share as the millage for the school fund and road and bridge fund bears to the total millage levied by the county. In the event said in lieu payments are expended for capital improvements, said payments shall not be subject to the increase limitations specified in Section 27-39-321 or 37-57-107, Mississippi Code of 1972. 1973, 462; 1983, 471; 1985, 514, 536; 1987, 469.

Cross references--

As to countywide ad valorem levy for maintenance and/or construction of roads and bridges, see §27-39-305.

**27-39-305. Countywide levy for construction and maintenance of roads and bridges; limitation upon receipts from levy; disposition of excess funds; special ad valorem tax to cover shortfalls.**



(1) In addition to the levy authorized by Section 27-39-303, the board of supervisors may annually impose a countywide ad valorem tax levy or levies for the maintenance and/or construction of roads and bridges.

(2) For each fiscal year, the aggregate receipts from taxes levied for the maintenance and/or construction of roads and bridges pursuant to this section shall not exceed the aggregate receipts from this source during any one of the immediately preceding three fiscal years, as determined by the board of supervisors, plus an increase not to exceed ten percent (10%). The additional revenue from the ad valorem tax on any newly constructed properties or any existing properties added to the tax rolls or any properties previously exempt, which were not assessed in the next preceding year may be excluded from the ten percent (10%) increase limitation set forth herein.

(3) The ten percent (10%) increase limitation prescribed in this section may be increased an additional amount only when the county board of supervisors has determined the need for additional revenues and has held an election on the question of raising the limitation prescribed in this section. The limitation may be increased only if the proposed increase is approved by a majority of those voting in an election held for such purpose. The resolution, notice and manner of holding the election shall be as prescribed by law for the holding of elections for the issuance of bonds by the county board of supervisors. Revenues collected for the fiscal year in excess of the ten percent (10%) increase limitation pursuant to an election shall be included in the tax base for the purpose determining aggregate receipts for which the ten percent (10%) increase limitation applies for subsequent fiscal years.

(4) As an alternative to the procedure provided in subsection (3) of this section, the ten percent (10%) increase limitation prescribed in this section may be increased by an additional amount without an election thereon if the aggregate receipts from the levy authorized in this section and from all other county levies to which Sections 27-39-320 and 27-39-321 apply do not exceed one hundred ten percent (110%) of the aggregate receipts from all such levies during any one (1) of the immediately preceding three (3) fiscal years, as determined by the board of supervisors.

(5) Except as otherwise provided for excess revenues generated pursuant to an election, if revenues collected as the result of the taxes levied for the fiscal year pursuant to this section exceed the increase limitation, then it shall be the mandatory duty of the board of supervisors to deposit such excess receipts over and above the increase limitation into a special account and credit it to the county road and bridge fund. It will be the further duty of such board to hold said funds and invest the same as authorized by law. Such excess funds shall be calculated in the road and bridge budget for the succeeding fiscal year. Taxes imposed for the succeeding year shall be reduced by the amount of excess funds available. Under no circumstances shall such excess funds be expended during the fiscal year in which such excess funds are collected.

(6) In any county where there is located a nuclear generating power plant on which a tax is assessed under Section 27-35-309(3), the term "the aggregate receipts from taxes" as used in this section shall be the portion of the "base revenue" as defined in Section 27-39-320 which is used for the maintenance and/or construction of roads and bridges.

(7) If a shortfall occurs in revenues from sources other than ad valorem taxes and oil and gas severance taxes budgeted from the county road and bridge fund during the 1987 fiscal year, then the county may levy a special ad valorem tax for the 1988 fiscal year in an amount the avails of which shall not exceed such shortfall; provided, however, that the aggregate receipts from all ad valorem levies for the maintenance and/or construction of roads and bridges for the 1988 fiscal year shall not exceed the aggregate receipts from this source for the immediately preceding fiscal year plus and increase not to exceed twenty percent (20%).

(8) If a shortfall occurs in revenues from oil and gas severance taxes budgeted for the county road and bridge fund during the 1987 fiscal year, then the county may levy a special ad valorem tax for the 1988 fiscal year in an amount the avails of which shall not exceed such shortfall. The avails of such special ad valorem tax shall not be included within the ten percent (10%) increase limitation. The ad valorem taxes levied to offset the shortfall shall be deemed to be ad valorem tax receipts produced in the 1988 fiscal year for the purpose of determining the limitation on receipts for the succeeding fiscal years. 1990, 549; 1994, 554.

Cross references--

Homestead exemptions, see §27-33-3.

Characterization of revenues received by counties out of payments with respect to nuclear generating plants, for purposes of the growth limitation on ad valorem taxes, see §27-35-309.

Inclusion of levy for roads and bridges in order of board of supervisors levying county taxes, see §27-39-317.

Exclusion of taxes levied pursuant to this section from general limitation upon increases of property taxes, see §27-39-321.

Inclusion, as proceeds of ad valorem taxes, of proceeds of promissory notes issued because of shortfall in ad valorem taxes, see §27-39-333.

Additional tax on persons engaging in business of renting motor vehicles, see §27-65-231.

### 27-39-317. County ad valorem taxes--when and how levied.

The board of supervisors of each county shall, at its regular meeting in September of each year, levy the county ad valorem taxes for the fiscal year, and shall, by order, fix the tax rate, or levy, for the county, for the road districts, if any, and for the school districts, if any, and for any other taxing districts; and the rates, or levies, for the county and for any district shall be expressed in mills or a decimal fraction of a mill. Said tax rates, or levies, shall determine the ad valorem taxes to be collected upon each dollar of valuation, upon the assessment rolls of the county, including the assessment of motor vehicles as provided by the Motor Vehicle Ad Valorem Tax Law of 1958, Section 27-51-1 et seq., for county taxes; and upon each dollar of valuation for the respective districts, as shown upon the assessment rolls of the county, including the assessment of motor vehicles as provided by the Motor Vehicle Ad Valorem Tax Law of 1958, Section 27-51-1 et seq.; except as to such values as shall be exempt, in whole or in part, from certain tax rates or levies. If the rate or levy for the county is an increase from the previous fiscal year, then the proposed rate or levy shall be advertised in accordance with Secs. 27-39-203 and 27-39-205. If the board of supervisors of any county shall not levy the county taxes and the district taxes at its regular September meeting, the board shall levy the same on or before September 15 at an adjourned or special meeting, or thereafter, provided, however, that if such levy be not made on or before the fifteenth day of September then the tax collector or State Tax Commission may issue road and bridge privilege tax license plates for motor vehicles as defined in the Motor Vehicle Ad Valorem Tax Law of 1958, Section 27-51-1 et seq., without collecting or requiring proof of payment of county ad valorem taxes, and may continue to so issue such plates until such levy is duly certified to him, and for twenty-four (24) hours thereafter.

Notwithstanding the requirements of this section, in the event the State Tax Commission orders the county to make an adjustment to the tax roll pursuant to Section 27-35-113, the county shall have a period of thirty (30) days from the date of the commission's final determination to adjust the millage in order to collect the same dollar amount of taxes as originally levied by the board.

In making the levy of taxes, the board of supervisors shall specify, in its order, the levy for each purpose, as follows:

- (a) For general county purposes (current expense and maintenance taxes), as authorized by Section 27-39-303.
- (b) For roads and bridges, as authorized by Section 27-39-305.
- (c) For schools, including the countywide minimum education program levy and the levy for each school district including special municipal separate school districts, but not including other municipal separate school districts, and for an agricultural high school, county high school or junior college (current expense and maintenance taxes), as authorized by Chapter 57, Title 37, Mississippi Code of 1972, and any other applicable statute. The levy for schools shall apply to the assessed value of property in the respective school districts, including special municipal separate school districts, but not including other municipal separate school districts, and a distinct and separate levy shall be made for each school district, and the purpose for each levy shall be stated.
- (d) For road bonds and the interest thereon, separately for countywide bonds and for the bonds of each road district.
- (e) For school bonds and the interest thereon, separately for countywide bonds and for the bonds of each school district.
- (f) For countywide bonds, and the interest thereon, other than for road bonds and school bonds.

(g) For loans, notes or any other obligation, and the interest thereon, if permitted by the law.

(h) For any other purpose for which a levy is lawfully made.

The order shall state all of the purposes for which the general county levy is made, using the administrative items suggested by the State Department of Audit of Mississippi under the county budget law in its uniform system of accounts for counties, but the rate or levy for any item or purpose need not be shown; and if a countywide levy is made for any general or special purpose under the provisions of any law other than Section 27-39-303, each such levy shall be separately stated.

During the month of February of each year, if the order or resolution of the board of trustees of any school district of said county or partly in said county, is filed with it requesting the levying of ad valorem taxes for the support and maintenance of such school district for the following fiscal year, then the board of supervisors of every such county in the state shall notify, in writing, within thirty (30) days, the county superintendent of education of such county, the levy or levies it intends to make for the support and maintenance of such school districts of such county at its regular meeting in September following, and the county superintendent of education and the trustees of all such school districts shall be authorized to use such expressed intention of the board of supervisors in computing the support and maintenance budget or budgets of such school district or districts for the ensuing fiscal school year. 1942, 9889; 1956, 296; 1958, 549; 1962, 270; 1978, 354; 1983, 471; 1990, 498; 1994, 414.

Cross references--

As to general county ad valorem tax levy, see §27-39-303.

As to motor vehicle ad valorem taxes, see §§27-51-1, *et seq.*

As to tax powers of board of supervisors, see §19-3-41.

As to drainage district tax levy, see §§51-31-63, 51-31-65.

27-39-319. Clerk to certify levy of county taxes.

When the board of supervisors shall have made the levy of county taxes by resolution, the clerk of the board shall thereupon immediately certify the same to the State Auditor and tax collector of the county.

When a resolution levying ad valorem taxes has been adopted by the board of supervisors, the clerk of the board of supervisors shall certify immediately a copy of such resolution to the State Tax Commission. The clerk shall have the resolution of the board of supervisors printed within two (2) weeks after it is entered on the minutes of the board of supervisors, and he shall furnish any taxpayer upon request with a copy thereof. If a newspaper is published within such county, then such resolution shall be published in its entirety, at least one (1) time, within ten (10) days after its adoption. If no newspaper is published within such county, then a copy of such resolution, in its entirety, shall be posted by such clerk in at least three (3) public places in such county, within ten (10) days after its adoption.

The clerk shall be liable on his bond for any damages sustained by his failure to comply with the requirements of this section. 1942, 9890; 1920, 253; 1994, 414.

27-39-320. Amount of levy; limitations as to increases.

(1) The Legislature finds and determines that legislation requiring a specific levy or requiring consent of some other governing body to reduce the levy was intended to raise a certain amount of revenue for specific purposes. Upon this determination and notwithstanding the provisions of any statute which requires a definite levy to be made or which requires that a levy may not be reduced except by the consent of some other governing authority, the amount of such levy shall be deemed to be an amount necessary to produce the revenues received in the next preceding year plus, at the option of the taxing authority, an increase not to exceed ten percent (10%) of such revenues.

(2) In any county where there is located a nuclear generating power plant on which a tax is assessed under Section 27-35-309(3), such required levy and revenue produced thereby may be reduced by the levying authority in an amount in proportion to a reduction in the base revenue of any such county from the previous year. Such reduction shall be allowed only if the reduction in base revenue equals or exceeds five percent (5%). "Base revenue" shall mean the revenue received by the county from the ad valorem tax levy plus the revenue received

by the county from the tax assessed under Section 27-35-309(3) and authorized to be used for any purposes for which a county is authorized by law to levy an ad valorem tax. For purposes of determining if the reduction equals or exceeds five percent (5%), a levy of millage equal to the prior year's millage shall be hypothetically applied to the current year's ad valorem tax base to determine the amount of revenue to be generated from the ad valorem tax levy. For the purposes of this section, the portion of base revenue used to fund the purpose for which a specific levy is required shall be deemed to be the total receipts from ad valorem taxes for such purpose. This paragraph shall apply to taxes levied for the 1987 fiscal year and for each fiscal year thereafter. If the Mississippi Supreme Court or another court finally adjudicates that the tax levied under Section 27-35-309(3) is unconstitutional, then this paragraph shall stand repealed.

(3) With respect to ad valorem taxes levied on or after October 1, 1980, no county or municipality shall levy those mills heretofore required by law to be levied to an extent that such levy shall produce more than the total receipts produced from such levy in the next preceding year, plus, at the option of the taxing authority, an increase not to exceed ten percent (10%) of such receipts. Such total receipts shall be deemed to include the total avails of such levy either collected from the property owner or by reimbursement by the state. The revenues produced from any newly constructed properties or any existing properties added to the tax rolls or any properties previously exempt which were not assessed in the next preceding year may be excluded from the limitation set forth herein.

(4) The ten percent (10%) increase limitation prescribed in this section may be increased by an additional amount by the board of supervisors of any county if the aggregate receipts from all county levies to which this section and Sections 27-39-305 and 27-39-321 apply do not exceed one hundred ten percent (110%) of the aggregate receipts from all such levies during any one (1) of the immediately preceding three (3) fiscal years, as determined by the board of supervisors.

(5) The limitations set forth in this section shall apply to the mandatory tax levied by Section 27-39-329. 1980, 505; 1987, 507, 520; 1990, 549; 1994, 554.

#### 27-39-321. Limitations on increases of property taxes; special ad valorem tax to cover shortfalls.

(1) With respect to ad valorem taxes levied for each fiscal year, no political subdivision may levy ad valorem taxes in any fiscal year which would render in total receipts from all levies an amount more than the receipts from that source during any one of the immediately preceding three fiscal years, as determined by the levying governing authority, plus, at the option of the taxing authority, an increase not to exceed ten percent (10%) of such receipts. The additional revenue from the ad valorem tax on any newly constructed properties or any existing properties added to the tax rolls or any properties previously exempt, which were not assessed in the next preceding year and cost incurred and paid in the next preceding year in connection with reappraisal may be excluded from the ten percent (10%) increase limitation set forth herein. Taxes levied for school district purposes under any statute and taxes levied for the maintenance and/or construction of roads and bridges under Section 27-39-305 shall be excluded from the ten percent (10%) increase limitation set forth herein. Taxes levied for payment of principal of and interest on general obligation bonds issued heretofore or hereafter shall be excluded from the ten percent (10%) increase limitation set forth herein. Any additional millage levied to fund any new program mandated by the Legislature shall be excluded from the limitation for the first year of the levy and included within such limitation in any year thereafter. The limitation imposed under this paragraph shall not apply to those mandatory levies enumerated in Sections 27-39-320 and 27-39-329.

(2) The limitation of this section may be increased only as provided in subsection (3) or (4) of this section or when the governing body of a political subdivision has determined the need for additional revenues, adopts a resolution declaring its intention so to do and has held an election on the question of raising the limitation prescribed in this section. The notice calling for an election shall state the purposes for which the additional revenues shall be used, the amount of the tax levy to be imposed for such purposes and period of time for which such tax levy shall be made; however, such tax levy shall not be made for more than five (5) successive years. The limitation may be increased only if the proposed increase is approved by a majority of those voting. Subject to specific provisions of this paragraph to the contrary, the publication of notice and manner of holding the election shall be as prescribed by law for the holding of elections for the

issuance of bonds by the political subdivision. Revenues derived from any taxes levied pursuant to such election shall be excluded from the tax base for the purpose of determining aggregate receipts for which the ten percent (10%) increase limitation applies.

(3) As an alternative to the procedure provided in subsection (2) of this section, the ten percent (10%) increase limitation prescribed in this section may be increased by an additional amount by the board of supervisors of any county without an election thereon if the aggregate receipts from all county levies to which this section and Sections 27-39-305 and 27-39-320 apply do not exceed one hundred ten percent (110%) of the aggregate receipts from all such levies during any one (1) of the immediately preceding three (3) fiscal years, as determined by the board of supervisors.

(4) As an alternative to the procedure provided in subsections (2) and (3) of this section, the board of supervisors of any county or the governing authorities of any municipality may, without an election thereon, increase the ad valorem tax levy to which this section applies by the greater of:

- (a) An ad valorem tax levy that does not result in an aggregate levy to which this section applies in excess of twenty (20) mills; or
- (b) An ad valorem tax that is not in excess of any aggregate levy to which this section applies in any one (1) of the immediately preceding ten (10) fiscal years.

(5) In any county where there is located a nuclear generating power plant on which a tax is assessed under Section 27-35-309(3), the term "total receipts" as used in this section shall be the portion of the "base revenue" as defined in Section 27-39-320 which is used for General Fund purposes.

(6) If a shortfall occurs in revenues from sources other than ad valorem taxes and oil and gas severance taxes budgeted for the county or municipal general fund during the 1987 fiscal year, then the county or municipality, as the case may be, may levy a special ad valorem tax for the 1988 fiscal year in an amount the avails of which shall not exceed such shortfall; provided, however, that the aggregate receipts from all ad valorem levies for the county or municipal general fund for the 1988 fiscal year shall not exceed the aggregate receipts from this source for the immediately preceding fiscal year plus an increase not to exceed twenty percent (20%).

(7) If a shortfall occurs in revenues from oil and gas severance taxes budgeted for the county or municipal general fund during the 1987 fiscal year, then the county or municipality, as the case may be, may levy a special ad valorem tax for the 1988 fiscal year in an amount the avails of which shall not exceed such shortfall. The avails of such special ad valorem tax shall not be included within the ten percent (10%) increase limitation. The ad valorem taxes levied to offset the shortfall shall be deemed to be ad valorem tax receipts produced in the 1988 fiscal year for the purposes of determining the limitation on receipts for the succeeding fiscal years. 1980, 505; 1983, 471; 1987, 507; 1990, 549; 1994, 554.

### 27-39-323. Excess receipts, duty of chancery clerk.

Except as otherwise provided for excess revenues generated by a county in accordance with subsection (3) of Section 27-39-321 or subsection (2) of Section 27-39-320, if revenue collected as the result of any individual levy referred to in Section 27-39-321 or the aggregate revenue collected from all levies referred to in Section 27-39-320 which are limited to an increase of not more than ten percent (10%) over the receipts from the same for any one (1) of the immediately preceding three (3) fiscal years, as determined by the levying governing authority, exceeds such limit, then it shall be the mandatory duty of the chancery clerk of each county and the clerk of each municipality to deposit such excess receipts over and above the ten percent (10%) increase limitation into a special account and credit it to the fund for which such levy was made. It will be the further duty of the chancery clerk and the city clerk to hold said funds and invest the same as authorized by law and to report the total to the board of supervisors or the municipal governing authorities, as the case may be, at its regular August meeting of each year. Such excess funds shall be calculated in the budgets for the county and for the municipality, respectively, for the purpose for which such levies were made, for the succeeding fiscal year. Taxes imposed for the succeeding year shall be reduced by the amount of excess funds available. Under no circumstances shall such excess funds be expended during the fiscal year in which such excess funds are collected. 1980, 505; 1987, 507; 1990, 549; 1994, 554.

Cross references --

Exemption of funds described in Sections 27-39-323 and 27-39-329(2)(b) from provision for borrowing in anticipation of receipt of funds from confirmed federal or state grants or loans, see §19-9-28. Particular limitations upon increases of taxes levied, see §§27-29-320 and 27-39-321. Inclusion, as proceeds of ad valorem taxes, of proceeds of promissory notes issued because of shortfall in ad valorem taxes, see §27-39-333.

**27-39-325. Authority of counties to levy on taxable property within county to defray cost of reappraisal.** The board of supervisors of any county having a plan or contract for reappraisal which has been approved by the state tax commission may annually levy an ad valorem tax on all the taxable property within the county, in an amount necessary to defray the cost of reappraisal. The funds derived from the levy shall be placed in a special account and shall be used only for the expenses involved in reappraisal or for repaying any amounts of indebtedness incurred for that purpose. The board may borrow money or issue its notes at the rate of interest to maturity allowed in Section 75-17-105 for the purposes of reappraisal and may pledge the avails of the levy authorized herein for the payment of the principal of and the interest on the indebtedness. The indebtedness incurred for the purpose of defraying the cost of reappraisal shall not be included in computing the debt limit of the county under any present or future law.

No board of supervisors shall make the levy authorized herein for a period of years longer than necessary to pay for reappraisal of property within the county or to repay any indebtedness authorized herein. Provided, however, an ad valorem tax on all the taxable property within the county may be levied in an amount sufficient to defray the cost of maintaining and updating appraisals and an ownership mapping system including, but not limited to, cash for the purchase and maintenance of computer equipment and motor vehicles and costs for computer services and remuneration of certified appraisers and other necessary personnel. The tax levies authorized herein shall not be included in the ten percent (10%) limitation on increases under Section 27-39-321. This section shall also apply to the board of supervisors of any county which has reappraised in compliance with the state tax commission regulations and has an outstanding indebtedness incurred to fund such reappraisal of property. The tax levies authorized in this section shall not be reimbursable under the provisions of the homestead exemption law of this state. 1980, 505; 1983, 471; 1984, 422; 1985, 462.

**27-39-329. County ad valorem tax levy for payment of bonds or notes and for other authorized expenses.** Each county shall, in addition to all other taxes authorized by statute and notwithstanding any limitation provided in Article 3, Chapter 39, Title 27, Mississippi Code of 1972, levy ad valorem taxes pursuant to a lengthy formula contained in this section. 1980, 505; 1981, 538; 1981, Ex. Sess., 5; 1982, 502; 1983, 471; 1987, 507; 1990, 498; 1997, 539.

**27-39-333. Notes issued to offset indebtedness; Hurricane Katrina provisions**

**[From and after passage, through June 30, 2010, this act shall read as follows:]**

(1) For purposes of this section, the following terms shall have the meanings ascribed herein:

(a) "Political subdivision" means any political subdivision which receives ad valorem tax revenue.

(b) "Levying authority" means any political subdivision having legal authority to levy ad valorem taxes for its operation or for the operation of another political subdivision.

(2) Any political subdivision which, during a fiscal year, estimates that the amount of the ad valorem taxes or other anticipated revenue from local sources to be collected therein is less than the amount estimated at the time of formulation of its budget for the fiscal year due to circumstances which were unanticipated at the time of

formulation of the budget and which will prevent the political subdivision from meeting its financial obligations may, with the approval of the levying authority for such political subdivision, issue promissory notes in an amount equal to the estimated shortfall of ad valorem taxes and/or revenue from local sources but in no event to exceed twenty-five percent (25%) of its budget anticipated to be funded from the sources of the shortfall for the fiscal year. However, if a school district which, during a fiscal year, estimates that the amount of the ad valorem taxes or other anticipated revenue from local sources to be collected therein is less than the amount provided for in the duly adopted budget of the school district for the fiscal year as a result of Hurricane Katrina, then the school district may issue promissory notes in an amount equal to the estimated shortfall of ad valorem taxes and/or revenue from local sources but in no event to exceed fifty percent (50%) of its budget anticipated to be funded from the sources of the shortfall for the fiscal year. Any school district issuing promissory notes under this subsection may do so only if such school district receives prior approval by the State Superintendent of Education that the school district received damage from Hurricane Katrina. In order for a school district to issue notes under the provisions of this section, the superintendent of the local school district must recommend such action to the school board and the board must duly adopt and enter upon its official minutes a resolution setting forth specific findings as to how the district meets the requirements of this section.

(3) The proceeds of such notes shall be used in the budget or budgets in which the shortfall occurred and shall be used solely to offset the shortfall in such budgets for the fiscal year. The rate of interest paid thereon shall not exceed that amount set forth in Section 75-17-105, Mississippi Code of 1972. The indebtedness shall be repaid in full, including interest thereon, in equal installments, during the three (3) fiscal years next succeeding the fiscal year in which the notes were issued. However, the indebtedness of a school district issuing notes as a result of a shortfall in revenues collected from local sources on behalf of the school district for any fiscal year as a result of Hurricane Katrina shall be repaid in full, including interest thereon in the manner authorized by the school board, during the ten (10) fiscal years next succeeding the fiscal year in which the promissory note or notes were issued. For the payment of such indebtedness, the levying authority for the political subdivision shall, at its next regular meeting at which ad valorem taxes are lawfully levied, levy an ad valorem tax sufficient to repay the indebtedness in full, including interest. The proceeds of the notes shall be included as proceeds of ad valorem taxes for the purposes of the limitation on increases in revenue for the next succeeding fiscal year under Section 27-39-305, 27-39-320, 27-39-321 or 37-57-107, Mississippi Code of 1972, whichever is applicable depending upon the purpose for which such proceeds are used.

(4) Any notes issued under this section prior to April 20, 1987, shall be repaid as provided in this section.

(5) For the purposes of Sections 27-39-305, 27-39-320, 27-39-321 and 37-57-107, the terms "revenue" and "receipts" when used in connection with the amount of funds generated in a preceding fiscal year shall include excess receipts collected in the next preceding fiscal year and deposited into a special account under Section 27-39-323.

**[From and after July 1, 2010, this act shall read as follows:]**

(1) For purposes of this section, the following terms shall have the meanings ascribed herein:

(a) "Political subdivision" means any political subdivision which receives ad valorem tax revenue.

(b) "Levying authority" means any political subdivision having legal authority to levy ad valorem taxes for its operation or for the operation of another political subdivision.

(2) Any political subdivision which, during a fiscal year, estimates that the amount of the ad valorem taxes or other anticipated revenue from local sources to be collected therein is less than the amount estimated at the time of formulation of its budget for the fiscal year due to circumstances which were unanticipated at the time of formulation of the budget and which will prevent the political subdivision from meeting its financial obligations

may, with the approval of the levying authority for such political subdivision, issue promissory notes in an amount equal to the estimated shortfall of ad valorem taxes and/or revenue from local sources but in no event to exceed twenty-five percent (25%) of its budget anticipated to be funded from the sources of the shortfall for the fiscal year.

(3) The proceeds of such notes shall be used in the budget or budgets in which the shortfall occurred and shall be used solely to offset the shortfall in such budgets for the fiscal year. The rate of interest paid thereon shall not exceed that amount set forth in Section 75-17-105, Mississippi Code of 1972. The indebtedness shall be repaid in full, including interest thereon, in equal installments, during the three (3) fiscal years next succeeding the fiscal year in which the notes were issued. For the payment of such indebtedness, the levying authority for the political subdivision shall, at its next regular meeting at which ad valorem taxes are lawfully levied, levy an ad valorem tax sufficient to repay the indebtedness in full, including interest. The proceeds of the notes shall be included as proceeds of ad valorem taxes for the purposes of the limitation on increases in revenue for the next succeeding fiscal year under Section 27-39-305, 27-39-320, 27-39-321 or 37-57-107, Mississippi Code of 1972, whichever is applicable depending upon the purpose for which such proceeds are used.

(4) Any notes issued under this section prior to April 20, 1987, shall be repaid as provided in this section.

(5) For the purposes of Sections 27-39-305, 27-39-320, 27-39-321 and 37-57-107, the terms "revenue" and "receipts" when used in connection with the amount of funds generated in a preceding fiscal year shall include excess receipts collected in the next preceding fiscal year and deposited into a special account under Section 27-39-323. Effective from February 20, 2006.

Laws 1985, Ch. 514, § 28; Laws 1986, Ch. 457, § 1; Laws 1987, Ch. 507, § 11; Laws 1988, Ch. 466, § 12, eff. July 1, 1988; Laws 2005, 5th Ex.Sess., Ch. 23, § 2, eff. from and after passage (approved October 24, 2005); 2006, 308; 2008, 556.

## **CHAPTER 41. AD VALOREM TAXES--COLLECTION**

### 27-41-1 through 27-41-89. Collection of ad valorem taxes, generally.

27-41-1. Taxes, when due, payable and collectible. 1958, 549; 1993, 540; 1995, 468.

27-41-3. Taxes levied for bonds, etc., how installment payment of, may be authorized. 1934, 188; 1995, 468.

27-41-15. Private collection agent for collection of delinquent taxes or personal property. 1995, 496.

27-41-19. Collector to assess and collect certain taxes. 1968, 361.

27-41-39 and 27-41-41. Collector's cash book. Each tax collector shall enter in a well bound cash book kept for the purpose, the date and number of each tax receipt issued by him, the name of the person paying taxes, and the amount paid for each tax account, which entry shall be made at the time of issuing the receipt, and the total of the receipts entered on each page shall be shown and carried forward to the next succeeding page, so that the total amount collected, and the total amount for each tax account, will be readily disclosed by an inspection of the cash book. Each collector shall also enter in the cash book ... the amount of his payment of taxes to the state and county treasurers, respectively, giving the date of each payment, so that it can be seen by reference to the cash book whether the payment made to the county and state embraces all that he has collected, less his commissions ... It shall be the duty of the tax collector to present his cash book ... to the board of supervisors or county auditor when required ... 1934, 188.



27-41-55 through 27-41-59. Sales of land for taxes; advertisement; how advertised if no newspaper in the county; how sale made. 1981, 315; 1985, 425; 1990, 337; 1993, 540.

27-41-77. Disposition of excess in amount bid. If any land be sold for more than the amount of taxes due and all costs, the tax collector shall report the amount of excess to the chancery clerk, and on his receipt warrant therefor, shall pay the same into the county treasury. The board of supervisors is directed to transfer all such funds so received to the general funds of the county. If the land be redeemed, or the title of the purchaser be defeated or set aside in any way or for any reason, such excess shall be retained by the county. If only a part of the land be redeemed, the excess shall be apportioned ratably to the amount of taxes due at the time of the sale on the respective parts. The owner of the land may demand of the tax collector a memorandum or receipt showing the amount of excess if any, and, upon the expiration of the period of redemption, without the property being redeemed, such excess shall, upon the request of the owner, be paid to said owner. If the owner of the property does not request payment of the excess within two (2) years from the expiration of the period of redemption, the excess shall be retained by the county. Whenever any person shall present a claim against the excess fund, within the time period provided, certified to by the chancery clerk, the board of supervisors shall order a warrant to issue therefor on the general county fund.  
1942, 9934; 1934, 188; 1995, 468.

27-41-101 through 27-41-109. Collection of taxes on personal property, seizure and sale. 1995, 435.

## **CHAPTER 43. AD VALOREM TAXES--NOTICE OF SALE**

27-43-1. Notice to owners. The clerk of the chancery court shall, within 180 days and not less than 60 days prior to the expiration of the time of the redemption with respect to land sold, either to individuals or to the state, be required to issue notice to the record owner of the land sold as of 180 days prior to the expiration of the time of redemption. The form of the notice is given in this section. 1975, 517.

27-43-3. How notice served or mailed; publication; fees. The clerk shall issue the notice to the sheriff of the county of the reputed owner's residence, if he be a resident of the state of Mississippi, and the sheriff shall be required to serve personal notice as summons issued from the courts are served, and make his return to the chancery clerk issuing same. The clerk shall also mail a copy of same to the reputed owner at his usual street address, if same can be ascertained after diligent search and inquiry, or to his post office address if only that can be ascertained, and he shall note such action on the tax sales record. The clerk shall also be required to publish the name and address of the reputed owner of the property and the legal description of such property in a public newspaper of the county in which the land is located, or if no newspaper is published as such, then in a newspaper having a general circulation in such county. Such publication shall be made at least forty-five (45) days prior to the expiration of the redemption period.

If said reputed owner is a nonresident of the state of Mississippi, then the clerk shall mail a copy of said notice thereto in the same manner as hereinabove set out for notice to a resident of the state of Mississippi, except that personal notice served by the sheriff shall not be required.

Notice by mail shall be registered or certified mail. In the event the notice by mail is returned undelivered and the personal notice as hereinabove required to be served by the sheriff is returned not found, then the clerk shall make further search and inquiry to ascertain the reputed owner's street or post office address. If the reputed owner's street or post office address is ascertained after the additional search and inquiry, the clerk shall again issue notice as hereinabove set out. If personal notice is again issued and it is again returned not found and if notice by mail is again returned undelivered, then the clerk shall file an affidavit to that effect and shall specify therein the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post office address and said affidavit shall be retained as a permanent record in the office of the clerk and such action

shall be noted on the tax sales record. If the clerk is still unable to ascertain the reputed owner's street or post office address after making search and inquiry for the second time, then it shall not be necessary to issue any additional notice but the clerk shall file an affidavit specifying therein the acts of search and inquiry made by him in an effort to ascertain the reputed owner's street and post office address and said affidavit shall be retained as a permanent record in the office of the clerk and such action shall be noted on the tax sale record.

For examining the records to ascertain the record owner of the property, the clerk shall be allowed a fee of Fifty Dollars (\$50.00); for issuing the notice the clerk shall be allowed a fee of Two Dollars (\$2.00) and, for mailing same and noting such action on the tax sales record, a fee of One Dollar (\$1.00); and for serving the notice, the sheriff shall be allowed a fee of Four Dollars (\$4.00). For issuing a second notice, the clerk shall be allowed a fee of Five Dollars (\$5.00) and, for mailing same and noting such action on the tax sales record, a fee of Two Dollars and Fifty Cents (\$2.50), and for serving the second notice, the sheriff shall be allowed a fee of Four Dollars (\$4.00). The clerk shall also be allowed the actual cost of publication. Said fees and cost shall be taxed against the owner of said land if the same is redeemed, and if not redeemed, then said fees are to be taxed as part of the cost against the purchaser. The failure of the landowner to actually receive the notice herein required shall not render the title void, provided the clerk and sheriff have complied with the duties herein prescribed for them.

Should the clerk inadvertently fail to send notice as prescribed in the section, then such sale shall be void and the clerk shall not be liable to the purchaser or owner upon refund of all purchase money paid. 1942, 9942; 1922, 241; 1968, 514; 1975, 517; 1981, 375; 1995, 468; 2007, 364..

Cross References--

Application of this section when lands are sold for non payment of municipal taxes, see § 27-43-4.

As to application of this section when lands are sold for nonpayment of municipal taxes, see §27-43-4.

27-43-4. Notice, affidavits or certificates, and fees where lands sold for nonpayment of municipal taxes. With respect to lands sold for the nonpayment of municipal taxes, both for ad valorem and for special improvements, the municipal clerk shall issue the same type notices and perform all other requirements as set forth in Sections 27-43-1 through 27-43-11, inclusive, and for so doing, the municipality shall be allowed the same fees as set forth in said sections. However, all certificates or affidavits of the municipal clerk shall be filed with the chancery clerk of the county in which the municipality is located for which the chancery clerk shall be allowed a filing fee of \$1.00 per affidavit or certificate. 1975, 517; 1978, 419.

27-43-1 through 27-43-11. Duties of chancery clerk as to tax sales. 1995, 381.

27-43-11. Fees for chancery clerk. Seven Dollars (\$7.00) for each lien found for examining records. 1995, 468.

## **CHAPTER 45. AD VALOREM TAXES-- REDEMPTION OF LAND SOLD FOR TAXES**

27-45-1 through 27-45-29. Redemption of land sold for taxes, generally. All of Chapter 45 involves laws having to do with the redemption of land sold for taxes. All redemptions are handled through the chancery clerk. Where the land was sold to the state, the clerk, out of the amount necessary to redeem, shall first pay to the officers entitled thereto their costs, fees and damages; second, he shall pay the state the amount of state taxes with the interest and additional charges thereon; and third, he shall pay to the county and to the various taxing districts thereof the sum computed in like manner which belong to them. ... Where the land was sold to an individual the clerk shall pay over first as provided in the second and third aforementioned subheads insofar as said items have not already been paid, either by the tax purchaser or by some other person, and the balance he shall pay over to the purchases. The clerk shall make his redemption settlements within 20 days after the end of each month and shall make a complete report thereof to the board of supervisors, a true copy of which

he shall file with the state auditor ... 1934, 197. It shall be the duty of the chancery clerk to immediately deposit in the county depository all sums of money paid to him by any person for the redemption of land sold for taxes. ... The chancery clerk shall be furnished with checks to be used in drawing redemption funds out of said depository to pay all just claims against same. It shall be the duty of the state auditor to audit such account of each clerk, as other public funds are audited; and he shall include in said audit a special report to the board of supervisors ... setting out the amounts collected, the disposition of such funds, and the balance on hand. 1940, 303; 1995,468.

## **CHAPTER 49. AD VALOREM TAXES--INSOLVENCIES**

**27-49-1. Report of insolvencies.** The tax collector shall present to the board of supervisors, at its meeting on the first Monday of October of each year, a report of all insolvent and delinquent taxpayers in his county, with the amount due from each. Such report shall be verified by the affidavit of the collector, that he has made, in person or by deputy, a legal demand for taxes of all delinquent taxpayers found in his county, by going to their place of abode or business and searching for something to seize and sell for taxes; that the taxpayers mentioned in the report have failed to pay their taxes; and have no effects known to him which can be seized and sold for such taxes; and that he has made diligent inquiry after such of said delinquents as have not been found, and cannot find them in his county, and that they have no effects known to him which can be seized and sold to pay their taxes. ... The tax collector shall also include in his report any checks, drafts or orders for the payment of money which he has received in payment of ad valorem taxes and which have been returned to him because of insufficient funds in the account on which such checks, drafts or orders were drawn. Such checks, drafts or orders shall be accompanied by the affidavit of the collector that he has exhausted all legal means of collecting such instruments, including the filing of a civil suit.

Separate lists of delinquents shall be made for each election district and for each city, town and village. 1934, 188; 1988, 376.

**27-49-3. If the board fails to meet--when insolvencies allowed.** If the board of supervisors fails to meet on the first Monday in October, its duties with regard to the insolvent list shall be performed at its next meeting thereafter. 1934, 188.

**27-49-5. How allowed.** The board shall proceed to examine the report and shall allow the collector a credit for such of the taxes so reported insolvent or delinquent, as it may be satisfied remain uncollected without the default of the collector, and no more. A list of the allowances shall be made out and certified by the clerk and transmitted to the auditor of public accounts, on or before the first day of September following, and shall be credited to the collector in his settlement with the auditor and chancery clerk. 1942, 9985.

**27-49-7. Report to be carefully scrutinized.** The board of supervisors shall not allow to the collector a credit for the insolvent list he reports, merely because he presents it duly sworn to, but the board shall examine carefully each election district and city, town, or village list as reported, and each name and amount reported insolvent, and shall use any knowledge had by any member of the board, and avail of any information by witnesses to test the accuracy of the report. The board shall not allow the collector credit for the taxes of any delinquent who may be ascertained to have anything in possession or in action by a sale of which the collector would be able to make the taxes; and all of the list for which the board shall not allow a credit shall be charged against the collector. 1942, 9986.

**27-49-9. Notwithstanding the allowance, taxes to be collected.** Notwithstanding the allowance of insolvencies, the tax collector shall, if possible, collect the taxes of all insolvent and delinquent taxpayers. He shall retain a copy of the list reported by him, and whenever he can find any property, real or personal, belonging to the defendant, he shall distrain and sell the same, on five days' notice, to the highest bidder, for cash, and shall pay over the same as other taxes collected. The auditor, on settlement with a tax

collector, shall require of him to report, on oath, whether he has collected taxes from any, and which, of the delinquent taxpayers. 1942, 9987.

## **CHAPTER 51. AD VALOREM TAXES--MOTOR VEHICLES**

27-51-7. Who is liable for ad valorem tax on motor vehicles. Any person required by law to pay a road and bridge privilege license tax on any motor vehicle shall also be liable for the ad valorem taxes due on such motor vehicle. Such tax shall be paid at the same time the road and bridge privilege license tax is paid, and the payment of the said ad valorem taxes due shall be a prerequisite to the issuance of the said road and bridge privilege license.

The ad valorem tax lien date for the purpose of this chapter shall also constitute the ad valorem tax due date which shall also be the same date that the subject motor vehicle is purchased from a bona fide dealer, if it is intended that such motor vehicle is to be operated upon the highways of this state.

Ad valorem taxes on all motor vehicles ... shall be calculated as of the first day of the month in which such taxes were due. ... 1958, 588.

27-51-9. Taxable and fiscal years--taxes to be collected by county and municipal tax collectors--when to be paid. For the purposes of this chapter, the fiscal year shall commence on August 1, and shall end on July 31 of each year. The taxable year shall run concurrently with the taxable year in effect in the law pertaining to the payment of the road and bridge privilege license tax on motor vehicles. Except as otherwise provided in Section 27-41-2, ad valorem taxes on motor vehicles shall be collected by the county tax collector for the county and state and by the municipal tax collector for the municipalities. Ad valorem taxes for any ensuing year may be paid during the month as provided in Section 27-19-31, however, any said ad valorem taxes on any motor vehicle must be paid at the same time or prior to the time that the road and bridge privilege license is issued for the subject motor vehicle, unless herein otherwise specifically exempt from such ad valorem taxes. The ad valorem tax on motor vehicles shall be computed on the millage rates in effect at the time such privilege license tax is to be paid. 1976, 361; 1977, 484; 1980, 487; 1993,540; 1994, 465.

27-51-11. Ad valorem tax receipts to be presented before road and bridge privilege license issued--reports--penalties--auditing of tax collectors. In cases where the road and bridge privilege tax license is issued by the administrator of the road and bridge privilege tax law, before he shall issue such license he shall require that a tax receipt, made out on the prescribed form and properly issued, be presented to him showing that all ad valorem taxes due on such motor vehicle have been paid according to the situs of the subject motor vehicle as shown by the written application for such privilege license. If the application for such privilege license reveals that the situs of the subject motor vehicle is in a municipality, then the administrator of the road and bridge privilege tax law, before issuing said privilege license, shall require that a tax receipt made out on the prescribed form and properly issued be presented to him showing that such ad valorem taxes due have also been paid. The administrator of the road and bridge privilege tax law shall secure a rubber stamp to be used in stamping each such ad valorem tax receipt so presented to him. This stamp shall show the date of issuance and the receipt number of the privilege license issued for each corresponding ad valorem tax receipt, date and license receipt number to be filled in with ink, or with indelible pencil, by and in the name of the administrator of the road and bridge privilege tax law and countersigned by the issuing deputy or clerk. The number of the corresponding ad valorem tax receipt presented shall be written by him on the privilege license receipt. In cases where a separate municipal ad valorem tax receipt for motor vehicles is necessary, the same procedure as outlined herein shall be followed with reference to the municipal tax receipt.

The administrator of the road and bridge privilege tax law, his deputies or clerks violating the provisions of this section shall be liable on their official bonds in double the amount of the ad valorem taxes due on each such motor vehicle.

Twice each fiscal year the administrator of the road and bridge privilege tax law shall file a report with the State Auditor showing the privilege license receipt number, the corresponding ad valorem tax receipt number or

numbers, and the name under which such license receipt was issued, for each such license receipt issued by him. A separate report shall be made for each county involved, and a duplicate copy of such report shall be furnished the respective tax collector of each county involved, and the tax collector of each municipality in said county. One (1) of these reports shall be made on or before May 15 covering all such license receipts issued by him for the then current fiscal year, including those issued through the month of April. Another such report shall be made on or before November 15 covering all such license receipts issued by him for the remaining portion of the immediately prior fiscal year.

The aforesaid reports shall be preserved by the State Auditor, and, in auditing the tax collector for the corresponding fiscal year, such tax receipts indicated on these reports shall be reconciled with the corresponding ad valorem tax receipt number in the office of the tax collector. 1942, 10007-06; 1958, 588; 1960, 413; 1968, 361; 1994, 465.

27-51-13. Copy of tax levy to be furnished to county tax collector -- postponement of collection while adoption of tax levy is delayed -- notice to be given -- owners not to be penalized. On or before September 10, the clerk of the board of supervisors shall furnish the tax collector a certified copy of the county tax levy for the ensuing year. ... If for any reason the said county tax levy is not adopted and/or delivered to the county tax collector on or before the 15th day of September, then the said tax collector is authorized to postpone for one month the beginning of the collection of ad valorem taxes and road and bridge privilege taxes on all motor vehicles legally situated in his county and liable for said taxes, and the tax collector shall notify the taxpayers through the newspapers of such fact. If such tax levy is not furnished the tax collector within the said one month, then the same procedure as to postponement shall be followed and the same immunities shall apply from month to month until such tax levy has been furnished the tax collector. 1968, 549; 2001, 596.

27-51-27. Owner may receive credit for taxes paid when motor vehicle is destroyed-- application for -- perjury. If any motor vehicle on which the ad valorem taxes prescribed herein have been paid shall be totally destroyed by fire, etc., or acts of providence, then, upon petition properly filed, the owner may be credited with the amount of the ad valorem taxes on the proportionate part of the taxable year remaining, less ad valorem taxes accruing on the salvage price, if any, in calculating the amount of ad valorem taxes due on any replacement for such motor vehicle, if replaced during the then current year. In no event may there be a cash refund. Proof of destruction of said motor vehicle is required as set forth in the code and penalties are provided for false statements, etc. 1977, 484.

27-51-29. Procedure where municipality desires county tax collector to collect motor vehicle ad valorem taxes--fees--inspection of tax collector's records--penalties--tax collector liable on official bond. Any municipality in the state desiring to have its motor vehicle ad valorem taxes collected by the county tax collector at the same time and in the same manner provided for the county may do so as is provided for in detail in this section. ... The fees for such collection as provided in Section 25-7-21 shall be retained by the county tax collector, except in no instance shall his fee be less than 2%. Such fees shall be paid into the general county fund ... 1968, 549.

27-51-31. Liability of tax collector on official bond. The tax collector shall be liable on his official bond for the amount of any taxes lost by reason of his failure to comply with any of the provisions of this chapter, and it shall be the duty of the state auditor of public accounts to so charge the account of any such tax collector and to enforce payment to the proper authorities of any such funds due and unpaid ... 1960, 413.

27-51-33. Tax assessors not required to assess motor vehicles -- assessed value of personal property in county and municipality order directing county tax collector to collect municipal taxes effective unit rescinded. Upon enactment of this law, the tax assessors of the various

counties and municipalities of the state shall not be required to assess motor vehicles, as defined in this chapter, in preparing their regular assessment rolls from year to year.

The total assessed value of all motor vehicles as reflected by the annual report of the county tax collector shall be considered as a legal part of the assessed value of personal property in the county and the total assessed value of motor vehicles on which taxes were paid during the next preceding fiscal year shall be used in determining the total assessed value of a county for classification purposes, and the total assessed value of all such motor vehicles of the municipality for the same period, as reflected by the annual report of the county tax collector, shall be considered as a legal part of the assessed value of personal property in the municipality in determining the total assessed value of such municipality.

Any order legally adopted and made of minute record by the municipal authorities directing the county tax collector to collect its ad valorem taxes on motor vehicles as provided by this chapter shall remain in force from year to year until rescinded by official order duly recorded and certified to the county tax collector and the municipal assessor. Further, any such order shall comply with the provisions of Section 27-41-2.

For any year, any municipality may adopt an order rescinding its former order authorizing the county tax collector to collect its ad valorem taxes on motor vehicles, provided that such rescinding order is duly adopted, made of minute record, and certified to the county tax collector at least sixty (60) days prior to the beginning of the ensuing fiscal year, and such order shall be published one (1) time in a newspaper having general circulation in the subject municipality. 1977, 484; 1993, 540.

27-51-41. Exemptions and credits, penalty for violation of section. 1995, 482; 1997, 377, 552; 1999, 476; 2000, 536; 2001, 596; 2003, 433, 529; 2008,515.

#### 27-51-42.2 . County ad valorem exemption for volunteer fire fighters' vehicles

The board of supervisors of any county is authorized to grant an exemption from motor vehicle ad valorem taxes in the amount of One Hundred Dollars (\$100.00) or the amount of ad valorem taxes due, whichever is the lesser amount, on one (1) motor vehicle owned by each resident of the county who is in active service as a volunteer fire fighter for any municipality, county or fire district in the state. To receive the tax exemption, such person must make application, under oath, with the county fire coordinator on a form prepared by the State Tax Commission, and present evidence that he or she is actively serving as a volunteer fire fighter and has continuously served in such capacity for at least three (3) consecutive years before making application for the tax credit under this section. The county fire coordinator shall review all such applications and shall certify to the county tax collector each person whom he determines to qualify for the tax credit. The State Fire Marshal shall promulgate rules and regulations to assist county fire coordinators in defining and prescribing those persons who may qualify for the tax credit under this section as active service volunteer fire fighters. Added by [Laws 2006, Ch. 535, § 2, eff. July 1, 2006](#).

#### 27-51-42.3. Exemption for certain active duty members of Mississippi National Guard, armed forces or any armed forces reserve component [Repealed effective September 30, 2009]

(1) The board of supervisors of any county and the governing authorities of any municipality, in the discretion of the board or governing authorities, by order duly adopted and entered upon their respective official minutes, may grant an exemption from motor vehicle ad valorem taxes levied by the county or levied by the municipality, as the case may be, as specified in subsection (2) of this section on one (1) motor vehicle owned by a resident of this state who, as a member of the Mississippi National Guard, as a member of the Armed Forces of the United States or as a member of any reserve component of the Armed Forces of the United States is serving on active duty pursuant to military orders in Iraq or Afghanistan.

(2) (a) A board of supervisors may grant an exemption from all county ad valorem taxes, except ad valorem taxes for school district purposes, in the amount of the lesser of One Hundred Dollars (\$100.00) or the amount of

ad valorem taxes due on one (1) vehicle for eligible Mississippi active duty service members as set forth in subsection (1) of this section for the license tag registration year or portion of year during which the military service described under subsection (1) of this section is being performed.

(b) The governing authorities of a municipality may grant an exemption from all municipal ad valorem taxes, except ad valorem taxes for school district purposes, in the amount of the lesser of Fifty Dollars (\$50.00) or the amount of ad valorem taxes due on one (1) vehicle for eligible Mississippi active duty service members as set forth in subsection (1) of this section for the license tag registration year or portion of year during which the military service described under subsection (1) of this section is being performed.

(3) Upon application to the tax collector for issuance of a motor vehicle license tag and/or decals, any person wishing to be granted the exemption under the provisions of this section shall present to the tax collector a copy of his military orders and a form prescribed by the State Tax Commission establishing his right to such exemption, and the applicant shall be entitled to an exemption from county and/or municipal motor vehicle ad valorem taxes in the amount provided for under subsection (2) of this section if the board of supervisors of the county or the governing authorities of the municipality have authorized such exemption.

(4) The State Tax Commission shall adopt and promulgate such rules and regulations as may be necessary to administer and implement the provisions of this section.

(5) This section shall stand repealed from and after September 30, 2009. This act shall take effect and be in force from and after October 1, 2007. 2007, 533.

#### 27-51-43. Penalty for unauthorized delay in payment of taxes.

It shall be the duty of members of the Mississippi Highway Safety Patrol, municipal law enforcement officers or any other peace officer, when investigating any traffic violation, wreck or routine check involving any motor vehicle, to obtain all information necessary in determining whether or not the provisions of this chapter have been complied with in all substantial respect with reference to such motor vehicles so involved. It shall also be the duty of all peace officers, including municipal law enforcement officers and members of the said highway safety patrol, to investigate any alleged violation of this chapter reported to them and to proceed according to law.

On and after the effective date of this chapter, any person operating a motor vehicle upon the public highways of this state who has not complied with the provisions of this chapter shall be arrested by any officer authorized to make arrests, and tried, and, if convicted, shall be guilty of a misdemeanor for each separate offense and shall be fined as now provided by law, and each such illegal operation of a motor vehicle upon the public highways of this state shall constitute a separate offense.

Penalties shall be assessed on the ad valorem taxes due at the rate of five percent (5%) for the first fifteen (15) days of delinquency, or part thereof, and five percent (5%) for each additional thirty-day period of delinquency, or part thereof, not to exceed a maximum penalty of twenty-five percent (25%). Provided, however, the commission, for good reason shown, may waive all or any part of the penalties imposed. The penalty shall be collected by the tax collector and deposited in the county general fund upon receipt.

Laws 1958, Ch. 588, § 22; Laws 1959, 1st Ex. Sess., Ch. 23; Laws 1968, Ch. 361, § 48; Laws 1977, Ch. 484, § 14; Laws 1982, Ch. 427, § 16, eff. July 1, 1982; Laws 2005, 5th Ex.Sess., Ch. 21, § 2, eff. from and after passage (approved October 24, 2005).

#### 27-51-103. Tax credit; amount allowed against ad valorem taxes.

(1) From and after January 1, 1995, through June 30, 1995, a taxpayer shall be allowed as a credit towards the tax liability imposed by Chapter 51, Title 27, Mississippi Code of 1972, on the amount of ad valorem taxes due during the taxable year on any private carrier of passengers and light carrier of property owned by him, an amount equal to five percent (5%) of the assessed value of the motor vehicle.

(2) From and after July 1, 1995, a taxpayer shall be allowed as a credit against motor vehicle ad valorem taxes due under Chapter 51, Title 27, Mississippi Code of 1972, on any private carrier of passengers and light carrier of property owned by him, an amount as provided for in subsection (3) of this section. 1994, 563.

## **CHAPTER 53. AD VALOREM TAXES -- MOBILE HOMES**

27-53-5 through 27-53-33. Registration, assessment, collection of taxes, etc. regarding mobile homes. 1985, 425; 1989, 478; 1990, 497; 1993, 513; 1995, 412; 1996, 394; 1999, 556; 2002, 378.

27-53-17. Contract with private collection agent for collection of delinquent mobile home taxes. 1995, 496.

## **CHAPTER 65. SALES TAX**

27-65-17. Selling tangible personal property. From and after January 1, 1995, retail sales of private carriers of passengers and light carriers of property, as defined in Section 27-51-101, shall be taxed an additional two percent (2%). 1994, 563; 1998, 410; 1999, 452; 2005, 19; 2005, 3<sup>rd</sup> Ex, 1; 2007, 359.

27-65-75. Distribution of sales tax and settlement with the treasury. [This section contains a detailed formula regarding the distribution of the sales tax collected.] 1983, 542; 1984, 488; 1985, HB 1224; 1987, 322, 527; 1988, 353; 1992, 419; 1992, 565; 1993, 473; 1995, 521; 1997, 612; 1998, 584; 1999, 535, 575; 2000, 616; 2002, 434, 520, 582; 2003, 540; 2004, 595; 2005, 369; 2005, 468; 2005, 2<sup>nd</sup> Ex, 2; 2005, 5<sup>th</sup> Ex, 12; 2006, 365; 2007, 1<sup>st</sup> Ex, 1.

## **CHAPTER 71. ALCOHOLIC BEVERAGE TAXES**

27-71-1 through 27-71-31. Alcoholic beverage taxes. The sections in this chapter are concerned with the procedures to be used in the administration of the Local Option Alcoholic Beverage Control Law and more particularly with the payment, collection and distribution of taxes connected therewith. Section 27-71-5, which levies an annual privilege tax, provides for the amounts of said tax for the several types of permits and any additional tax which may be due municipalities and counties thereunder and sets forth the distribution of the proceeds of such taxes. If the licensee is located within a municipality, the tax commission shall pay the amount of the additional license tax to the municipality, and if outside a municipality the commission shall pay the additional license tax to the county in which the licensee is located. Payments shall be made by the commission once each month for any collections during the preceding month. 1966, 649; 1976, 467; 1984, 425; 1985, SB 2216, 2876; 1986, 381, 500; 1988, 566; 1992, 456; 1996, 417; 2004, 479; 2006, 529.

## **CHAPTER 105. DEPOSITORIES**

27-105-5 through 27-105-6. Depositories. These sections contain detailed information about qualification as a county fund depository, the guaranty pool, and the State Treasurer's authority.

27-105-303. Establishing of county depositories. The amount of money belonging to the several funds in the county treasury of each county in the state which is required to meet the current needs and demands of no more than seven business days shall be kept on deposit in or through qualified financial institutions whose accounts are insured by the FDIC or FSLIC, or in or through some of them doing business in the several counties, provided that where there is no such financial institution in a county qualifying as a



depository some such financial institution in an adjoining county may qualify as a depository. All such deposits shall be subject to payment when demanded on warrant issued by the clerk of the board of supervisors on the order of the said board or on the allowance of a court authorized to allow the same. Each financial institution qualifying as such county depository shall not be required to pay interest to the county for the privilege of holding the deposits unless federal law permits the payment of interest on such deposits, in which case the maximum permitted interest rate shall be paid on such deposits. Where more than one financial institution in a county offers to qualify as a depository, the board of supervisors may allocate such money to each qualified financial institution as nearly as practicable in proportion to their respective net worth, and may adopt the rules for receiving such deposits. (But see Section 27-105-327.) 1946, 422; 1985, 514; 1988, 473; 2007, 426.

27-105-305 through 27-105-313. Procedures in establishment of county depositories.

27-105-315. Depositories--securities to be deposited--safe deposit box.

(1) Any financial institution in a county, or in an adjoining county where there is no financial institution in the county qualifying, whose accounts are insured by the Federal Deposit Insurance Corporation or any successors to that insurance corporation may qualify as a county depository, if the institution qualifies as a public funds depository under Section 27-105-5 or a public funds guaranty pool member under Sections 27-105-5 and 27-105-6. The qualified financial institution shall secure those deposits by placing qualified securities on deposit with the State Treasurer as provided in Section 27-105-5.

(2) Notwithstanding the foregoing, any financial institution whether or not meeting the prescribed ratio requirement whose accounts are insured by the Federal Deposit Insurance Corporation or any successors to that insurance corporation, may receive county funds in an amount not exceeding the amount that is insured by that insurance corporation and may qualify as a county depository to the extent of that insurance.

(3) For purposes of the foregoing subsection (2), a deposit or investment shall be within the amount that is insured by that insurance corporation if the deposit or investment is made on the following conditions:

(a) The financial institution arranges for the investment of the funds in book entry certificates of deposit in one or more banks or savings and loan associations wherever located in the United States, for the account of the public depositor;

(b) The full amount of the principal and accrued interest of each such certificate of deposit is insured by the Federal Deposit Insurance Corporation;

(c) The financial institution acts as custodian for the public depositor with respect to the certificates of deposit issued for the public depositor's account; and

(d) At the same time that such certificates of deposit are issued, the financial institution receives an amount of deposits from customers of other financial institutions located in the United States equal to or greater than the amount of the funds invested by the public depositor through the financial institution.

1948, 463; 1980, 367; 1985, 514, 1988, 473; 2000, 408; 2007, 426.

27-105-321. Receipts in triplicate to be issued for deposits--disposition of same. When any payment of county funds shall be made into a county depository the depository shall give the person making such payment triplicate receipts, specifying the accounts on which the payment is made, one of which shall be immediately mailed to the chancery clerk of the county. Any person paying money into the county depositories shall, before paying same, receive a pay warrant from the chancery clerk allowing him to make such deposit, and no county depository shall receive any money into a county fund unless same is accompanied by such pay warrant. 1912, 194.

27-105-323. Detailed reports made to supervisors of receipts and disbursements by depositories. Every county depository, at the regular January, April, July and October meetings of the board of supervisors, and at such other times as may be required by the board, shall make to said board a detailed report of all moneys received by it and of the disbursements thereof, etc. 1946, 338.

27-105-325. How tax collectors to settle with. In making a settlement with the county treasury, the tax collector shall pay the amount due the county to a county depository. The tax collector, in making deposits, shall receive duplicate receipts for the same and shall mail one to the chancery clerk, and the county depository, upon demand, shall issue its official receipt. 1912, 194.

27-105-327. Amount to be paid by depositories for privilege of keeping funds--how computed. The amount to be paid by any and all depositories for the privilege of keeping county funds on deposit, if required to be paid under the provisions of Section 27-105-303, shall be computed on the average daily balance of the public money kept on deposit therewith and there be credited and paid to the county monthly. Each depository shall render, at the beginning of each and every month, to the chancery clerk a statement in duplicate, showing the daily balance of the county money held by it during the month next preceding, and all sums paid to the county for the privilege of keeping said county money shall be credited to the account of the several funds entitled thereto. 1912, 194; 1985, 514.

27-105-337. Tax collector to deposit funds. Upon selection of any county depository, either upon bids therefor or by designation of the board of supervisors or the commissioner of banking and consumer finance, and such designated financial institution becoming qualified as required by law, the tax collector of such county or counties shall deposit all funds collected therein and thereafter make a transfer to the several accounts and funds as now required by law of him in making his settlements. Upon so depositing such funds when collected, the tax collector shall thereupon be relieved and discharged from further liability therefor excepting for such amount as the tax collector may withdraw or cause to be withdrawn from his account or accounts and to which he is not legally entitled. 1950, 203; 1985, 514.

Cross references--

As to tax collector's settlement with county treasury, see §21-105-325.

As to tax collector's monthly report of state, county and levee taxes collected, see §27-29-11.

27-105-343. Chancery clerks to perform duties of county treasurers. All the duties except that of receiving and disbursing money that were imposed by law on county treasurers shall be required to be done by chancery clerks, and they shall be the custodians of all books, records, papers, and vouchers heretofore belonging to county treasurers, ... and said clerks shall be liable on their official bonds for the proper care of the same. ... The duty of receipting for and disbursing all moneys heretofore deposited with the county treasurers shall be done and performed by the designated county and drainage district depositories. ... Boards of supervisors may allow chancery clerks as compensation for the performance of the duties required of them as county treasurers not exceeding \$2,500.00 per annum. 1981, 497, 2004, 505.

27-105-345. Traffic in public funds prohibited--penalty therefor. The making of profit, directly or indirectly, by the county treasurer, tax collector, treasurer of any board of trustees, or any officer whatever, out of any money belonging to a county ... by loaning or otherwise using it, or depositing the same in any manner contrary to law, or a removal by any such officer or by his consent of such moneys ... and placing it elsewhere than provided by law, shall constitute a felony, and, on conviction thereof, the officer guilty thereof shall be subject to imprisonment in the state penitentiary ... or a fine ... or both. 1912, 194.

27-105-349. County withdrawal of bonds pledged or filed as security.

The State Treasurer is authorized and empowered to allow county depositories of county funds or county district funds of every kind and character to withdraw any bonds pledged or filed or deposited as security for those deposits:

- (a) When in the opinion of the State Treasurer the deposits become reduced to such an extent as to justify such withdrawal;
- (b) Or to withdraw any such bonds or corporate surety bonds, and substitute in lieu thereof other bonds or corporate surety bonds, as the case may be.

All such bonds shall be such as are authorized by law to be pledged or filed as security for those deposits, or if a corporate surety bond, it must be made by a surety company authorized to do business in this state; and in addition, all such deposits shall be fully secured and covered as required by Section 27-105-5. 1956, 206; 1995, 567; 2000, 408.

27-105-351. Drainage district funds--how dealt with. All funds coming into the county treasury belonging to any drainage district shall be deposited in the county depository under the same conditions as county funds are deposited, and withdrawn therefrom in the same manner. 1912, 194.

27-105-365. Depository for county and municipal hospital funds--investments. [This section contains provisions concerning depositories for county and municipal hospital funds.] 1968, 452; 1975, 313; 1985, 514; 1995, 567; 1998, 309; 1999, 547; 2000, 399; 2003, 388; 2007, 426.

27-105-367. Surplus funds; transfer to other funds; procedures; petition and election as to certain transfers; retirement of bonds and interest.

(1) The board of supervisors and municipal governing authorities, by order spread on their minutes, may transfer any balance remaining in a special fund in the treasury of the county or municipality, as the case may be, to the general fund to be used for general purposes for the succeeding fiscal year if the purpose for which the special fund was created has been fully carried out. Taxes imposed for the succeeding fiscal year for county or municipal general purposes shall be reduced by the amount of such balance transferred from the special fund to the general fund.

- (2) (a) When there is any surplus monies less than Two Thousand Five Hundred Dollars (\$2,500.00) in any special fund in the treasury ... and the board of supervisors ... shall desire to transfer all or part of the surplus monies in the special fund to some other fund ... such board of supervisors ... shall cause an order to be entered on their minutes declaring their intention so to do, which said order shall show the name of the special fund, the amount of surplus monies to be transferred, and the name of the fund to which it is to be transferred, and same shall be transferred accordingly.
- (b) Whenever the surplus monies in any special fund shall be Two Thousand Five Hundred Dollars (\$2,500.00) or more, the board of supervisors, ... shall cause notice of same to be published in some newspaper published for 3 consecutive weeks or, if there be no newspaper so published, then in some newspaper having a general circulation in the county, district or municipality. Thereafter, the monies shall be transferred as stated in the order not less than thirty (30) days after the first publication in a newspaper as above stated, unless within said thirty (30) days, a petition against the proposed transfer, signed by twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors residing in the county, district or municipality, as the case may be, shall be filed with the governing body. In the event such petition is filed, an election on the question of such transfer shall be called and held as herein provided. ...If a majority of the qualified electors voting in the election vote in favor of the transfer of surplus monies, then such monies shall be transferred. If a majority of the qualified electors voting in the election do not vote in favor of such transfer of surplus monies, then such monies shall not be transferred. Provided, however, that if the question of transferring the balance remaining in a special fund, the purpose for which such fund was created having been fully carried

out, fails at an election held on same, then such monies shall be invested as authorized by law and shall be calculated in the budget for the county or municipality, as the case may be, to be used for general purposes for the succeeding fiscal year. Taxes imposed for the succeeding fiscal year for county or municipal general purposes shall be reduced by the amount of such monies in such special fund.

- (3) (a) When the balance remaining in any fund as set forth in subsections (1) and (2) represents a part of the proceeds of bonds sold for such county, district or municipality, and any part of said bonds or interest thereon remains unpaid, then such balance shall be transferred to the bond and interest fund to retire said bonds and interest due thereon, regardless of the amount thereof, without the necessity of publishing the order transferring same.
- (b) Surplus monies in a bond and interest fund shall not be transferred unless there remains to the credit of such fund a sufficient balance to fully retire such bonds and interest thereon, including all redeemable bond coupons and the tax levy required to be made to pay principal of and interest on such bonds as they become due has been discontinued by the governing authorities of the county or municipality, as the case may be. Surplus monies in a bond and interest fund may be transferred to the general fund in accordance with subsection (1) of this section or to other funds in accordance with subsection (2) (b) of this section, regardless of the amount of the balance to be transferred. 1942, 9176; 1932, 191; 1950, 232; 1983, 386, 535; 1988, 337.

Cross reference--

Deposit in special fund of proceeds of notes or certificates issued by board of trustees of school district in county system, see § 37-59-113.

27-105-369. Acceptance by banks of checks payable to county, etc. All banks in this state are required to accept all checks and drafts that are payable to any county, municipality or other political subdivision, or politic body, only for deposit to the credit of the particular payee to which such checks or drafts are payable, or to issue cashier's checks, certified checks and similar exchange in the name of and on behalf of the particular payee. 1974, 372.

## **CHAPTER 107. DISASTER RELIEF**

27-107-1 through 27-107-145. Disaster relief funds from state--utilization and accountability. This chapter is devoted to statutes dealing with disaster relief funds from the state for the benefit of counties and municipalities. Such disaster relief funds include those for the hurricane disaster of 1969, (1969, Ex Sess, 33); the Federal Disaster Relief Act of 1970 (1971, 383); the flooding disaster of 1973 (1973, 464); the tornado, rain and flooding disaster of 1975 (1975, 305); excessive rains and floods of spring of 1975 (1975, 441); tornado disaster of March 12, 1975 (1975, 458). The utilization and accountability of such funds, including their being audited by the State Department of Audit, is provided for in this chapter.

## **TITLE 29. PUBLIC LANDS, BUILDINGS AND PROPERTY**

### **CHAPTER 1. PUBLIC LANDS**

29-1-3. Sixteenth section lieu lands. The land commissioner has a supervisory power over 16th section lands; and he shall supply to the boards of supervisors and other interested persons information concerning these lands, and make such recommendations and suggestions as he may deem proper. 1978, 525. Office of land commissioner abolished 1978, Chapter 458. Duties to secretary of state.

29-1-21 through 29-1-201. Acquisition and sale of public lands, generally. The sections provide information concerning the acquisition and sale of public lands, whether acquired by tax sales or not. 2005, 5<sup>th</sup> Ex, 1.

29-1-63. Sale price of Chickasaw school lands. The Chickasaw school lands are to be sold by the land commissioner at the price of not less than \$6.00 per acre unless said lands are situated in a levee district outside of and unprotected by the levees, in which case they shall be sold for not less than \$1.25 per acre. 1892, 2576; 1942, 4121.

Cross references--

As to commissioner's supervisory power over Choctaw school lands, see §29-1-3.

As to constitutional authority for legislation governing sale of Chickasaw school lands, see Miss Const §211.

29-1-145. Secretary of State to pay counties for maintenance costs of lands to be sold for unpaid taxes. 1995, 352.

### **CHAPTER 3. SIXTEENTH SECTION AND LIEU LANDS**

29-3-1. Board of Education to have control. 1974, 341; 1978, 525.

29-3-133. Construction of roads or streets upon lands in Hinds County. 1974, 370.

29-3-135. Payment of cost of construction of roads or streets. 1974, 370.

## **TITLE 31. PUBLIC BUSINESS, BONDS AND OBLIGATIONS**

### **CHAPTER 5. PUBLIC WORKS CONTRACTS**

31-5-3. Bond for payment of taxes, licenses, etc. The bond of any contractor, in addition to the coverage provided for in the preceding section, shall also cover the obligation of said contractor to promptly make payment of all taxes, licenses, assessments, contributions, damages, penalties, and interest thereon. ... In the default of the prompt payment ... thereof ... a direct proceeding on said bond may be brought. ... 1944, 145.

31-5-17. Resident labor used on public works. 1938, 359.

31-5-23. State products to be used in public works. 1950, 392.

31-5-25. Time for full and final payment to contractors.

(1) All sums due contractors under all public construction contracts shall be paid as follows:

(a) Partial, progress or interim payments: All partial, progress or interim payments or monies owed contractors shall be paid when due and payable under the terms of the contract. If they are not paid within forty-five (45) calendar days from the day they were due and payable, then they shall bear interest from the due date until paid at the rate of one percent (1%) per month until fully paid.

(b) Final payments: The final payment of all monies owed contractors shall be due and payable:

(i) At the completion of the project or after the work has been substantially completed in accordance with the terms and provisions of the contract;

(ii) When the owner beneficially uses or occupies the project except in the case where the project involves renovation or alteration to an existing facility in which the owner maintains beneficial use or occupancy during the course of the project;

(iii) When the project is certified as having been completed by the architect or engineer authorized to make such certification; or

(iv) When the project is certified as having been completed by the contracting authority representing the State of Mississippi or any of its political subdivisions, whichever event shall first occur.

If the contractor is not paid in full within forty-five (45) calendar days from the first occurrence of one (1) of the above-mentioned events, then said final payment shall bear interest from the date of said first occurrence at the rate of one percent (1%) per month until fully paid.

In no event shall said final payment due the contractor be made until the consent of the contractor's surety has been obtained in writing and delivered to the proper contracting authority.

(c) Contracts for the construction of prison facilities let or approved by the State Prison Emergency Construction and Management Board when exercising its emergency powers to remove two thousand (2,000) inmates from county jails are exempt from this section; however, this exemption does not apply to contracts for the construction of private correctional facilities and additional facilities at the South Mississippi Correctional Institution and the Central Mississippi Correctional Facility. This paragraph shall stand repealed from and after July 1, 1996.

(2) Contractors shall submit monthly certification to the project engineer or architect indicating payments to subcontractors on prior payment request. This act shall take effect and be in force from and after July 1, 2006 1985, 505; 1994 Ex, 26; 2002, 519; 2006, 331.

**31-5-27. Payment of interest on delinquent amounts.** When a contractor receives any payment under a public construction contract, the contractor shall, upon receipt of that payment, pay each subcontractor and material supplier in proportion to the percentage of work completed by each subcontractor and material supplier. If for any reason the contractor receives less than the full payment due under the public construction contract, the contractor shall be obligated to disburse on a prorated basis those funds received, with the contractor, subcontractors and material suppliers each receiving a prorated portion based on the amount due on the payment. If the contractor without reasonable cause fails to make any payment to his subcontractors and material suppliers within fifteen (15) days after the receipt of payment under the public construction contract, the contractor shall pay to his subcontractors and material suppliers, in addition to the payment due them, a penalty in the amount of one-half of one percent ( $\frac{1}{2}$  of 1%) per day of the delinquency, calculated from the expiration of the 15-day period until fully paid. The total penalty shall not exceed fifteen percent (15%) of the outstanding balance due. 1972, 534; 1985, 505.

**31-5-29. Applicability of Sections 31-5-25, 31-5-27.**

**31-5-35. Public employees prohibited from requiring bidder on public contract to obtain surety bonds from any particular company, agent, or broker.**

No state, county, or municipal employee, and no person acting or purporting to act on behalf of such employee, or any state, county or municipal agency, shall, with respect to any public building or construction

contract which is about to be or which has been competitively bid or negotiated, require the bidder to make application to or furnish financial data to, or to obtain or procure any of the surety bonds, or surety bond components of wrap-up insurance, that is specified in connection with such contract or specified by any law, from any particular insurance or surety company, agent or broker. 2001, 326.

**31-5-51. Performance and payment bonds; persons entitled to sue on payment bond.**

(1) Any person entering into a formal contract with the state or any county, city or political subdivision thereof, or other public authority for the construction, alteration, or repair of any public building or public work, before entering into such contract, shall furnish to such public body, except as provided in subsection (5) of this section, bonds with good and sufficient surety as follows...

(5) Whenever a contract is less than Twenty-five Thousand Dollars (\$25,000.00) the owners may elect to make a lump sum payment at the completion of the job. Lump sum payments will not be made until completion and acceptance by the governing agency. In such a case a performance bond or payment bond will not be required.

(7) Any person entering into a formal contract with the state which exceeds \$5,000.00 or with a county...which exceeds \$25,000.00 for the construction, alteration, or repair of any public building or public work, before entering into such contract, shall furnish... proof...of general liability insurance coverage in an amount not less than \$1,000,000.00 for bodily injury and property damage. 1994, 626; 2000, 409; 2001, 416.

**31-5-53. Performance and payment bonds; time for bringing suit on such bonds**

(a) When a suit is instituted on a performance bond given in accordance with this chapter, it shall be commenced within one (1) year after the obligee shall have made final payment on the contract; provided, however, if the contract is abandoned by the general contractor as bond principal or is terminated by the bond obligee; suit shall be commenced within one (1) year after the earlier of the abandonment by the bond principal or termination by the bond obligee.

(b) When suit is instituted on a payment bond given in accordance with this chapter, it shall be commenced within one (1) year after the day on which the last of the labor was performed or material was supplied by the person bringing the action and not later.

(c) Any suit brought on a performance or payment bond given in accordance with this chapter shall be brought in the county in which the contract or some part thereof was performed or in the county in which service of process may be obtained upon either the principal or the surety on such bond. 1980, 520; 1994, 626; 2004, 452.

**CHAPTER 7. PUBLIC PURCHASES**

**31-7-12. State contract price for purchase of commodities.**

(1) Except in regard to purchases of unmarked vehicles made in accordance with purchasing regulations adopted by the Department of Finance and Administration pursuant to Section 31-7-9(2), all agencies shall purchase commodities at the state contract price from the approved source, unless approval is granted by the Department of Finance and Administration to solicit purchases outside the terms of the contracts. However, prices accepted by an agency shall be less than the prices set by the state contract. Prices accepted by an agency shall be obtained in compliance with paragraph (a), (b) or (c) of Section 31-7-13. It shall be the responsibility of the Department of Finance and Administration to ascertain that the resulting prices shall provide a cost effective alternative to the established state contract.

(2) Governing authorities may purchase commodities approved by the Department of Finance and Administration from the state contract vendor, or from any source offering the identical commodity, at a price not exceeding the state contract price established by the Department of Finance and Administration for such commodity, without obtaining or advertising for competitive bids. Governing authorities that do not exercise the option to purchase such commodities from the state contract vendor or from another source offering the identical commodity at a price not exceeding the state contract price established by the Department of Finance and Administration shall make such purchases pursuant to the provisions of Section 31-7-13 without regard to state

contract prices established by the Department of Finance and Administration, unless such purchases are authorized to be made under subsection (6) of this section.

(3) Nothing in this section shall prohibit governing authorities from purchasing, pursuant to subsections (1) and (2) of this section, commodities approved by the Department of Finance and Administration at a price not exceeding the state contract price established by the Department of Finance and Administration.

(4) The Department of Finance and Administration shall ensure that the prices of all commodities on the state contract are the lowest and best prices available from any source offering that commodity at the same level of quality or service, utilizing the reasonable standards established therefor by the Department of Finance and Administration. If the Department of Finance and Administration does not list an approved price for the particular item involved, purchase shall be made according to statutory bidding and licensing requirements. To encourage prudent purchasing practices, the Department of Finance and Administration shall be authorized and empowered to exempt certain commodities from the requirement that the lowest and best price be approved by order placed on its minutes.

(5) Any school district may purchase commodities from vendors with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures pursuant to Section 31-7-13 for purchases of the same commodities. Purchases authorized by this subsection may be made by a school district without obtaining or advertising for competitive bids, and such purchases shall be made at the same prices and under the same conditions as purchases of the same commodities are to be made by the levying authority of the school district under the contract with the vendor. 1980, 440; 1983, 330; 1984, 488; 1985, 525; 1986, 489; 1988 Ex Sess, 14, §64; 1989, 394; 1990, 374; 1990, 561; 1993, 418, 556; 1997, 556; 2000, 593.

### 31-7-13. Bid requirements and exceptions; public auctions.

All agencies and governing authorities shall purchase their commodities and printing; contract for garbage collection or disposal; contract for solid waste collection or disposal; contract for sewage collection or disposal; contract for public construction; and contract for rentals as herein provided.

(a) **Bidding procedure for purchases not over \$5,000.00.** Purchases which do not involve an expenditure of more than Five Thousand Dollars (\$5,000.00), exclusive of freight or shipping charges, may be made without advertising or otherwise requesting competitive bids. However, nothing contained in this paragraph (a) shall be construed to prohibit any agency or governing authority from establishing procedures which require competitive bids on purchases of Five Thousand Dollars (\$5,000.00) or less.

(b) **Bidding procedure for purchases over \$5,000.00 but not over \$25,000.00.** Purchases which involve an expenditure of more than Five Thousand Dollars (\$5,000.00) but not more than Twenty-five Thousand Dollars (\$25,000.00), exclusive of freight and shipping charges may be made from the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained. Any governing authority purchasing commodities pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, with regard to governing authorities other than counties, or its purchase clerk, or his designee, with regard to counties, to accept the lowest and best competitive written bid. Such authorization shall be made in writing by the governing authority and shall be maintained on file in the primary office of the agency and recorded in the official minutes of the governing authority, as appropriate. The purchasing agent or the purchase clerk, or their designee, as the case may be, and not the governing authority, shall be liable for any penalties and/or damages as may be imposed by law for any act or omission of the purchasing agent or purchase clerk, or their designee, constituting a violation of law in accepting any bid without approval by the governing authority. The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. "Competitive" shall mean that the bids are developed based upon comparable identification of the needs and are developed independently and without knowledge of other bids or prospective bids. Bids may be submitted by facsimile, electronic mail or other generally accepted method of information distribution. Bids submitted by



electronic transmission shall not require the signature of the vendor's representative unless required by agencies or governing authorities.

**(c) Bidding procedure for purchases over \$25,000.00.**

**(i) Publication requirement.**

1. Purchases which involve an expenditure of more than Twenty-five Thousand Dollars (\$25,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder after advertising for competitive bids once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such agency or governing authority is located.

2. The purchasing entity may designate the method by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids received electronically in a secure system, bids received via a reverse auction, or bids received by any other method that promotes open competition and has been approved by the Office of Purchasing and Travel. The provisions of this part 2 of subparagraph (i) shall be repealed on July 1, 2011.

3. The date as published for the bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Twenty-five Thousand Dollars (\$25,000.00), such bids shall not be opened in less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks. The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file. If there is no newspaper published in the county or municipality, then such notice shall be given by posting same at the courthouse, or for municipalities at the city hall, and at two (2) other public places in the county or municipality, and also by publication once each week for two (2) consecutive weeks in some newspaper having a general circulation in the county or municipality in the above provided manner. On the same date that the notice is submitted to the newspaper for publication, the agency or governing authority involved shall mail written notice to, or provide electronic notification to the main office of the Mississippi Procurement Technical Assistance Program under the Mississippi Development Authority that contains the same information as that in the published notice.

**(ii) Bidding process amendment procedure.** If all plans and/or specifications are published in the notification, then the plans and/or specifications may not be amended. If all plans and/or specifications are not published in the notification, then amendments to the plans/specifications, bid opening date, bid opening time and place may be made, provided that the agency or governing authority maintains a list of all prospective bidders who are known to have received a copy of the bid documents and all such prospective bidders are sent copies of all amendments. This notification of amendments may be made via mail, facsimile, electronic mail or other generally accepted method of information distribution. No addendum to bid specifications may be issued within two (2) working days of the time established for the receipt of bids unless such addendum also amends the bid opening to a date not less than five (5) working days after the date of the addendum.

**(iii) Filing requirement.** In all cases involving governing authorities, before the notice shall be published or posted, the plans or specifications for the construction or equipment being sought shall be filed with the clerk of the board of the governing authority. In addition to these requirements, a bid file shall be established which shall indicate those vendors to whom such solicitations and specifications were issued, and such file shall also contain such information as is pertinent to the bid.

**(iv) Specification restrictions.**

1. Specifications pertinent to such bidding shall be written so as not to exclude comparable equipment of domestic manufacture. However, if valid justification is presented, the Department of Finance and Administration or the board of a governing authority may approve a request for specific equipment necessary to perform a specific job. Further, such justification, when placed on the minutes of the board of a governing authority, may serve as authority for that governing authority to write specifications to require a specific item of equipment needed to perform a specific job. In addition to these requirements, from and after July 1, 1990, vendors of relocatable classrooms and the specifications for the purchase of such relocatable classrooms published by local school boards shall meet all pertinent regulations of the State Board of Education, including prior approval of such bid by the State Department of Education.

2. Specifications for construction projects may include an allowance for commodities, equipment, furniture, construction materials or systems in which prospective bidders are instructed to include in their bids specified amounts for such items so long as the allowance items are acquired by the vendor in a commercially reasonable manner and approved by the agency/governing authority. Such acquisitions shall not be made to circumvent the public purchasing laws.

(v) Agencies and governing authorities may establish secure procedures by which bids may be submitted via electronic means.

**(d) Lowest and best bid decision procedure.**

(i) **Decision procedure.** Purchases may be made from the lowest and best bidder. In determining the lowest and best bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included in the best bid calculation. All best bid procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

(ii) **Decision procedure for Certified Purchasing Offices.** In addition to the decision procedure set forth in paragraph (d)(i), Certified Purchasing Offices may also use the following procedure: Purchases may be made from the bidder offering the best value. In determining the best value bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions, documented previous experience, training costs and other relevant provisions may be included in the best value calculation. This provision shall authorize Certified Purchasing Offices to utilize a Request For Proposals (RFP) process when purchasing commodities. All best value procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. No agency or governing authority shall accept a bid based on items or criteria not included in the specifications.

(iii) **Construction project negotiations authority.** If the lowest and best bid is not more than ten percent (10%) above the amount of funds allocated for a public construction or renovation project, then the agency or governing authority shall be permitted to negotiate with the lowest bidder in order to enter into a contract for an amount not to exceed the funds allocated.

(e) **Lease-purchase authorization.** For the purposes of this section, the term "equipment" shall mean equipment, furniture and, if applicable, associated software and other applicable direct costs associated with the acquisition. Any lease-purchase of equipment which an agency is not required to lease-purchase under the master lease-purchase program pursuant to Section 31-7-10 and any lease-purchase of equipment which a governing authority elects to lease-purchase may be acquired by a lease-purchase agreement under this paragraph (e). Lease-purchase financing may also be obtained from the vendor or from a third-party source after having solicited and obtained at least two (2) written competitive bids, as defined in paragraph (b) of this section,

for such financing without advertising for such bids. Solicitation for the bids for financing may occur before or after acceptance of bids for the purchase of such equipment or, where no such bids for purchase are required, at any time before the purchase thereof. No such lease-purchase agreement shall be for an annual rate of interest which is greater than the overall maximum interest rate to maturity on general obligation indebtedness permitted under Section 75-17-101, and the term of such lease-purchase agreement shall not exceed the useful life of equipment covered thereby as determined according to the upper limit of the asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and regulations thereunder as in effect on December 31, 1980, or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines. Any lease-purchase agreement entered into pursuant to this paragraph (e) may contain any of the terms and conditions which a master lease-purchase agreement may contain under the provisions of Section 31-7-10(5), and shall contain an annual allocation dependency clause substantially similar to that set forth in Section 31-7-10(8). Each agency or governing authority entering into a lease-purchase transaction pursuant to this paragraph (e) shall maintain with respect to each such lease-purchase transaction the same information as required to be maintained by the Department of Finance and Administration pursuant to Section 31-7-10(13). However, nothing contained in this section shall be construed to permit agencies to acquire items of equipment with a total acquisition cost in the aggregate of less than Ten Thousand Dollars (\$10,000.00) by a single lease-purchase transaction. All equipment, and the purchase thereof by any lessor, acquired by lease-purchase under this paragraph and all lease-purchase payments with respect thereto shall be exempt from all Mississippi sales, use and ad valorem taxes. Interest paid on any lease-purchase agreement under this section shall be exempt from State of Mississippi income taxation.

(f) **Alternate bid authorization.** When necessary to ensure ready availability of commodities for public works and the timely completion of public projects, no more than two (2) alternate bids may be accepted by a governing authority for commodities. No purchases may be made through use of such alternate bids procedure unless the lowest and best bidder cannot deliver the commodities contained in his bid. In that event, purchases of such commodities may be made from one (1) of the bidders whose bid was accepted as an alternate.

(g) **Construction contract change authorization.** In the event a determination is made by an agency or governing authority after a construction contract is let that changes or modifications to the original contract are necessary or would better serve the purpose of the agency or the governing authority, such agency or governing authority may, in its discretion, order such changes pertaining to the construction that are necessary under the circumstances without the necessity of further public bids; provided that such change shall be made in a commercially reasonable manner and shall not be made to circumvent the public purchasing statutes. In addition to any other authorized person, the architect or engineer hired by an agency or governing authority with respect to any public construction contract shall have the authority, when granted by an agency or governing authority, to authorize changes or modifications to the original contract without the necessity of prior approval of the agency or governing authority when any such change or modification is less than one percent (1%) of the total contract amount. The agency or governing authority may limit the number, manner or frequency of such emergency changes or modifications.

(h) **Petroleum purchase alternative.** In addition to other methods of purchasing authorized in this chapter, when any agency or governing authority shall have a need for gas, diesel fuel, oils and/or other petroleum products in excess of the amount set forth in paragraph (a) of this section, such agency or governing authority may purchase the commodity after having solicited and obtained at least two (2) competitive written bids, as defined in paragraph (b) of this section. If two (2) competitive written bids are not obtained, the entity shall comply with the procedures set forth in paragraph (c) of this section. In the event any agency or governing authority shall have advertised for bids for the purchase of gas, diesel fuel, oils and other petroleum products and coal and no acceptable bids can be obtained, such agency or governing authority is authorized and directed to enter into any negotiations necessary to secure the lowest and best contract available for the purchase of such commodities.

(i) **Road construction petroleum products price adjustment clause authorization.** Any agency or governing authority authorized to enter into contracts for the construction, maintenance, surfacing or repair of highways, roads or streets, may include in its bid proposal and contract documents a price adjustment clause with relation to the cost to the contractor, including taxes, based upon an industry-wide cost index, of petroleum products including asphalt used in the performance or execution of the contract or in the production or manufacture of materials for use in such performance. Such industry-wide index shall be established and published monthly by the Mississippi Department of Transportation with a copy thereof to be mailed, upon request, to the clerks of the governing authority of each municipality and the clerks of each board of supervisors throughout the state. The price adjustment clause shall be based on the cost of such petroleum products only and shall not include any additional profit or overhead as part of the adjustment. The bid proposals or document contract shall contain the basis and methods of adjusting unit prices for the change in the cost of such petroleum products.

(j) **State agency emergency purchase procedure.** If the governing board or the executive head, or his designee, of any agency of the state shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interests of the state, then the provisions herein for competitive bidding shall not apply and the head of such agency shall be authorized to make the purchase or repair. Total purchases so made shall only be for the purpose of meeting needs created by the emergency situation. In the event such executive head is responsible to an agency board, at the meeting next following the emergency purchase, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be presented to the board and placed on the minutes of the board of such agency. The head of such agency, or his designee, shall, at the earliest possible date following such emergency purchase, file with the Department of Finance and Administration (i) a statement explaining the conditions and circumstances of the emergency, which shall include a detailed description of the events leading up to the situation and the negative impact to the entity if the purchase is made following the statutory requirements set forth in paragraph (a), (b) or (c) of this section, and (ii) a certified copy of the appropriate minutes of the board of such agency, if applicable.

(k) **Governing authority emergency purchase procedure.** If the governing authority, or the governing authority acting through its designee, shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority.

**(l) Hospital purchase, lease-purchase and lease authorization.**

(i) The commissioners or board of trustees of any public hospital may contract with such lowest and best bidder for the purchase or lease-purchase of any commodity under a contract of purchase or lease-purchase agreement whose obligatory payment terms do not exceed five (5) years.

(ii) In addition to the authority granted in subparagraph (i) of this paragraph (l), the commissioners or board of trustees is authorized to enter into contracts for the lease of equipment or services, or both, which it considers necessary for the proper care of patients if, in its opinion, it is not financially feasible to purchase the necessary equipment or services. Any such contract for the lease of equipment or services executed by the commissioners or board shall not exceed a maximum of five (5) years' duration and shall include a cancellation clause based on unavailability of funds. If such cancellation clause is exercised, there shall be no further liability on the part of the lessee. Any such contract for the lease of equipment or services executed on behalf of the

commissioners or board that complies with the provisions of this subparagraph (ii) shall be excepted from the bid requirements set forth in this section.

(m) **Exceptions from bidding requirements.** Excepted from bid requirements are:

(i) **Purchasing agreements approved by department.** Purchasing agreements, contracts and maximum price regulations executed or approved by the Department of Finance and Administration.

(ii) **Outside equipment repairs.** Repairs to equipment, when such repairs are made by repair facilities in the private sector; however, engines, transmissions, rear axles and/or other such components shall not be included in this exemption when replaced as a complete unit instead of being repaired and the need for such total component replacement is known before disassembly of the component; however, invoices identifying the equipment, specific repairs made, parts identified by number and name, supplies used in such repairs, and the number of hours of labor and costs therefor shall be required for the payment for such repairs.

(iii) **In-house equipment repairs.** Purchases of parts for repairs to equipment, when such repairs are made by personnel of the agency or governing authority; however, entire assemblies, such as engines or transmissions, shall not be included in this exemption when the entire assembly is being replaced instead of being repaired.

(iv) **Raw gravel or dirt.** Raw unprocessed deposits of gravel or fill dirt which are to be removed and transported by the purchaser.

(v) **Governmental equipment auctions.** Motor vehicles or other equipment purchased from a federal agency or authority, another governing authority or state agency of the State of Mississippi, or any governing authority or state agency of another state at a public auction held for the purpose of disposing of such vehicles or other equipment. Any purchase by a governing authority under the exemption authorized by this subparagraph (v) shall require advance authorization spread upon the minutes of the governing authority to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(vi) **Intergovernmental sales and transfers.** Purchases, sales, transfers or trades by governing authorities or state agencies when such purchases, sales, transfers or trades are made by a private treaty agreement or through means of negotiation, from any federal agency or authority, another governing authority or state agency of the State of Mississippi, or any state agency or governing authority of another state. Nothing in this section shall permit such purchases through public auction except as provided for in subparagraph (v) of this section. It is the intent of this section to allow governmental entities to dispose of and/or purchase commodities from other governmental entities at a price that is agreed to by both parties. This shall allow for purchases and/or sales at prices which may be determined to be below the market value if the selling entity determines that the sale at below market value is in the best interest of the taxpayers of the state. Governing authorities shall place the terms of the agreement and any justification on the minutes, and state agencies shall obtain approval from the Department of Finance and Administration, prior to releasing or taking possession of the commodities.

(vii) **Perishable supplies or food.** Perishable supplies or food purchased for use in connection with hospitals, the school lunch programs, homemaking programs and for the feeding of county or municipal prisoners.

(viii) **Single source items.** Noncompetitive items available from one (1) source only. In connection with the purchase of noncompetitive items only available from one (1) source, a certification of the conditions and circumstances requiring the purchase shall be filed by the agency with the Department of Finance and Administration and by the governing authority with the board of the governing authority. Upon receipt of that certification the Department of Finance and Administration or the board of the governing authority, as the case may be, may, in writing, authorize the purchase, which authority shall be noted on the minutes of the body at the next regular meeting thereafter. In those situations, a governing authority is not required to obtain the approval of the Department of Finance and Administration.

(ix) **Waste disposal facility construction contracts.** Construction of incinerators and other facilities for disposal of solid wastes in which products either generated therein, such as steam, or recovered therefrom, such as materials for recycling, are to be sold or otherwise disposed of; however, in constructing such facilities, a governing authority or agency shall publicly issue requests for proposals, advertised for in the same manner as provided herein for seeking bids for public construction projects, concerning the design, construction, ownership, operation and/or maintenance of such facilities, wherein such requests for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, environmental compatibility, legal responsibilities and such other matters as are determined by the governing authority or agency to be appropriate for inclusion; and after responses to the request for proposals have been duly received, the governing authority or agency may select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals.

(x) **Hospital group purchase contracts.** Supplies, commodities and equipment purchased by hospitals through group purchase programs pursuant to Section 31-7-38.

(xi) **Information technology products.** Purchases of information technology products made by governing authorities under the provisions of purchase schedules, or contracts executed or approved by the Mississippi Department of Information Technology Services and designated for use by governing authorities.

(xii) **Energy efficiency services and equipment.** Energy efficiency services and equipment acquired by school districts, community and junior colleges, institutions of higher learning and state agencies or other applicable governmental entities on a shared-savings, lease or lease-purchase basis pursuant to Section 31-7-14.

(xiii) **Municipal electrical utility system fuel.** Purchases of coal and/or natural gas by municipally-owned electric power generating systems that have the capacity to use both coal and natural gas for the generation of electric power.

(xiv) **Library books and other reference materials.** Purchases by libraries or for libraries of books and periodicals; processed film, video cassette tapes, filmstrips and slides; recorded audio tapes, cassettes and diskettes; and any such items as would be used for teaching, research or other information distribution; however, equipment such as projectors, recorders, audio or video equipment, and monitor televisions are not exempt under this subparagraph.

(xv) **Unmarked vehicles.** Purchases of unmarked vehicles when such purchases are made in accordance with purchasing regulations adopted by the Department of Finance and Administration pursuant to Section 31-7-9(2).

(xvi) **Election ballots.** Purchases of ballots printed pursuant to Section 23-15-351.

(xvii) **Multichannel interactive video systems.** From and after July 1, 1990, contracts by Mississippi Authority for Educational Television with any private educational institution or private nonprofit organization whose purposes are educational in regard to the construction, purchase, lease or lease-purchase of facilities and equipment and the employment of personnel for providing multichannel interactive video systems (ITSF) in the school districts of this state.

(xviii) **Purchases of prison industry products.** From and after January 1, 1991, purchases made by state agencies or governing authorities involving any item that is manufactured, processed, grown or produced from the state's prison industries.

(xix) **Undercover operations equipment.** Purchases of surveillance equipment or any other high-tech equipment to be used by law enforcement agents in undercover operations, provided that any such purchase shall be in compliance with regulations established by the Department of Finance and Administration.

(xx) **Junior college books for rent.** Purchases by community or junior colleges of textbooks which are obtained for the purpose of renting such books to students as part of a book service system.

(xxi) **Certain school district purchases.** Purchases of commodities made by school districts from vendors with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures for purchases of the same commodities.

(xxii) **Garbage, solid waste and sewage contracts.** Contracts for garbage collection or disposal, contracts for solid waste collection or disposal and contracts for sewage collection or disposal.

(xxiii) **Municipal water tank maintenance contracts.** Professional maintenance program contracts for the repair or maintenance of municipal water tanks, which provide professional services needed to maintain municipal water storage tanks for a fixed annual fee for a duration of two (2) or more years.

(xxiv) **Purchases of Mississippi Industries for the Blind products.** Purchases made by state agencies or governing authorities involving any item that is manufactured, processed or produced by the Mississippi Industries for the Blind.

(xxv) **Purchases of state-adopted textbooks.** Purchases of state-adopted textbooks by public school districts.

(xxvi) **Certain purchases under the Mississippi Major Economic Impact Act.** Contracts entered into pursuant to the provisions of Section 57-75-9(2) and (3).

(xxvii) **Used heavy or specialized machinery or equipment for installation of soil and water conservation practices purchased at auction.** Used heavy or specialized machinery or equipment used for the installation and implementation of soil and water conservation practices or measures purchased subject to the restrictions provided in Sections 69-27-331 through 69-27-341. Any purchase by the State Soil and Water Conservation Commission under the exemption authorized by this subparagraph shall require advance authorization spread upon the minutes of the commission to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(xxviii) **Hospital lease of equipment or services.** Leases by hospitals of equipment or services if the leases are in compliance with paragraph (l)(ii).

(xxix) **Purchases made pursuant to qualified cooperative purchasing agreements.** Purchases made by certified purchasing offices of state agencies or governing authorities under cooperative purchasing agreements previously approved by the Office of Purchasing and Travel and established by or for any municipality, county, parish or state government or the federal government, provided that the notification to potential contractors includes a clause that sets forth the availability of the cooperative purchasing agreement to other governmental entities. Such purchases shall only be made if the use of the cooperative purchasing agreements is determined to be in the best interest of the governmental entity.

(xxx) **School yearbooks.** Purchases of school yearbooks by state agencies or governing authorities; provided, however, that state agencies and governing authorities shall use for these purchases the RFP process as set forth in the Mississippi Procurement Manual adopted by the Office of Purchasing and Travel.

(xxxi) **Design-build method and dual-phase design-build method of contracting.** Contracts entered into under the provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

(xxxii) **Toll roads and bridge construction projects.** Contracts entered into under the provisions of Section 1 or 2 of Senate Bill No. 2375, 2007 Regular Session.

(n) **Term contract authorization.** All contracts for the purchase of:

(i) All contracts for the purchase of commodities, equipment and public construction (including, but not limited to, repair and maintenance), may be let for periods of not more than sixty (60) months in advance, subject to applicable statutory provisions prohibiting the letting of contracts during specified periods near the end of terms of office. Term contracts for a period exceeding twenty-four (24) months shall also be subject to ratification or cancellation by governing authority boards taking office subsequent to the governing authority board entering the contract.

(ii) Bid proposals and contracts may include price adjustment clauses with relation to the cost to the contractor based upon a nationally published industry-wide or nationally published and recognized cost index. The cost index used in a price adjustment clause shall be determined by the Department of Finance and Administration for the state agencies and by the governing board for governing authorities. The bid proposal and contract documents utilizing a price adjustment clause shall contain the basis and method of adjusting unit prices for the change in the cost of such commodities, equipment and public construction.

(o) **Purchase law violation prohibition and vendor penalty.** No contract or purchase as herein authorized shall be made for the purpose of circumventing the provisions of this section requiring competitive bids, nor shall it be lawful for any person or concern to submit individual invoices for amounts within those authorized for a contract or purchase where the actual value of the contract or commodity purchased exceeds the authorized amount and the invoices therefor are split so as to appear to be authorized as purchases for which competitive bids are not required. Submission of such invoices shall constitute a misdemeanor punishable by a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or by imprisonment for thirty (30) days in the county jail, or both such fine and imprisonment. In addition, the claim or claims submitted shall be forfeited.

(p) **Electrical utility petroleum-based equipment purchase procedure.** When in response to a proper advertisement therefor, no bid firm as to price is submitted to an electric utility for power transformers, distribution transformers, power breakers, reclosers or other articles containing a petroleum product, the electric utility may accept the lowest and best bid therefor although the price is not firm.

(q) **Fuel management system bidding procedure.** Any governing authority or agency of the state shall, before contracting for the services and products of a fuel management or fuel access system, enter into negotiations with not fewer than two (2) sellers of fuel management or fuel access systems for competitive written bids to provide the services and products for the systems. In the event that the governing authority or agency cannot locate two (2) sellers of such systems or cannot obtain bids from two (2) sellers of such systems, it shall show proof that it made a diligent, good-faith effort to locate and negotiate with two (2) sellers of such systems. Such proof shall include, but not be limited to, publications of a request for proposals and letters soliciting negotiations and bids. For purposes of this paragraph (q), a fuel management or fuel access system is an automated system of acquiring fuel for vehicles as well as management reports detailing fuel use by vehicles and drivers, and the term "competitive written bid" shall have the meaning as defined in paragraph (b) of this section. Governing authorities and agencies shall be exempt from this process when contracting for the services and products of a fuel management or fuel access systems under the terms of a state contract established by the Office of Purchasing and Travel.

(r) **Solid waste contract proposal procedure.** Before entering into any contract for garbage collection or disposal, contract for solid waste collection or disposal or contract for sewage collection or disposal, which involves an expenditure of more than Fifty Thousand Dollars (\$50,000.00), a governing authority or agency shall issue publicly a request for proposals concerning the specifications for such services which shall be advertised for in the same manner as provided in this section for seeking bids for purchases which involve an expenditure of more than the amount provided in paragraph (c) of this section. Any request for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, legal responsibilities and other



relevant factors as are determined by the governing authority or agency to be appropriate for inclusion; all factors determined relevant by the governing authority or agency or required by this paragraph (r) shall be duly included in the advertisement to elicit proposals. After responses to the request for proposals have been duly received, the governing authority or agency shall select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals. If the governing authority or agency deems none of the proposals to be qualified or otherwise acceptable, the request for proposals process may be reinitiated. Notwithstanding any other provisions of this paragraph, where a county with at least thirty-five thousand (35,000) nor more than forty thousand (40,000) population, according to the 1990 federal decennial census, owns or operates a solid waste landfill, the governing authorities of any other county or municipality may contract with the governing authorities of the county owning or operating the landfill, pursuant to a resolution duly adopted and spread upon the minutes of each governing authority involved, for garbage or solid waste collection or disposal services through contract negotiations.

(s) **Minority set-aside authorization.** Notwithstanding any provision of this section to the contrary, any agency or governing authority, by order placed on its minutes, may, in its discretion, set aside not more than twenty percent (20%) of its anticipated annual expenditures for the purchase of commodities from minority businesses; however, all such set-aside purchases shall comply with all purchasing regulations promulgated by the Department of Finance and Administration and shall be subject to bid requirements under this section. Set-aside purchases for which competitive bids are required shall be made from the lowest and best minority business bidder. For the purposes of this paragraph, the term "minority business" means a business which is owned by a majority of persons who are United States citizens or permanent resident aliens (as defined by the Immigration and Naturalization Service) of the United States, and who are Asian, Black, Hispanic or Native American, according to the following definitions:

(i) "Asian" means persons having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(ii) "Black" means persons having origins in any black racial group of Africa.

(iii) "Hispanic" means persons of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.

(iv) "Native American" means persons having origins in any of the original people of North America, including American Indians, Eskimos and Aleuts.

(t) **Construction punch list restriction.** The architect, engineer or other representative designated by the agency or governing authority that is contracting for public construction or renovation may prepare and submit to the contractor only one (1) preliminary punch list of items that do not meet the contract requirements at the time of substantial completion and one (1) final list immediately before final completion and final payment.

(u) **Procurement of construction services by state institutions of higher learning.** Contracts for privately financed construction of auxiliary facilities on the campus of a state institution of higher learning may be awarded by the Board of Trustees of State Institutions of Higher Learning to the lowest and best bidder, where sealed bids are solicited, or to the offeror whose proposal is determined to represent the best value to the citizens of the State of Mississippi, where requests for proposals are solicited.

(v) **Purchase authorization clarification.** Nothing in this section shall be construed as authorizing any purchase not authorized by law.

Effective July 1, 2007.

Laws 1962, Ch. 497, § 8; Laws 1980, Ch. 440, § 6; Laws 1981, Ch. 306, § 2; Laws 1982, Ch. 449, § 1; Laws 1983, Ch. 330, § 3, Ch. 341, § 1; Laws 1984, Ch. 363, § 1; Laws 1984, Ch. 480, § 3; Laws 1984, Ch. 488, § 158;

Laws 1985, Ch. 493, § 6; Laws 1986, Ch. 398, § 1; Laws 1986, Ch. 489, § 14; Laws 1988, Ch. 351, § 1; Laws 1988, Ch. 589, § 23; Laws 1988, 1st Ex. Sess., Ch. 14, § 65; Laws 1989, Ch. 349, § 1; Laws 1989, Ch. 394, § 3; Laws 1990, Ch. 534, § 27; Laws 1990, Ch. 545, § 2; Laws 1990, Ch. 561, § 2; Laws 1990, 1st Ex. Sess., Ch. 51, § 2; [Laws 1991, Ch. 337, § 1](#); [Laws 1991, Ch. 523, § 1](#); [Laws 1992, Ch. 571, § 3](#); [Laws 1993, Ch. 418, § 2](#); [Laws 1993, Ch. 556, § 3](#); [Laws 1993, Ch. 617, § 12](#); [Laws 1994, Ch. 471, § 2](#); [Laws 1994, 1st Ex. Sess., Ch. 26, § 22](#); [Laws 1996, Ch. 495, § 1](#); [Laws 1997, Ch. 593, § 1](#); [Laws 1998, Ch. 574, § 6, eff. July 1, 1998](#). Amended by [Laws 1999, Ch. 407, § 1, eff. July 1, 1999](#); [Laws 1999, Ch. 459, § 1, eff. July 1, 1999](#); [Laws 2000, Ch. 593, § 9, eff. from and after passage \(approved May 20, 2000\)](#); [Laws 2000, Ch. 428, § 3, eff. July 1, 2000](#); [Laws 2000, 3rd Ex. Sess., Ch. 1, § 13, eff. from and after passage \(approved November 6, 2000\)](#); [Laws 2001, Ch. 333, § 2, eff. from and after passage \(approved March 5, 2001\)](#); [Laws 2002, Ch. 563, § 1, eff. July 1, 2002](#); [Laws 2003, Ch. 539, § 5, eff. July 1, 2003](#); [Laws 2004, Ch. 394, § 1, eff. July 1, 2004](#); [Laws 2004, Ch. 577, § 2, eff. July 1, 2004](#); Laws 2004, 3rd Ex. Sess., Ch. 1, § 190, eff. from and after passage (approved November 24, 2004); [Laws 2005, Ch. 504, § 5, eff. from and after passage \(approved April 20, 2005\)](#); 2006, 446; 2007, 1012, 1208, 1537, 2375; 2008, 417, 469.

Cross references--

State contract price for public purchases, see §31-7-12.

Public contracts for energy efficiency services, see §31-7-14.

Exemption from the provisions of this section of purchases by hospitals participating in group purchasing program, see §31-7-38.

Penalties for violating the provisions of this chapter, see §31-7-55.

Procedure for bids, see §31-7-105.

Prohibition of boards of supervisors from purchasing items or services for their county, except as provided in this section, see §31-7-119.

Definition of "competitive sealed bidding" for purposes of purchases by office of telecommunications, see §31-7-203.

Duty of prison auditor with respect to bids, purchases, and sales, see §47-5-35.

Alternative bidding and contracting procedures under Mississippi Major Economic Impact Act, see §57-75-21.

31-7-13.1. Dual-phase design-build method of construction contracting; two-phase procedure for awarding contracts; compliance with minimum building code standards; awarding stipulated fees. 2007, 494, 2008,544.

31-7-13.2. Construction manager at risk method of project delivery; qualifications-based selection procedure for procuring architectural, engineering and land surveying services.

This section provides the procedures for selecting and contracting with a construction manager at risk. 2007, 494.

31-7-38. Establishment of group purchase programs by certain public hospitals.

The board of trustees or governing board of any hospital or regional mental health center owned or owned and operated separately or jointly by the State of Mississippi or any of its branches, agencies, departments or subdivisions, or by one or more counties, cities, towns, supervisors districts or election districts, or combinations thereof, may authorize by resolution the organization and operation of, or the participation in, a group purchasing program with other hospitals or regional mental health centers, for the purchase of supplies, commodities and equipment when it appears to the board of trustees or governing board that such a group purchasing program could or would affect economy or efficiency in their operations. Purchases by hospitals or regional mental health centers participating in group purchasing programs of supplies, commodities and

equipment through such programs shall be exempt from the provisions of [Sections 31-7-9, 31-7-10, 31-7-11, 31-7-12 and 31-7-13](#). The Mississippi Department of Mental Health shall develop and submit to the Chairmen of the Senate and House Appropriations Committees a report analyzing the savings and economic benefits of the group purchasing program authorized under this section for state hospitals or regional mental health centers compared to the purchasing procedures authorized prior to passage of Laws, 2001, Chapter 473. This section shall stand repealed on July 1, 2010.

Laws 1975, Ch. 330, § 1; Laws 1979, Ch. 507, § 1; Laws 1980, Ch. 440, § 11; Laws 1982, Ch. 499, § 2; Laws 1988, 1st Ex. Sess., Ch. 14, § 66; Laws 1990, Ch. 520, § 1; [Laws 1993, Ch. 322, § 1](#); [Laws 1994, Ch. 471, § 1, eff. June 30, 1994](#). Amended by [Laws 1999, Ch. 318, § 1, eff. July 1, 1999](#); [Laws 2001, Ch. 335, § 1, eff. July 1, 2001](#); [Laws 2001, Ch. 473, § 1, eff. July 1, 2001](#); [Laws 2005, Ch. 360, § 1, eff. July 1, 2005](#).

REPEALER<This section is repealed by its own terms on July 1, 2010.>

Cross references--

As to exception from bid requirements for supplies and equipment purchased by hospitals through group purchase programs, see §31-7-13.

**31-7-47. Preference to resident contractors.** In the letting of public contracts, preference shall be given to resident contractors, and a nonresident bidder domiciled in a state, city, county, parish, province, nation or political subdivision having laws granting preference to local contractors shall be awarded Mississippi public contracts only on the same basis as the nonresident bidder's state, city, county, parish, province, nation or political subdivision awards contracts to Mississippi contractors bidding under similar circumstances. Resident contractors actually domiciled in Mississippi, be they corporate, individuals or partnerships, are to be granted preference over nonresidents in awarding of contracts in the same manner and to the same extent as provided by the laws of the state, city, county, parish, province, nation or political subdivision of domicile of the nonresident. 1980, 440; 1995, 408.

**31-7-49. Purchases under contract.** In placing orders for purchases under bids received and contracts awarded under the provisions of this chapter, the governing authority, by orders entered on its minutes, may authorize its members, or agents designated by its order, to place orders for the purchase of such supplies and materials from time to time during the period covered by the contract, as such supplies and materials are needed. Claims for such supplies so ordered by an individual board member or other duly authorized agent shall not be allowed and paid by the board until such claims shall have been approved in writing by the individual board member or agent who ordered such supplies or the successor to such member or agent. 1980, 440; 1981, 306; 1984, 480.

**31-7-55. Penalties.** Penalties are prescribed for violations of purchasing laws contained herein and are detailed in this section. 1980, 440; 1988 Ex Sess, ch.14.

**31-7-57. Individual liability for unlawful expenditures; disposition of recovered funds.**

(1) Any elected or appointed public officer of an agency or a governing authority, or the executive head, any employee or agent of an agency or governing authority, who appropriates or authorizes the expenditure of any money to an object not authorized by law, shall be liable personally for up to the full amount of the appropriation or expenditure as will fully and completely compensate and repay such public funds for any actual loss caused by such appropriation or expenditure, to be recovered by suit in the name of the governmental entity involved, or in the name of any person who is a taxpayer suing for the use of the governmental entity involved, and such taxpayer shall be liable for costs in such case. In the case of a governing board of an agency or governing authority, only the individual members of the governing board who voted for the appropriation or authorization for expenditure shall be liable under this subsection.

(2) No individual member, officer or agent of any agency or board of a governing authority shall let contracts or purchase commodities or equipment except in the manner provided by law, including the provisions

of Section 25-9-120(3), Mississippi Code of 1972, relating to personal and professional service contracts by state agencies; nor shall any such agency or board of a governing authority ratify any such contract or purchase made by any individual member, officer or agent thereof, or pay for the same out of public funds unless such contract or purchase was made in the manner provided by law; provided, however, that any vendor who, in good faith, delivers commodities or printing or performs any services under a contract to or for the agency or governing authority, shall be entitled to recover the fair market value of such commodities, printing or services, notwithstanding some error or failure by the agency or governing authority to follow the law, if the contract was for an object authorized by law and the vendor had no control of, participation in, or actual knowledge of the error or failure by the agency or governing authority.

(3) The individual members, officers, employees or agents of any agency or governing authority as defined in Section 31-7-1 causing any public funds to be expended, any contract made or let, any payment made on any contract or any purchase made, or any payment made, in any manner whatsoever, contrary to or without complying with any statute of the State of Mississippi, regulating or prescribing the manner in which such contracts shall be let, payment on any contract made, purchase made, or any other payment or expenditure made, shall be liable, individually, and upon their official bond, for compensatory damages, in such sum up to the full amount of such contract, purchase, expenditure or payment as will fully and completely compensate and repay such public funds for any actual loss caused by such unlawful expenditure.

(4) In addition to the foregoing provision, for any violation of any statute of the State of Mississippi prescribing the manner in which contracts shall be let, purchases made, expenditure or payment made, any individual member, officer, employee or agent of any agency or governing authority who shall substantially depart from the statutory method of letting contracts, making payments thereon, making purchases or expending public funds shall be liable, individually and on his official bond, for penal damages in such amount as may be assessed by any court of competent jurisdiction, up to three (3) times the amount of the contract, purchase, expenditure or payment. The person so charged may offer mitigating circumstances to be considered by the court in the assessment of any penal damages.

(5) Any sum recovered under the provisions hereof shall be credited to the account from which such unlawful expenditure was made.

(6) Except as otherwise provided in subsection (1) of this section, any individual member of an agency or governing authority as defined in Section 31-7-1 shall not be individually liable under this section if he voted against payment for contracts let or purchases made contrary to law and had his vote recorded in the official minutes of the board or governing authority at the time of such vote, or was absent at the time of such vote. 1974, 444; 1980, 440; 1981, 306; 1988 Ex Sess, ch. 14, §68; 1997, 609.

## **IMPLEMENTATION OF CENTRAL PURCHASING BY COUNTIES**

31-7-101. Implementation of central purchase system; establishment of department of purchasing; appointment of purchase clerk and receiving clerk. From and after the first Monday of January 1989, the supervisors of each county in the state shall establish a central purchase system. The central purchase system shall be administered by a county department of purchasing headed by a purchase clerk who, unless the chancery clerk is appointed by the board of supervisors as purchase clerk as hereinafter authorized, shall be appointed by the county administrator, with the approval of the board of supervisors, in any county required to operate under a countywide system of road administration, or who shall be appointed by the board of supervisors in any other county. The purchase clerk shall not be a member of the board of supervisors. The purchase clerk shall be the director of the department of purchasing. No person shall serve as the purchase clerk who, within one (1) year after his appointment, does not receive certification from the State Auditor as having successfully completed the professional education program offered for purchase clerks pursuant to Section 19-3-77.

The department of purchasing shall purchase all equipment, heavy equipment, machinery, supplies, commodities, materials and services used by any office or department of the county except for those offices or departments whose expenditures are not required by law to be approved by the board of supervisors. The purchase clerk may, subject to the approval of the entity which appointed him, hire personnel necessary to

operate the department of purchasing efficiently. Unless the chancery clerk is appointed by the board of supervisors as receiving clerk as hereinafter authorized, the county administrator, with the approval of the board of supervisors, in any county required to operate under the countywide system of road administration, or the board of supervisors in any other county, shall appoint a receiving clerk, who shall not be a member of the board of supervisors. Assistant receiving clerks, when necessary, may be appointed by the receiving clerk subject to the approval of the entity which appointed him. No person shall serve as the receiving clerk who, within one (1) year after his appointment, does not receive certification from the State Auditor as having successfully completed the professional education program offered for receiving clerks pursuant to Section 19-3-77. The receiving clerk and his assistants shall be solely responsible for accepting the delivery of all equipment, heavy equipment, machinery, supplies, commodities, materials and services purchased by the county.

The purchase clerk shall disapprove any purchase requisitions which, in his opinion, are not in compliance with the purchasing laws of the state.

The board of supervisors may designate the chancery clerk, with his consent, to serve as the purchase clerk or assistant purchase clerk or as the receiving clerk or assistant receiving clerk; however a chancery clerk designated as purchase clerk or assistant purchase clerk may not also serve as receiving clerk or assistant receiving clerk, and a chancery clerk designated as receiving clerk or assistant receiving clerk may not serve as purchase clerk or assistant purchase clerk. Neither the purchase clerk nor any assistant purchase clerks shall serve as the receiving clerk or as an assistant receiving clerk.

When the chancery clerk serves as county administrator and purchase clerk or assistant purchase clerk, the receiving clerk and any assistant receiving clerks shall be appointed by and serve at the will and pleasure of the board of supervisors. 1988 Ex Sess, ch. 14, §21.

Cross references--

Penalties for violating the provisions of this chapter, see §31-7-55.

County employees permitted to also serve as purchase clerk, receiving clerk or inventory clerk, see §31-7-118.

Acquisition of public buildings, facilities, and equipment through rental contracts, see §§31-8-1, *et seq.*

**31-7-103. General responsibility of purchase clerk; processing of purchase order or requisition to purchase.** The purchase clerk shall be responsible as hereinafter provided for the purchase and acquisition of all such equipment, heavy equipment, machinery, supplies, materials and services to be acquired for the county from successful bidders or other vendors, as authorized by law. The central purchase system shall comply with the requirements prescribed by the State Department of Audit under the authority of Section 7-7-211 and in accordance with Section 31-7-113, and the purchase clerk shall be responsible for the maintenance of such system. No requisition to purchase, purchase order or receiving report shall be required for the purchase of any item or services with an acquisition cost of not more than Five Hundred Dollars (\$500.00) in the aggregate; however, the invoice for every such purchase shall be signed by the department head or his or her designee, or a receipt signed by the person making the purchase shall be attached to the invoice and forwarded to the purchase clerk. No claim based on any such purchase shall be approved except after compliance with the provisions of this section. 1974, 513; 1975, 359; 1984, 312; 1985, HB 1226; 1988 Ex Sess, ch. 14, §22; 1994, 476; 2008,340.

**31-7-105. Procedure on bids.** Upon acceptance of any bid by the board of supervisors, as provided in Section 31-7-13, the clerk of the board of supervisors, shall forthwith deliver to the purchase clerk a certified copy of such accepted bid. The accepted bid or offer to furnish equipment, heavy equipment, machinery, supplies, commodities, materials or services shall constitute the sole source for such purchase, unless such purchase is otherwise authorized by law. The term "lowest and best bid" shall not include any person, firm, partnership or corporation other than the person, firm, partnership or corporation actually submitting the bid determined to be the lowest and best bid. 1974, 513; 1980, 440; 1988 Ex Sess, ch. 14, §22.

**31-7-107. Inventory control.** In addition to the required central purchase system, from and after the first Monday in January 1989, each county shall establish and maintain an inventory control system pursuant to requirements prescribed by the State Department of Audit under the authority of Section 7-7-211 and in accordance with Section 31-7-113; provided, however, that not more than sixty (60) day inventory supplies, commodities and materials shall be kept on hand unless otherwise approved by the board of supervisors. The inventory control clerk shall be employed or designated in the same manner and by the same entity which employees or designates the purchase clerk. The inventory control clerk shall be responsible for the maintenance of such system and such other personnel as may be required for the efficient operation of the inventory control system and shall not be a member of the board of supervisors. No person shall serve as inventory control clerk who, within one (1) year after his appointment, does not receive certification from the State Auditor as having successfully completed the professional education program offered for inventory control clerks pursuant to Section 19-3-77. The opening entries of such system shall be compiled by the inventory control clerk from a physical inventory which the board of supervisors shall cause to be made of all property of the county by April 1, 1989, and such beginning inventory shall be recorded in the minutes of the board of supervisors. The clerk of the board of supervisors shall deliver to the inventory control clerk a certified copy of such inventory within seven (7) days after the acceptance of the beginning inventory by the board of supervisors. Following acceptance of the beginning inventory, the inventory control clerk, pursuant to regulations promulgated by the State Auditor, shall perform physical inventories of assets of the county on or before October 1 of each year and shall file with the board of supervisors, in triplicate, a written report of such inventory. The clerk of the board of supervisors shall keep the original of each inventory report so filed by the inventory control clerk as a permanent record of the county and shall forward a copy to the State Department of Audit not later than October 15. In a separate report to the clerk of the board, the inventory control clerk shall list additions to and deletions from the annual inventory report and shall also list items unaccounted for from the previous annual inventory report. 1974, 513; 1988 Ex Sess, Ch. 14, §24.

**31-7-109. Receiving reports.** The receiving clerk or his assistants shall, upon proper delivery of equipment, heavy equipment, machinery, supplies, commodities, materials or services, acknowledge receipt of goods in compliance with a receipting system prescribed by the State Department of Audit under the authority of Section 7-7-211 and in accordance with Section 31-7-113, and the receiving clerk shall be responsible for the maintenance of such system. 1974, 513; 1975, 360; 1988 Ex Sess, ch. 14, §25.

**31-7-111. Custody of records.** Such records, reports, supporting documents or data compiled, maintained, protected or otherwise in the custody of either the purchase clerk or the inventory control clerk shall be made freely available to the other immediately upon request. Such records, ... shall be public records and shall be made available for inspection during reasonable hours to any person requesting the same. 1974, 513.

**31-7-113. State department of audit to design and prescribe forms and systems.** The State Department of Audit, under the authority of Section 7-7-211, shall design and prescribe the form of the inventory to be made, the form of the purchase requisition, the form of the purchase order, the form of the receiving report; prescribe systems of filing and prescribe the system of records necessary for the maintenance of a central purchase system, receiving system and an inventory control system; and shall promulgate and prescribe such other documentation, procedures and regulations necessary for the efficient maintenance of such systems. 1974, 513; 1988 Ex Sess, ch. 14, §26.

**31-7-115. Audit reports.** The State Auditor, or a certified public accountant employed by the State Auditor, shall, upon the close of the fiscal year of the county, make an audit of the books, records, supporting documents and other data of the county purchase clerk and the inventory control clerk. The Auditor shall review the county's compliance with Section 31-7-13(d), (k) and (m). The audit report shall include a schedule of purchases not made from the lowest bidder under the authority of Section 31-7-13(d), with the reasons given therefor. The audit report shall include a schedule of emergency purchases made under the authority of Section 31-7-13(k). The audit report shall include a schedule of purchases made noncompetitively from a sole source

under the authority of Section 31-7-13(m). Such audit report shall be published in at least one (1) newspaper published in the county, or if no newspaper is published in the county, then in a newspaper having general circulation in the county. 1974, 513; 1986, 489; 1994, 594.

**31-7-119. Board of Supervisors not to purchase, order or receive products for county; exceptions.**

(1) Except as provided in subsection (2) of this section, neither the board of supervisors nor any member thereof shall individually purchase, order or receive any equipment, heavy equipment, machinery, supplies, commodities, materials or services for the use or benefit of the county.

(2) In any county in which the board of supervisors is not required to operated on a countywide system of road administration, the prohibition as provided in subsection (1) of this section shall not apply (a) to purchases of not more than Five Hundred Dollars (\$500.00) in the aggregate; or (b) to the purchase of parts or repair services in emergency situations, which purchases are exempt from bid requirements pursuant to Section 31-7-13(m)(ii) and (iii), Mississippi Code of 1972. 1974, 513; 1988 Ex Sess, ch. 14, §28; 1994, 476; 2008,340.

**31-7-124. Bond of purchase clerk, receiving clerk and inventory control clerk.** The purchase clerk, receiving clerk and inventory control clerk shall give bond in a penalty equal to Seventy-five Thousand Dollars (\$75,000.00) with sufficient surety, to be payable, conditioned and approved as provided by law. All assistant purchasing, receiving and inventory control clerks shall be bonded in a penalty equal to Ten Thousand Dollars (\$10,000.00). Such bond shall be in addition to any other bond required by law, with sufficient surety, to be payable, conditioned and approved as provided by law. The premiums of such bonds shall be paid from any funds available to the board of supervisors for the payment of such premiums. 1988 Ex Sess, ch. 14, § 29.

**31-7-127. Enforcement.** In order to ensure the proper enforcement of Sections 31-7-101 through 31-7-127, as well as to ensure the enforcement of all other laws pertaining to county government or the board of supervisors, the district attorney, in addition to any powers that he already has, shall have the power to investigate the personnel, records or supervisors of any county in his district and shall have the power to bring criminal or civil actions to recover funds illegally spent, to recover damages, or to seek injunctive relief to prevent unlawful acts or compel lawful ones by supervisors or other personnel of county government. In the event of a refusal or failure of the district attorney to act, the Attorney General in a proper case may exercise the above powers of the district attorney, notwithstanding the absence of a request for investigation or action by the district attorney. 1974, 513; 1988 Ex Sess, ch. 14, §30.

**31-7-301 through 31-7-315. Timely payment requirements.** [Laws dealing with the requirement of timely payment of invoices by public bodies. Among other requirements, the laws provide for the prompt payment of public claims, instituting an interest penalty of 1 ½ % per month if the check is not mailed within 45 days after receipt of the invoice.] 1986, 489.

**CHAPTER 8. ACQUISITION OF PUBLIC BUILDINGS, FACILITIES, AND EQUIPMENT THROUGH RENTAL CONTRACTS**

**31-8-3. Purposes for which counties and municipalities may lease facilities.** The counties and municipalities of this state, acting by and through the governing authorities thereof, are hereby authorized and empowered to enter into lease agreements with any corporation, partnership, limited partnership, joint venture or individual under which the county or municipality may agree to lease a facility for use by the lessor for any of the following purposes for a primary term not to exceed twenty (20) years:

- (a) Public buildings;
- (b) Courthouses;
- (c) Office buildings;

- (d) Jails;
- (e) Auditoriums;
- (f) Community centers;
- (g) Civic art centers;
- (h) Public libraries;
- (i) Gymnasiums; and
- (j) Machinery and equipment for use in connection with any of the above, but shall not include office furniture and/or office machines, provided that the primary term of a lease with respect to machinery and equipment shall not exceed the estimated useful economic life of such machinery and equipment, as such useful economic life is mutually agreed upon by the lessor and lessee.

Nothing in this section shall be construed to authorize the acquisition of public school buildings through the use of rental contracts. 1990, 564.

**31-8-7. Lease of real property by municipality to private concern for construction or renovation of buildings or facilities.**

(1) The counties and municipalities of the state are authorized to lease publicly owned real property to any corporation, partnership, limited partnership, joint venture or individual for the purpose of enabling such person to construct or renovate thereon any of the buildings or facilities described in Section 31-8-1 and to lease such buildings and facilities to the county or municipality. No such ground lease shall be for a primary term of the lease with respect to the buildings and facilities to be constructed thereon.

(2) The counties and municipalities of the state are authorized to sublease buildings and facilities leased pursuant to subsection (1) of this section to the United States Postal Service or to any state or federal governmental agency. Any sublease entered into pursuant to this subsection may contain an option granting the sublessee the right to purchase the leased property upon the expiration of the primary term of the sublease, or upon such earlier date as may be agreed upon, at a price not to exceed the unpaid principal balance at such time.

Before entering into any lease agreement pursuant to this subsection, the board of supervisors or the governing authorities of the municipality shall follow and be subject to the same procedures regarding publishing notice, filing protest and holding an election specified for lease agreements under Section 31-8-11, except that the notice shall not state that the rental is a continuing obligation and a charge against the general credit and leasing power of the county or municipality. 1990, 564; 1996, 473.

**31-8-9. Term of lease, pledge of full faith and credit; limitation of obligation to money appropriated.**

Subject to the provisions of this chapter, any such lease agreement may extend over any period, notwithstanding any provision or rule of law to the contrary, and any such lease agreement shall be binding upon the county or municipality and any other party thereto in accordance with its terms. Any such lease agreement may include, at the discretion of the governing authorities entering into the same, a pledge of the full faith and credit of such county or municipality for the payment of its monetary obligations thereunder; or may contain a provision that so long as no default of any monetary obligation of the lessee has occurred, the lessee's obligation to pay any amounts due or perform any covenants requiring or resulting in the expenditure of money shall be contingent and expressly limited to the extent of any specific appropriation made by the governing authorities to fund such lease agreement, and that nothing contained in the lease agreement shall be construed as creating any monetary obligation on the part of the lessee beyond such current and specific appropriation. Obligations incurred by a county or municipality under the provisions of this chapter secured by a pledge of its full faith and credit shall be included within the limitation on bonded indebtedness established by law for counties and municipalities. 1990, 564.

**31-8-11. Notice of intent to lease; protest; election; advertisement of lease agreement; award of lease.**

Before entering into any lease agreement pursuant to this chapter secured by a pledge of its full faith and credit, the governing authorities of any county or municipality shall publish notice of their intention to



receive suitable proposals for the leasing of such buildings, facilities or equipment. Such notice shall specify the nature of the proposed building, facility or equipment, the general geographic area in which the same is to be located, the term of the proposed lease agreement, that the obligation to pay rentals during the primary term is to be a continuing obligation of and a charge against the general credit and leasing power of the county or municipality, and the date and hour on or before which such proposals may be received. Such notice shall be published by municipalities and counties in the same manner as required for publishing notice of intention to issue general obligation bonds of the county or municipality, as appropriate. If at least twenty percent (20%), or fifteen hundred (1-500), of the qualified electors of a county, whichever is less, or at least ten percent (10%), or fifteen hundred (1-500), of the qualified electors of a municipality, whichever is less, file a written protest with the appropriate governing authorities, then an election shall be called by the county in the same manner as provided for the issuance of county general obligation bonds in Section 19-9-11 through 19-9-17, ... or by a municipality in the same manner as provided for the issuance of municipal general obligation bonds in Sections 21-33-307 through 21-33-311, ... to determine whether or not the proposed lease agreement may be executed by the county or municipality. The lease agreement shall be advertised for competitive sealed proposals once each week for two (2) consecutive weeks in a regular newspaper published or having a general circulation in the county or municipality of the governing authority. The date as published for the proposal opening shall be not less than five (5) working days after the last published notice. The lease shall be awarded to the person submitting the lowest and best proposal; however, all proposals may be rejected. 1990, 564.

### **CHAPTER 13. VALIDATION OF PUBLIC BONDS**

31-13-1 through 31-13-11. Validation of public bonds. Laws dealing with the validation of bonds issued by counties, school districts, road districts, etc., may be found in these sections. 1928, 32; 1968, 370; 1978, 327; 1992, 302.

Cross references-

As to validation of bonds issued by county industrial development authority, see §57-31-17.

31-13-11. Court costs and bond attorney's fee and expenses. The court costs in all bond validation proceedings shall be paid by the county, or district proposing to issue the bonds .... and in addition to such costs it shall also pay to the state bond attorney a fee of not more than 1/10 of 1%, provided said fee shall not be less than \$100.00 nor more than \$500.00. This shall be full compensation to the state bond attorney, except that when he attends a hearing of objections to the validation of said bonds, his actual and necessary expenses incident thereto shall be taxed as part of the proceedings, upon approval by the clerk or chancellor of an itemized account of such expenses. If an objection is filed as to the bond attorney's expenses, the taxation of such expenses shall be discretionary with the chancellor, etc. 1979, 371; 1983, 373.

### **CHAPTER 15. REFUNDING BONDS**

31-15-1 through 31-15-27. Refunding bonds. [These sections deal with the matter of the refunding of bonds issued by counties and districts.]

### **CHAPTER 19. PUBLIC DEBTS**

31-19-1. Serial payment bonds only may be issued. No county ... shall issue any bond except on the serial payment plan. 1918, 209.

31-19-3. Penalty on officials for violations. For failure to comply with the provisions of this chapter by any officer, any taxpayer may institute a suit for damages on the bond of any such official who is

required to give a bond; and, in addition, such official may be punished as for a misdemeanor, and on conviction be fined not more than \$500.00 or imprisoned in the county jail for six months, or both. 1918, 209.

**31-19-9. Payment of county bonds and coupons at maturity.** Whenever any county, road district, consolidated school district ... or other taxing districts controlled by the board of supervisors which has heretofore issued or shall hereafter issue bonds or other obligations of which principal and interest shall be payable at some bank or trust company, or at some office other than the county treasury, it shall be the duty of the clerk of the board of supervisors on the allowance of said board to issue a warrant against the proper fund for the amount of principal and interest due and to forward exchange to the paying agent. Said exchange shall be sufficient in amount to pay said principal and interest and a reasonable fee to said paying agent for handling same, said fee not to exceed ½ of 1% of the amount of coupons paid and 1/8 of 1% of the amount of bonds paid. Said exchange shall be forwarded in time to reach the paying agent at least five days prior to the date on which said principal and interest shall become due, and the receipt of the paying agent for said remittance shall be sufficient voucher in the hands of said clerk for said remittance until the bonds or coupons shall have been paid and canceled and returned to said clerk. 1948, 213.

**Cross references--**

As to issuance of county bonds and notes, generally, see §§19-9-1, *et seq.*

**31-19-11. Allowance for remittance.** The allowance for said remittances shall be made by the board of supervisors at the regular meeting of said board held at least 30 days preceding the date on which said bonds and coupons shall become due. 1920, 233.

**31-19-13. Payment of drainage district bonds.** The same rule pertains to the payment of drainage district bonds, except that the allowance is made by the board of commissioners of the district. 1920, 233.

**31-19-15. Remedy of bondholders.** For failure or refusal to comply with the foregoing provisions, any official charged with duties in connection therewith, shall be liable on his official bond to any holder of any bond or coupon for any and all expenses incident to the collection of same, and for all damages which may have accrued on account of the failure to pay same promptly at the place of payment at maturity. 1920, 233.

**31-19-25. Sale of bonds to be advertised.** All bonds issued pursuant to any laws of this state shall be advertised for sale on sealed bids or at public auction ... 1946, 325; 1987, 434.

**Cross references--**

As to interest on community hospital bonds and details and sale of bonds, see §41-13-21.

## **TITLE 33. MILITARY AFFAIRS**

### **CHAPTER 1. GENERAL PROVISIONS**

**33-1-21. Officers and employees granted leave.**

(a) All officers and employees of any department, agency, or institution of the State of Mississippi, or of any county, municipality, or other political subdivision, who shall be members of any of the reserve components of the armed forces of the United States, or former members of the service of the United States discharged or released therefrom under conditions other than dishonorable, shall be entitled to leave of absence from their respective duties, without loss of pay, time, annual leave, or efficiency rating, on all days during which they shall be ordered to duty to participate in training at encampments, field exercises, maneuvers, outdoor target practice,

or for other exercises, for periods not to exceed fifteen (15) days, and all such officers and employees shall for such periods in excess of fifteen (15) days, be entitled to leave of absence from their respective duties without loss of time, annual leave, or efficiency rating until relieved from duty, and shall when relieved from such duty, be restored to the positions held by them when ordered to duty, or a position of like seniority, status and pay; provided that such person: (1) when discharged or released from the armed forces shall have received a certificate of satisfactory completion of service, (2) shall be still qualified to perform the duties of such position, (3) shall make application for re-employment within ninety (90) days after the passage of this chapter or within ninety (90) days after such person is relieved from such training and service or released from hospitalization for a period of not more than one (1) year for causes attributable to such services. Any person restored to a position under the above provisions shall not be discharged from such position without cause within (1) year after restoration. The fact that there has been a change of administration affecting any position with the State of Mississippi, or any county, city, town, political subdivision, or any state institution thereof shall in no manner affect or deny to such person his former position, and regardless of any limitation on the number of employees, such person shall be re-employed. The provisions of this section do not apply to any officer elected by the vote of the electors of the state, county, municipality, or political subdivisions, when the statutory or constitutional term of the office has expired upon the discharge of such person from military service, but this section does grant re-employment rights to all other officers and employees of the State of Mississippi, or of any county, municipality, or political subdivision when ordered to military duty.

(b) In the event the persons referred to in the foregoing subsection are not reinstated, as therein required, upon application by any such person to the county attorney of the county in which he was employed, or to the district attorney of the district in which he was employed, such attorney applied to shall act as the attorney for such person and shall institute such action as may be necessary to enforce compliance with the provisions of said subsection, and no fees or court costs shall be taxed against the person applying for benefits thereunder.

(c) Insofar as any of the provisions of this section are inconsistent with the provisions of any other law, the provisions of this section shall be considered controlling, and any other acts or parts of acts in conflict herewith are hereby repealed insofar as they are in conflict with this section. 1966, 539; 1974, 473.

## **CHAPTER 15. CIVILIAN DEFENSE**

### **33-15-17. Emergency management local organization**

(a) Each county and municipality, or counties and the municipalities therein acting jointly, or two (2) or more counties acting jointly, of this state are hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program, if required and authorized so to do by such state emergency management plan. Each local organization for emergency management shall have a director who shall be appointed by the governing body of the political subdivision, or political subdivisions acting jointly, and who shall have direct responsibility for the organization, administration and operation of such local organization for emergency management, subject to the direction and control of such governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of the state emergency management plan. Each county shall develop an emergency management plan and program that is coordinated and consistent with the State Comprehensive Emergency Management Plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to this section shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state emergency management plan and program.

(b) In carrying out the provisions of this article each county and municipality, or the two (2) acting jointly, or two (2) or more counties acting jointly, where there is joint organization, in which any disaster as described in [Section 33-15-5](#) occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each county and municipality is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming

procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes and the appropriation and expenditure of public funds. (c) Each county and each municipality, or two (2) or more counties acting jointly, shall have the power and authority:

- (1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any enemy attack or man-made, technological or natural disasters; and to direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies;
- (2) To appoint, employ, remove, or provide, with or without compensation, air raid wardens, rescue teams, auxiliary fire and police personnel, and other emergency management workers;
- (3) To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government, and direction and control of emergency operation during an emergency;
- (4) To donate public funds, supplies, labor and equipment to assist any governmental entity in a county or municipality in which a disaster as described in [Section 33-15-5](#) occurs;
- (5) Subject to the order of the Governor, or the chief executive of the political subdivision, to assign and make available for duty, the employees, property or equipment of the subdivision relating to fire fighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency management purposes either within or outside of the limits of the subdivision;
- (6) Subject to the order of the chief executive of the county or municipality or the Governor to order the evacuation of any area subject to an impending or existing enemy attack or man-made, technological or natural disaster;
- (7) Subject to the order of the chief executive of the county or municipality or the Governor, to control or restrict egress, ingress and movement within the disaster area to the degree necessary to facilitate the protection of life and property.

(d) A local emergency as defined in [Section 33-15-5](#) may be proclaimed by the governing body of a municipality or county. The governing body shall review the need for continuing the local emergency at least every thirty (30) days until such local emergency is terminated, and shall proclaim the termination of such local emergency at the earliest possible date that conditions warrant. During a local emergency, the governing body of a political subdivision may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread notice and publicity. The authorization granted by this section to impose a curfew shall not be construed as restricting in any manner the existing authority to impose a curfew pursuant to police power for any other lawful purpose.

Laws 1942, Ch. 206, § 7; Laws 1952, Ch. 312, § 9; Laws 1980, Ch. 491, § 9; Laws 1983, Ch. 420, § 4; [Laws 1995, Ch. 333, § 9, eff. July 1, 1995](#); Laws 2005, 5th Ex.Sess., Ch. 20, § 1, eff. from and after passage (approved October 24, 2005).

**33-15-23. Funds.** For the purpose of paying any expense of its local emergency management organization, or for paying expense of the emergency management program, any board of supervisors of a county is authorized to expend any available funds from the general fund of such county ... 1980, 491.

**33-15-49. Emergency use of state or local personnel and equipment authorized; limitation of liability.** 1980, 491.

## **TITLE 35. WAR VETERANS AND PENSIONS**

### **CHAPTER 3. WAR VETERANS; MISCELLANEOUS PROVISIONS**

35-3-5. Board of supervisors may provide quarters for veterans organizations.

## **TITLE 39. LIBRARIES, ARTS, ARCHIVES AND HISTORY**

### **CHAPTER 3. LIBRARIES AND LIBRARY COMMISSION**

39-3-1. Establishment of libraries by counties, etc. ... The board of supervisors ... or other governing bodies of the counties ... may establish and maintain or aid in establishing and maintaining free public libraries, ... either separately or in connection with other free public libraries already established therein. For said purpose said governing body may acquire the necessary real estate either by purchase, gift or donation and may erect the necessary buildings thereon. 1938, 289; 1988, 589.

39-3-3. Funds for establishment and operation. Where any public library or public library system is established under this article, either by the county board of supervisors or supervisors of the governing body of a municipality, the cost of purchasing land, erecting buildings and equipping and maintaining such public library or public library system shall be paid for in whole out of the general funds of the county or municipality. 1958, 479; 1986, 400; 1988, 589.

39-3-5. County library tax; additional funds for support, upkeep and maintenance.

(1) Any county which supports a public library or public library system may, by order of the board of supervisors of such county, in their discretion, levy a four (4) mill tax on all taxable property within the county to be used for the support, upkeep and maintenance of any public library or public library system located in said county.

(2) The taxes levied under this sections shall be excluded from the revenue increase limitation imposed pursuant to Section 27-39-321.

(3) In addition to the levy herein authorized, the board of supervisors of any county may, in their discretion, make contributions from any available funds for the support, upkeep and maintenance of any public library or public library system located in such county. 1968, 383; 1986, 400; 1988, 589.

### **CHAPTER 5. ARCHIVES AND HISTORY**

39-5-9. Local Government Records Office.

A Local Government Records Office is established within the Department of Archives and History. The office shall begin operation when sufficient funds therefore have accumulated in the Local Government Records Management Fund established in Section 25-60-5. The office shall have the following powers and duties as well as any others which are prescribed by law elsewhere or assigned to the office by the director of the department:

(a) Provide and coordinate education and training for counties and municipalities on records management issues.

- (b) Establish records management standards to guide counties and municipalities, such standards to include, but not be limited to, guidelines for microfilm production and storage, electronic records security and migration, records preservation, imaging and records storage.
- (c) Prepare records control schedules for adoption or amendment by the Local Government Records Committee established in Section 25-60-1. In the preparation of such schedules and amendments thereto, the office shall seek input from interested citizens and organizations.
- (d) Establish standards for records storage areas of local governmental bodies, such standards to include, but not be limited to, guidelines for the selection of an off-site storage facility for records of enduring or archival value. 1996, 537; 1997, 452; 2006, 495.

**39-5-11 through 39-5-19. Boards of supervisors and state department of archives and history.** Any ... county ... official is authorized to turn over to the department of archives and history for permanent preservation therein, any official books, records, documents, original papers, newspaper files and printed books not in current use in their offices. Boards of supervisors are authorized to turn over to the department historical portraits which may be the property of the counties, and to make appropriations, on application of the director of the department, for the purpose of placing oil portraits of distinguished citizens of Mississippi in the state's hall of fame. The board of supervisors is also authorized to acquire title by gift or grant the site of any historic or prehistoric ruin or monument or any object of historical, archaeological or scientific value situated in their county, for public parks and reservations to be devoted solely to the educational and recreational advantages of the people. ... Said board shall be authorized to spend not exceeding \$100.00 per annum in the maintenance of said public parks, and pay for same out of the general county fund. Upon the official certificate of the trustees of the state department of archives and history that any abandoned cemetery is of historical significance and should be repaired, rehabilitated, or maintained as a historical monument, the boards of supervisors are authorized ... to repair, rehabilitate, and maintain such cemetery within the borders of the county over which such board has jurisdiction ... 1942, 6183, 6184; 1971, 425; 2001, 501.

## **CHAPTER 13. HISTORIC PRESERVATION DISTRICTS AND LANDMARKS**

### **39-13-3. Authority to create local historic preservation commissions; authority and procedure for establishment of districts and designation of landmarks.**

The governing authority of each municipality and county, either independently or jointly with the governing authority of an adjacent municipality or county, or both, is hereby empowered, in its discretion, to enact ordinances providing for the creation of one or more local historic preservation commissions to advise on the establishment and location of potential historic districts and the designation of potential historic landmarks and landmark sites within the jurisdictional area of the governing authority. The governing authorities of each municipality and county, either independently or jointly with the governing authorities of an adjacent municipality, may enact ordinances for the establishment of such local historic districts, historic landmarks and landmark sites within the jurisdictional area of the governing authorities as these authorities shall choose to designate. Each such ordinance shall be adopted after investigation of the historical, architectural, archaeological and cultural significance of the buildings, structures, features, sites and surroundings of such districts, landmarks or landmark sites and after having held public hearing thereon. Notice of such public hearing, specifying the boundaries of any proposed historic district and the location of proposed historic landmarks and landmark sites shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such municipality or county. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the public hearing and the last publication shall be made not more than seven (7) days prior to such date. If no newspaper be published in such municipality or county, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such municipality or county.

An ordinance to establish a local historic preservation commission may precede an ordinance to designate one or more local historic districts and one or more landmarks or landmark sites. Whenever governing authorities enact such an ordinance creating a historic preservation commission before an ordinance or

ordinances designating one or more local historic districts and one or more landmarks or landmark sites, the local historic preservation commission shall review such potential local historic districts or potential landmarks or landmark sites and make a recommendation to the governing authorities before such designation. 1978, 472; 2001, 443.

**CHAPTER 15. MUNICIPAL AND COUNTY FUNDS TO SUPPORT THE ARTS**

39-15-1. Board of supervisors may provide support for the arts The governing authorities of any municipality or county are hereby authorized and empowered, in their discretion, to expend monies from the municipal or county general fund to match any other funds available for the purpose of supporting the development, promotion and coordination of the arts within such municipality or county. 1986, 496.

**TITLE 41. PUBLIC HEALTH**

**CHAPTER 3. HEALTH BOARDS AND OFFICERS**

41-3-18. Assessment of fees.

The board shall assess fees in the following amounts and for the following purposes:

(a) Food establishment annual permit fee, based on the assessment factors of the establishment as follows:

Assessment Category 1 .....	\$ .....	30.00
Assessment Category 2 .....		100.00
Assessment Category 3 .....		150.00
Assessment Category 4 .....		200.00

(b) Private water supply approval fee .....\$10.00

The board may develop such reasonable standards, rules and regulations to clearly define each assessment category. Assessment categories shall be based upon the factors to the public health implications of the category and type of food preparation being utilized by the food establishment, utilizing the model Food Code of 1995, or as may be amended by the federal Food and Drug Administration.

The fee authorized under paragraph (a) of this section shall not be assessed for food establishments operated by public schools, public junior and community colleges, or state agencies or institutions, including without limitation, the state institutions of higher learning and the State Penitentiary.

The fee authorized under paragraph (b) of this section shall not be assessed for private water supplies used by foster homes licensed by the Department of Human Services.

The fee, standards, rules and regulations under paragraph (a) of this section shall not apply to any person who packs or sells less than five hundred (500) gallons of honey per year. 1986, 371; 1988, 395; 1989, 313; 1989, 547; 1990, 568; 1991, 606; 1994, 462; 1995, 363; 1997, 427; 2001, 420; 2007, 514, 2008; 315.

41-3-37. Appointment of county health officer. competent physician shall be appointed county health officer for each county by the State Board of Health or its executive officer. Said board shall cause the appointment to be certified by its secretary to the board of supervisors of the county for which the appointment was made. 1982, 494.

Cross references--

As to county health department, see §§41-3-43, *et seq.*

41-3-43 through 41-3-53. County department of health; director. County may create a county health department, appoint a director, and appropriate funds for the department. The state board of health may create public health district of two or more counties and the individual counties may appropriate funds for support of the district out of their respective general funds. County and district health department shall have full control

over all health matters in said counties. Other local, municipal or county public health departments are abolished upon creation of a county department of health. The state board of health, which the director of a county department of health reports to, may remove or dismiss any director for conduct deemed improper. The director is to keep an accurate record of all activities of the department of health. The board of supervisors may appropriate the necessary moneys to pay employees of the county health department. When two or more counties join in maintaining a health department, the amount to be contributed by each county is to be agreed upon by the respective counties. Any municipality may pass public health laws or ordinances and enforce the collection and registration of birth, health, and mortuary statistics, provided such laws are consistent with the rules and regulations of the state board of health. Except as otherwise provided, any person who shall knowingly violate any of the provisions of Chapter 3 of Title 41 of the Mississippi Code, or any rule of the state board of health, or any regulation of the board of supervisors ... shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding \$500.00, or by imprisonment in the county jail for not more than six months, or both. 1942, 7083, 7085, 7086; 1982, 494; 1983, 522.

Cross references--

As to county health officer, see §41-3-37.

### **CHAPTER 13. COMMUNITY HOSPITALS**

41-13-15. Community hospitals and health facilities in counties and municipalities.

1982, 395; 1983, 468; 1985, 511; 1987, 494; 1988, 387; 1993, 535; 1994, 546.

41-13-23. Levy of ad valorem tax or pledge of revenues to pay bonds. In counties in which there is constructed a county or community hospital, the board of supervisors shall annually levy a tax, in addition to all other taxes, sufficient to provide for the payment of the principal and interest on said bonds, etc. 1972, 447.

41-13-24. Obtaining federal assistance. 1975,410; 1987,396.

41-13-25. Board of Supervisors may levy ad valorem tax for hospital support. The board of supervisors may make an ad valorem tax levy annually for the support, maintenance and operation of county or community hospitals, providing the maximum amount of such levy may not exceed five mills. Calhoun County may levy such ad valorem tax as is needed to operate and maintain such hospital as is provided herein. 1968, 442; 1987, 526; 1991, 389.

41-13-29. Board of trustees for county hospitals. 1982, 395; 1985, 511; 1986, 458, 462; 1995, 378.

41-13-47. Hospital funds; proposed budget; reports. 1958, 363; 1985, 511; 2009

### **CHAPTER 19. MENTAL RETARDATION SERVICES**

41-19-31 through 41-19-43. Mental illness and retardation facilities and services; boards of supervisors. Involvement of counties in the establishment and operation of mental and retardation facilities is covered in these sections, and particular attention is directed here to Section 41-19-35 which provides for the appointment, term, and compensation of regional commission members; Section 41-19-39 which deals with financial support from counties and tax levies; and Section 41-19-43 which sets forth payments for chancery clerks and sheriffs for their services in commitment proceedings. 1966, 477; 1968, 439; 1972, 307; 1984, 495; 1987, 483; 1992, 491; 1995, 410; 1997, 587; 2003, 415.



Cross references--

As to local ad valorem tax levies, generally, see §§27-39-301, *et seq.*

As to proceedings for commitment to state mental institutions, see §§41-21-1, *et seq.*

41-19-91. Certain counties may contribute to nonprofit corporations operating programs for mentally retarded children. Applicable only to Clay County (by description). 1974, 567; 1986, 400.

## **CHAPTER 21. MENTALLY ILL AND MENTALLY RETARDED PERSONS**

41-21-61 through 41-21-107. Persons in need of mental treatment. These sections cover, among other things, commitment of persons to state mental hospitals for treatment. Some of the more pertinent sections will be touched upon below:

41-21-63. Commitment proceedings; jurisdiction of chancery court; forms. 1984, 477; 1985, 454; 1996, 430.

41-21-65. Affidavit for commitment. 1975, 492; 1984, 477; 2004, 565.

41-21-79. Payment of costs. The cost incidental to the court proceedings, including but not limited to court costs, preheating hospitalization costs, cost of transportation, reasonable physician's and psychologist's fees set by the court, and reasonable attorney's fees set by the court, shall be paid out of the funds of the county in which the affidavit was filed and the proceedings commenced in those instances where the patient is indigent. Provided, however, if the respondent is not indigent, said costs shall be taxed against the respondent or his estate. Further provided, that if the respondent is found by the court to not be in need of mental treatment then all such costs shall be taxed to the affiant initiating the hearing. 1975, 492; 1994, 533, 599.

41-21-85. Payment of costs in proceedings on hearing on need for further treatment. All costs of the hearing or appeal under Section 41-21-83 [which see], including but not limited to costs of all writs, notices, petitions, appeals, and attorney's fees and transportation of the patient to and from the place of the hearing shall be borne by the treatment facility in those instances where the patient is indigent, provided that if the patient is not indigent, all costs shall be taxed to the patient. 1984, 477.

41-21-95. Payment of costs incurred in transporting discharged patients home or returning patients on unauthorized leave. Costs of returning patients on unauthorized leave. Costs of returning a patient who has left without authorization may be borne by the treatment facility from which the patient has been discharged or from which he has left without authorization. 1984, 477.

## **CHAPTER 23. CONTAGIOUS DISEASES**

41-23-30. Free testing for and treatment of venereal disease. County health departments shall provide free testing for and treatment of sexually transmitted disease. Such testing and/or treatment shall be kept in strict confidence. The county boards of supervisors are directed to make known to the public, through available media, the confidentiality of the testing and treatment of sexually transmitted disease. 1983, 522.

## **CHAPTER 27. MOSQUITO CONTROL**

41-27-1 through 41-27-33. County mosquito control commission. Commissioners to serve without pay, except for necessary expenses and a per diem as provided in Section 25-3-69. Board of supervisors to provide commission with a suitable office. 1928, 190. Plans and estimates of cost are to be filed by the commission annually with the state board of health and, when approved, shall be forwarded to the county board of supervisors. 1928, 190. Chapter 41-27-13 provides that the supervisors may fund mosquito control out of the general fund. Two or more counties may cooperate in the operation of such a commission. 1928, 190; 1964, 1st ex sess, 15. The commission is directed to meet and allow all claims, make a certified list of same, forwarding them to the board of supervisors, by which board claims will be paid. 1964, 1st ex sess, 15; 1975, 417; 1983, 547; 1985; HB 813; 1986, 400.

41-27-101 through 41-27-133. Rice field mosquito control law. All provisions relative to this law are contained in the sections noted. Fiscal operations may be performed in substantially the same manner as for the county mosquito control commission. 1954, 288.

### **CHAPTER 31. COMMITMENT OF ALCOHOLICS, ETC.**

41-31-1 through 41-31-23. Commitment of alcoholics and drug addicts for treatment. 1950, 349; 1968, 331; 1954, 231; 1974, 562; 1976, 401.

### **CHAPTER 33. TUBERCULOSIS, ETC.**

41-33-1 through 41-33-15. Tuberculosis and respiratory diseases; commitment of active tuberculosis cases to sanatorium. 1956, 304; 1971, 312; 1924, 304; 1956, 304; 1983, 522; 1984, 435.

### **CHAPTER 37. AUTOPSIES**

41-37-15. Fees of physician and chemist. A physician performing an autopsy shall be paid a fee not exceeding \$200.00. If the physician performing the autopsy is a qualified pathologist, such fee may be increased to \$400.00. A chemist whose services are used may be paid a fee not to exceed \$60.00 for a chemical analysis. Such fees shall be paid out of the county treasury on order of the board of supervisors. 1983, 509; 1985, 416.

Cross references--

As to coroner's fee for performing autopsy, see §19-21-71.

41-37-17. Payment of disinterment expenses. The sheriff shall be reimbursed for all his expenses out of the county treasury on order of the board of supervisors, upon presentation of itemized claim. 1960, 258.

41-37-21. Physician or chemist may be subpoenaed in criminal case. Physician or chemist subpoenaed as a witness for prosecution shall be paid fee of \$50.00 per day and seven cents per mile for travel. 1960, 258.

### **CHAPTER 39. DISPOSITION OF HUMAN BODIES OR PARTS**

41-39-5. Disposition of unclaimed dead bodies. Any physician, hospital, funeral director,

embalmer, coroner or other person acquiring possession of a dead human body or portion thereof which is not claimed for burial or cremation within 48 hours of its acquisition shall give written notice thereof to the board of supervisors, or a member thereof, furnishing such identification of the decedent as may be available. The board of supervisors shall make a reasonable effort to notify members of the decedent's family or other known interested persons, and if such body is not claimed within five days, then the board shall direct the burial or cremation and burial of the residue of such body or portion thereof. If the estate of the decedent is unknown or is unable to pay the burial expenses so incurred, same may be paid by the county of which the decedent was a resident, or by the county in which the body was located. ... 1964, 436.

## **CHAPTER 43. CEMETERIES AND BURIAL GROUNDS**

### **41-43-1. Board of supervisors may regulate location of private family cemeteries.**

(1) No person, firm, association, or corporation shall locate a new public or private cemetery for burial of human beings within five hundred (500) yards of a public or private hospital or other medical facility wherein sick or injured persons are usually kept overnight for medical treatment and rehabilitation, without such person, firm, association, or corporation having first obtained a written order of approval from the board of supervisors if the proposed cemetery or burial ground is located outside the corporate limits of a municipality, or without such person, firm, association, or corporation having first obtained a written order of approval from the governing authorities of the municipality if the proposed cemetery or burial ground is located inside the corporate limits of a municipality.

Any realty used for burial purposes in violation of this subsection shall be deemed a common nuisance, and may be abated by the chancery court upon a petition filed therefor by the district attorney or county attorney, city attorney, attorney for the board of supervisors, or any person or persons aggrieved by the violation of this subsection.

This subsection shall not apply to any established cemeteries or burial grounds which now have human remains interred thereon.

(2) The board of supervisors of any county is authorized and empowered, upon petition and request to do so, to establish or designate the location of any private family cemetery to be located in the county. 1942, 2890.6; 1966, 398; 1982, 307.

## **CHAPTER 55. PUBLIC AMBULANCE SERVICE**

**41-55-31 through 41-55-57. Establishment, maintenance and operation of air ambulance service by political entities.** 1968, 290; 1971, 457; 1975, 427; 1986, 400; 1987, 483; 1992, 491; 1998, 527; 2008,442.

## **CHAPTER 57. VITAL STATISTICS**

**41-57-3 through 41-57-27. Births and deaths.** Includes Section 41-57-11 (payment for birth and death certificates); 41-57-13 (furnishing of list of deaths to county registrar and county election commissioners), and 41-57-15 (board of supervisors may appropriate funds for perfecting registration of records). 1912, 149; 1971, 327; 1972, 466; 1987, 326; 1983, 424; 1989, 509, 511; 1997, 588, 472; 1998, 311; 2002, 424.

## **CHAPTER 59. EMERGENCY MEDICAL SERVICES**

**41-59-1 through 41-59-57. Establishment, maintenance and operation of emergency health services.** 1974, 507; 1991, 482, 606; 1992, 491; 1998, 429; 2000, 594; 2001, 542; 2002, 623; 2007, 569.

41-59-47. Options of counties as to participation in emergency medical services program. The provisions of this chapter as to emergency medical services shall apply to all counties ... except those counties ... electing not to comply as expressed to the state board of health by written resolution. ... Any financial grants administered by the state for emergency medical services pertaining to this chapter shall be made available to those counties ... which are governed by the provisions of this chapter. 1974, 507.

41-59-51. Authority of board of supervisors to establish emergency medical service district. An emergency medical services district may be established by the board of supervisors or boards of supervisors of any county or group of counties ... to provide emergency hospital care and ambulance services, etc. 1974, 507.

41-59-53. Districts; procedures for establishing. Procedures are set forth in this section for the establishment of an emergency medical services district, including the allocation of expenses among the participating subdivisions. 1974, 507.

41-59-57. Districts; power to receive and expend funds. Districts established under the provisions of this chapter may receive funds from all sources and may expend such funds as may be available for any necessary and proper purpose. Such expenditures may be by making a lump sum payment to the board or manager of the district. 1974, 507.

41-59-59. Levy of tax for support and maintenance of districts. (1) The board of supervisors of any county participating in the establishment of an emergency medical service district under the provisions of Section 41-59-51, ... may set aside, ... from the general fund for the support and maintenance of such district. (2) Districts may borrow funds in anticipation of taxes in the same manner as counties or municipalities. 1975, 455; 1986, 400.

41-59-61. Emergency medical services operating fund; assessment on traffic violations. (1) The assessments that are collected under subsections (1) and (2) of Section 99-19-73 shall be deposited in a special fund that is created in the State Treasury to be designated the "Emergency Medical Services Operating Fund." The Legislature may make appropriations from the Emergency Medical Services Operating Fund to the State Board of Health for the purpose of defraying costs of administration of the Emergency Medical Services Operating Fund (EMSOF) and for redistribution of those funds to the counties, municipalities and organized medical service districts (hereinafter referred to as "governmental units") for the support of the emergency medical services programs. The State Board of Health, with the Emergency Medical Services Advisory Council acting in an advisory capacity, shall administer the disbursement to those governmental units of any funds appropriated to the board from the Emergency Medical Services Operating Fund and the utilization of those funds by the governmental units.

(2) Funds appropriated from the Emergency Medical Services Operating Fund to the State Board of Health shall be made available to all such governmental units to support the emergency medical services programs therein, and those funds shall be distributed to each governmental unit based upon its general population relative to the total population of the state. Disbursement of those funds shall be made on an annual basis at the end of the fiscal year upon the request of each governmental unit. Funds distributed to those governmental units shall be used in addition to existing annual emergency medical services budgets of the governmental units, and no such funds shall be used for the payment of any attorney's fees. The Director of Emergency Medical Services program or his appointed designee is authorized to require financial reports from the governmental units utilizing these funds in order to provide satisfactory proof of the maintenance of the funding effort by the governmental units. 1982, 344; 1983, 522; 1985, SB 2627; 1990, 329; 2007, 514.

## **CHAPTER 61. MISSISSIPPI MEDICAL EXAMINER ACT**

41-61-51 through 41-61-79. Definitions, qualifications, reports duties, etc. of medical examiners and medical examiner investigators. 1986, 455, 459; 1990, 453, 484; 1991, 591, 618; 1992, 491; 1993, 411, 550; 1996, 485; 1998, 567; 2002, 424; 2003, 383, 548; 2005, 472; 2007, 367; 2008, 362; 2009

## **CHAPTER 67. INDIVIDUAL ONSITE WASTEWATER DISPOSAL SYSTEMS**

[This chapter is detailed and the Code should be consulted for establishment of wastewater disposal systems.]

### **TITLE 43. PUBLIC WELFARE**

#### **CHAPTER 1. COUNTY DEPARTMENT OF PUBLIC WELFARE**

43-1-9. County department of public welfare. There shall be created in each county of the state a county department of public welfare which shall consist of a county director of public welfare, and such other personnel as may be necessary for the efficient performance of the duties of the county department. It shall be the duty of the board of supervisors of each county to provide office space for the county department.

County director. The commissioner shall designate, in accordance with the rules and regulations of the state personnel board, with the approval of the governor, a county director of public welfare who shall serve as the executive and administrative officer of the county department and shall be responsible to the state department for its management. Such director shall be a resident citizen of the county and shall not hold any political office of the state, county, municipality or subdivision thereof. However, in cases of emergency, the commissioner may appoint a director of public welfare who is a nonresident of such county, to serve during the period of emergency only.

The county department of public welfare shall administer within the county all forms of public assistance and welfare services. The county department shall comply with such regulations and submit such reports as may be established or required by the state department. Subject to the approval of the state department, the county department may cooperate with other departments, agencies and institutions, state and local, when so requested, in performing services in conformity with the provisions of this chapter.

In counties having two judicial districts, the state commissioner of public welfare may create and establish in each of the judicial districts a separate county department of public welfare which shall consist of a director of public welfare and such other personnel as may be necessary for the efficient performance of the duties of the department thus established. In such cases the two departments so established shall be dealt with as though each is a separate and distinct county department of public welfare, and each of the departments and each of the directors shall operate and have jurisdiction coextensive with the boundaries of the judicial district in which it is established; and, also, in such cases the words "county" and "director of public welfare" when used in this chapter shall, where applicable, mean each judicial district, and the director of public welfare appointed therefor; and where the board of supervisors is authorized to appropriate funds or provide office space or like assistance for one county welfare department or director, such board may, as the case may be, appropriate the amount specified by law or render the assistance required by law to each of the departments or directors. Provided, however, that the commissioner of public welfare shall not create and establish a separate county department of public welfare pursuant to this paragraph in any county in which such separate county department of public welfare is not in existence on January 1, 1983. Provided further, that in any county having two county departments of public welfare on January 1, 1983, but only one county director of public welfare on said date, the commissioner of public welfare shall not authorize and establish the second position of county director of public welfare in such county.

In any county not having two judicial districts which is greater than fifty miles in length, the commissioner of public welfare may establish one branch office of the county department of public welfare which shall be staffed

with existing employees and administrative staff of such county department for not less than four days per week. 1983, 504; 1984, 442.

43-1-11. Expenses of county welfare office. The boards of supervisors of the various counties of this state are hereby authorized and empowers in their discretion, to expend and appropriate such sums as they deem necessary out of any available county funds for the purpose of providing office space for the local county department of public welfare. This includes, but is not limited to, adequate office space for the efficient conduct of business, as well as providing for payment of electricity, water, gas, maintenance and repair of the building, and janitorial services and supplies. 1982, 319.

43-1-27. Action maintainable by department of public welfare to recover benefits wrongfully obtained; attorney's fees; evidence.

(1) Any sums paid to or on behalf of any person, entity or subgrantee or the value of any aid or benefit or services obtained or received under any state or federally funded assistance program as a result of any false statement, misrepresentation, concealment of a material fact, failure to disclose assets, or by whatever means, becomes a debt due to the state department of public welfare. The amount of value of any assistance shall be recoverable from the recipient or his estate in a civil action brought in the name of the state department of public welfare pursuant to this section. In the event such action is brought, the department shall be entitled to recover, in addition to the amount of assistance, a reasonable amount of attorney's fees and its cost incurred therein, Where an attorney from the county attorney's office represents the department in such action, the attorney's fee awarded shall be for the use and benefit of that particular office and shall be forwarded to that office upon receipt by the department.

(2) In any civil action for the recovery of the amount of value of any aid or benefits or services improperly paid to the recipient, proof that a conviction or guilty plea on a misdemeanor or felony charge under Section 97-19-71 shall be deemed prima facie evidence that such assistance was improperly obtained under the provision of this section.

(3) Repayment of the assistance improperly obtained pursuant of this section shall not constitute a defense to or ground of dismissal of criminal charges brought under Section 97-19-71.

For purposes of this and other related sections, any food stamp and coupons issued under a food stamp plan administered by the state department of public welfare shall conclusively be the property of the State of Mississippi. 1983, 408.

## **CHAPTER 9. OLD AGE ASSISTANCE**

43-9-47. Board of supervisors may match federal funds or make contributions for assistance programs for aged persons.

## **CHAPTER 15. CHILD WELFARE**

43-15-7 and 43-15-11. County department of public welfare authorized to provide protective services for children; appropriation of funds; expenditure of county moneys for support and maintenance of homeless and destitute children. Boards of supervisors may appropriate out of the tax levied for county poor or out of the general county fund necessary moneys to be administered by the county department of public welfare to provide protective services for children. 1946, 419. The board of supervisors ... may ... pay ... out of the county treasury... an amount not exceeding a total of \$25.00 annually per million dollars of assessed valuation to provide for the support and maintenance of homeless and destitute children. Such payments shall be to a children's home society which is approved by the state department of public welfare. 1958, 539.

## CHAPTER 21. YOUTH COURT

43-21-45. Funds for payment of salaries and expenses of youth counselors and clerk-reporters. In Harrison and Forrest counties the board of supervisors may set aside,... moneys from the general fund to be used in payment of salaries and/or travel expense of youth counselor(s), and the salary of a clerk report of the youth court of such county, and such funds shall be expended for no other purpose. 1968, 371; 1986, 400.

43-21-101 through 43-21-651. Youth court law. These laws cover the organization and operation of the youth court, including personnel, expenditures, powers, and jurisdiction. 1979, 506; 1980, 550; 1986, 467; 1989, 441; 1991, 468; 1993, 439; 1994, 359; 1995, 546; 1996, 323; 1997, 440; 1998, 340, 367, 379, 407, 447, 516; 1999, 329, 400, 554, 569; 2001, 358, 360, 393, 581; 2002, 342, 410, 509; 2003, 450, 489, 557; 2005, 471; 2006, 539, 600, 430; 2007, 337, 347, 478, 481, 557, 568, 587.

43-21-317. Juvenile Detention Fund. Established to provide grants to local governments to construct, renovate, and maintain facilities.

## CHAPTER 27. DEPARTMENT OF YOUTH SERVICES

43-27-205. Local Juvenile Detention Facility Construction, Renovation and Repair Fund; source of funds; purpose of Fund.

- (2) The fund shall be used for the following purposes:
  - (a) To provide grants to local governmental units to construct, repair, remodel, equip, furnish, add to, improve and maintain juvenile detention facilities. Grants shall be awarded on a proportionate basis based on the population of the local governmental unit. Counties and municipalities are encouraged to enter into interlocal agreements and regional agreements to receive grants. Any area which uses this fund for the purposes provided herein shall have a minimum population of twenty-five thousand (25,000) persons residing in the area to be served by a facility. 1994, 652.

## CHAPTER 31. POOR PERSONS

43-31-1. Jurisdiction; county homes. The board of supervisors shall have the jurisdiction and power necessary and proper for the relief and support of the poor of its county, and it shall have control of the county home, and may employ a suitable person to take charge of the same. It shall see that the poor are properly treated; and it may provide nurses and physicians in such cases as it may deem proper, and purchase medicines, and payment therefor may be ordered out of the proper fund by warrant on the county treasury. 1912, 234.

Cross references--

As to constitutional authority for board of supervisors to provide relief for poor, see Miss Const §262.

43-31-3. Supervisors may purchase land and erect buildings for county homes. 1912, 234.

43-31-5. Supervisors may sell or exchange county home property. 1912, 234.

43-31-13. Claims allowed by supervisors. The board of supervisors may allow the claims of persons who, by authority of one of the supervisors, have taken care of, fed, clothed, administered to, or buried such paupers as were at the time proper subjects for relief, but could not at once be removed to the county home. 1912, 234.

43-31-15. Tax for support of poor. The board of supervisors shall annually pay into the general fund a tax as may be necessary for the support of the poor of the county. 1942, 7352; 1986, 400.

43-31-17. Obligations not incurred except by authority of the board. Money shall not be disbursed from the county treasury for the relief of the poor, except on order of the board of supervisors; nor shall any obligations be incurred by the county except by its authority. 1942, 7353.

43-31-21. Duty of each Supervisor. Whenever any member of the board shall ascertain that there is a pauper in his district probably entitled to relief, it shall be his duty to examine into the pauper's right to support; and if he be satisfied that such pauper has a settlement in his county, and is unable to support himself, or is entitled to be supported, or provided for by the county, he shall report the facts to the board of supervisors for its action, and in case of emergency, he may give his written order to the superintendent of the county home to receive such pauper; and may cause the pauper to be removed to the county home. 1912, 234.

43-31-29 Relief of those not entitled to a settlement; burial of strangers. The board of supervisors of any county shall also relieve, support or employ paupers found or being in the county, though not entitled to a settlement therein, and, in case of their decease, shall decently bury them; and all expenses shall be chargeable to and recoverable from the county in which such pauper had a settlement; and the board shall decently bury all strangers dying in the county. The board shall establish an indigent burial policy which shall be spread upon the minutes of the board. The policy shall establish standards and eligibility criteria for the administration of indigent burials. The board may be able to establish the status of someone as a pauper, either before or after his death, based upon available records of recent public assistance and any other available evidence. After review of the records, the board may adjudicate a person as a pauper and shall spread upon its minutes the adjudication. The board, in its discretion, may then pay the full cost of burial or may contribute funds to assist in the cost of the burial. 1942, 7359; 2009

43-31-31. Certain dead to be buried by corporate authorities. The municipal authorities of every town, city, and village shall bury all strangers found dead within their limits, or found floating in any waters at a point adjoining their limits, and all expenses or charges shall be chargeable to the county; and an accurate account thereof shall be reported to the board of supervisors, who shall allow the same, and order it to be paid out of the county treasury; but the board of supervisors may fix maximum charges for such burials. 1942, 7359, 7360; 2009

43-31-39. Board to provide storage for surplus food commodities; expenses. The boards of supervisors ... may ... appropriate from any available funds, in either the pauper fund or the general fund, a sufficient amount with which they may lease, purchase or otherwise acquire storage facilities for surplus food commodities, including storage under refrigeration, provide for the unloading, packaging, handling and distribution of said commodities and pay for such personnel or help as may be required in order to protect from waste or spoilage ... and may pay the rentals, salaries, and incidental expenses thereof, monthly, from their respective treasuries. 1956, 184.

## **CHAPTER 33. HOUSING AND HOUSING AUTHORITIES**

43-33-5. Board of supervisors may declare need for housing authority.



43-33-47. Board of supervisors may donate or lend funds to housing authority.

43-33-105. Board of supervisors may create regional housing authorities.

## **CHAPTER 37. ACQUISITION OF REAL PROPERTY USING PUBLIC FUNDS**

43-37-1. Title; applicability. This chapter shall be known as the "Real Property Acquisition Policies Law." The provisions of this chapter shall be applicable to the acquisition of real property under the laws of this state for use in any project or program in which public funds are used. 1972, 525; 1996, 426.

43-37-3. Acquisition policies. Any person, agency, or other entity acquiring real property for any project or program in which public funds are used shall comply with the following policies:

(a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, except that the acquiring person, agency or other entity may adopt a procedure in compliance with federal regulations to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value. For purposes of this chapter, property with a low fair market value is property with a fair market value of Ten Thousand Dollars (\$10,000.00) or less. The owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(c) The price that shall be paid for real property shall be the lesser of the best negotiated price or the approved appraisal of the fair market value or the price at which the property is offered for sale...

(j) A person whose real property is being acquired...may...donate such property...to the person, agency or other entity acquiring the property... 1972, 525; 1989, 457; 1991, 418; 1996, 426; 2008,339.

## **TITLE 45. PUBLIC SAFETY**

### **CHAPTER 1. DEPARTMENT OF PUBLIC SAFETY**

45-1-43. Emergency response and vehicular pursuit policies; state, county and local mandate; training procedures; sanctions for failure to adopt. Section 2. On or after January 1, 2005, each state, county and local law enforcement agency that conducts emergency response and vehicular pursuits shall adopt written policies and training procedures that set forth the manner in which these operations shall be conducted. Each law enforcement agency may create their own such policies or adopt an existing model. All pursuit policies created or adopted by any law enforcement agency must address situations in which police pursuits cross over into other jurisdictions. Law enforcement agencies which do not comply with the requirements of this provision are subject to the withholding of any state funding or state administered federal funding. 2004, 487.

### **CHAPTER 4. COUNTY JAIL OFFICERS TRAINING PROGRAM**

45-4-9. Certification required for employment as jail officer; exemption for certain jail officers.

(1) (a) After January 1, 2000, no person shall be appointed or employed as a jail officer or a part-time jail officer unless that person has been certified as being qualified under subsection (3) of this section.

(b) No person who is required to be certified shall be appointed or employed as a jail officer by any sheriff or police department for a period to exceed two (2) years without being certified. The prohibition against the appointment or employment of a jail officer for a period not to exceed two (2) years may not be nullified by terminating the appointment or employment of such a person before the expiration of the time period

and then rehiring the person for another period. Any person who, due to illness or other events beyond his control, as may be determined by the Board on Jail Officer Standards and Training, does not attend the required school or training as scheduled, may serve with full pay and benefits in such a capacity until he can attend the required school or training.

(c) No person shall serve as a jail officer in any full-, part-time, reserve or auxiliary capacity during a period when that person's certification has been suspended, cancelled or recalled pursuant to this chapter.

(2) Jail officers serving under permanent appointment on January 1, 2000, shall not be required to meet certification requirements of this section as a condition of continued employment; nor shall failure of any such jail officer to fulfill such requirements make that person ineligible for any promotional examination for which that person is otherwise eligible. If any jail officer certified under this chapter leaves his employment and does not become employed as a jail officer within two (2) years from the date of termination of his prior employment, he shall be required to comply with board policy as to rehiring standards in order to be employed as a jail officer.

(3) In addition to the other requirements of this section, the Board on Jail Officer Standards and Training, by rules and regulations consistent with other provisions of law, shall fix other qualifications for the employment of jail officers, including education, physical and mental standards, citizenship, good moral character, experience and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of jail officers, and the board shall prescribe the means for presenting evidence of fulfillment of these requirements. Additionally, the board shall fix qualifications for the appointment or employment of part-time jail officers to essentially the same standards and requirements as jail officers. The board shall develop and implement a part-time jail officer training program that meets the same performance objectives and has essentially the same or similar content as the programs approved by the board for full-time jail officers.

(4) (a) The Board on Jail Officer Standards and Training shall issue a certificate evidencing satisfaction of the requirements of subsections (1) and (3) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the board for approved jail officer education and training programs in this state.

(b) The Board on Jail Officer Standards and Training shall issue a certificate to any person who successfully completes the Mississippi Department of Corrections' training program for correctional officers of regional jails.

(c) The Board on Jail Officer Standards and Training shall develop and train persons seeking certification as a correctional officer in the prevention of racial profiling. The provisions of this paragraph shall apply to all recruits who begin training on or after January 1, 2005.

(5) Professional certificates remain the property of the board, and the board reserves the right to either reprimand the holder of a certificate, suspend a certificate upon conditions imposed by the board, or cancel and recall any certificate when:

- (a) The certificate was issued by administrative error;
- (b) The certificate was obtained through misrepresentation or fraud;
- (c) The holder has been convicted of any crime involving moral turpitude;
- (d) The holder has been convicted of a felony; or
- (e) Other due cause as determined by the board.

(6) When the board believes there is a reasonable basis for either the reprimand, suspension, cancellation of, or recalling the certification of a jail officer, notice and opportunity for a hearing shall be provided in accordance with law prior to such reprimand, suspension or revocation.

(7) Any jail officer aggrieved by the final findings and order of the board may file an appeal with the chancery court of the county in which the person is employed. The appeal must be filed within thirty (30) days of the final order.

(8) Any jail officer whose certification has been cancelled may reapply for certification, but not sooner than two (2) years after the date on which the order cancelling the certification becomes final. 1999, 482; 2000, 515; 2004, 556.

**45-4-11. Establishment, administration and maintenance of training programs; expenditure of funds.**

(1) The Board on Jail Officer Standards and Training shall establish, provide or maintain jail officer training programs through such agencies and institutions as the board may deem appropriate.

(2) The board shall authorize, but only from such funds authorized and appropriated by the Legislature, the reimbursement to each governmental entity of at least fifty percent (50%) of the allowable salary and allowable tuition, living and travel expense incurred by jail officers in attendance at approved training programs, if the governmental entity does in fact adhere to the training standards established by the board. The board shall authorize, but only from such funds authorized and appropriated by the Legislature, the direct funding of a part-time jail officer training program. The board shall require the payment of a reasonable tuition fee to aid in funding the costs of administering the part-time jail officer training program.

(3) The board is authorized to expend funds for the purpose of providing a professional library and training aids that will be available to police and sheriff departments.

(4) If any jail officer in this state who is employed by a county shall, within three (3) years after the date of his employment, resign from, or be terminated from, employment by such county and immediately become employed by another governmental entity in a jail officer capacity, then the governmental entity by which the resigned or terminated officer is employed shall reimburse the county from which the officer resigned or was terminated a proportionate share of the jail officer's training expenses which were incurred by such entity, if any. 1999, 482; 2000, 515.

**45-4-13. Counties prohibited from paying salaries of uncertified jail officers.** Any governmental entity that employs a person as a jail officer who does not meet the requirements of this chapter, or who employs a person whose certificate has been suspended or revoked under provisions of this chapter, is prohibited from paying the salary of such person, or providing any public monies for the equipment or support of the jail duties of such person and any person violating this subsection shall be personally liable for making such payment. 1999, 482; 2000, 515.

## **CHAPTER 5. LAW ENFORCEMENT OFFICERS TRAINING ACADEMY**

**45-5-9. Sheriff may appoint extra deputies; may attend and instruct training academy; expenses.** The sheriff of each county ... may appoint extra deputies and they may serve as instructors at the law enforcement officers training academy, subject to the approval of the commissioner of public safety. Said deputies may be paid such compensation and may be furnished such uniforms and equipment as may be agreed upon by the sheriff with approval of the board of supervisors ... same to be paid from any available county funds. Each deputy shall give bond in a penalty of \$25,000.00 ... and the premiums ... shall be paid from any available county funds. 1964, 324; 1986, 458.

**45-5-11. Appropriations; tuition fees; payment of expenses of officers attending academy; grants and donations may be accepted.** The Legislature may appropriate funds to carry out the purposes of this chapter in whole or in part. The commissioner shall establish and charge reasonable tuition fees to be paid. Any municipality, county, district or other political subdivision or agency of the state is hereby authorized to pay the expenses, including tuition of any of its officers or officer-designees or officers-elect for attending the academy. All municipalities, counties, districts, other political subdivisions and agencies of the state shall comply with subsection (4) of Section 45-6-13 in the event that an officer leaves one governmental entity and becomes employed by another governmental entity within three (3) years. Grants and donations to the academy may be accepted from individuals, firms, corporations, foundations and other interested organizations societies. 1964, 324; 1993, 458.

## **CHAPTER 6. LAW ENFORCEMENT OFFICERS TRAINING PROGRAM**

45-6-3. Definition of Part-Time Law Enforcement Officer. For the purposes of this chapter, the following words shall have the following meanings ascribed herein, unless the context shall otherwise require:

(a) "Commission" means the Criminal Justice Planning Commission.

(b) "Board" means the Board on Law Enforcement Officer Standards and Training.

(c) "Law enforcement officer" means any person appointed or employed full time by the state or any political subdivision thereof, or by the state military department as provided in Section 33-1-33, who is duly sworn and vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime, the apprehension of criminals and the enforcement of criminal and traffic laws of this state and/or the ordinances of any political subdivision thereof. The term "law enforcement officer" also includes employees of the Department of Corrections who are designated as law enforcement officers by the Commissioner of Corrections pursuant to Section 47-5-54, and includes those district attorney criminal investigators who are designated as law enforcement officers. However, the term "law enforcement officer" shall not mean or include any elected official or any person employed as a legal assistant to a district attorney in this state, compliance agents of the State Board of Pharmacy, or any person or elected official who, subject to approval by the board, provides some criminal justice related services for a law enforcement agency. As used in this paragraph "appointed or employed full time" means any person who is receiving gross compensation for his duties as a law enforcement officer of Two Hundred Fifty Dollars (\$250.00) or more per week or One Thousand Seventy-five Dollars (\$1,075.00) or more per month.

(d) "Part-time law enforcement officer" shall mean any person appointed or employed in a part-time, reserve or auxiliary capacity by the state or any political subdivision thereof who is duly sworn and vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime, the apprehension of criminals and the enforcement of the criminal and traffic laws of this state or the ordinances of any political subdivision thereof. However, the term "part-time law enforcement officer" shall not mean or include any person or elected official who, subject to approval by the board, provides some criminal justice related services for a law enforcement agency. As used in this paragraph, "appointed or employed" means any person who is performing such duties at any time whether or not they receive any compensation for duties as a law enforcement officer provided that such compensation is less than Two Hundred Fifty (\$250.00) per week or One Thousand Seventy-five Dollars (\$1,075.00) per month.

(e) "Law enforcement trainee" shall mean any person appointed or employed in a full-time, part-time, reserve or auxiliary capacity by the state or any political subdivision thereof for the purposes of completing all the selection and training requirements established by the board to become a law enforcement officer or a part-time law enforcement officer. Such individuals shall not have the authority to use force, bear arms, make arrests or exercise any of the powers of a peace officer unless:

(i) The trainee is under the direct control and supervision of a law enforcement officer;

(ii) The trainee was previously certified under this chapter; or

(iii) The trainee is a certified law enforcement officer in a reciprocating state.

1981, 474; 1992, 531; 1993, 416; 1996, 422; 1998, 394; 2003, 490; 2004, 388; 2007, 510.

45-6-5. Board on Law Enforcement Officer Standards and Training created. 1981, 474; 1991, 596.

45-6-11. Law enforcement officer qualifications; recertification after leaving law enforcement; certification; reprimand, suspension or revocation of certification.

(1) Law enforcement officers already serving under permanent appointment on July 1, 1981 and personnel of the division of community services under Section 47-7-9, Mississippi Code of 1972, serving on July 1, 1994, shall not be required to meet any requirement of subsections (3) and (4) of this section as a condition of continued employment; nor shall failure of any such law enforcement officer to fulfill such requirements make that person ineligible for any promotional examination for which that person is otherwise eligible. Provided, however, if any law enforcement officer certified under the provisions of this chapter leaves his employment as such and

does not become employed as a law enforcement officer within two (2) years from the date of termination of his prior employment, he shall be required to comply with board policy as to rehiring standards in order to be employed as a law enforcement officer; except, that, if any law enforcement officer certified under this chapter leaves his employment as such to serve as a sheriff, he may be employed as a law enforcement officer after he has completed his service as a sheriff without being required to comply with board policy as to rehiring standards. Part-time law enforcement officers serving on or before July 1, 1998, shall have until July 1, 2001, to obtain certification as a part-time officer.

(2) Any person who has twenty (20) years of law enforcement experience and who is eligible to be certified under this section shall be eligible for recertification after leaving law enforcement on the same basis as someone who has taken the basic training course. Application to the board to qualify under this subsection shall be made no later than June 30, 1993.

(3)(a) No person shall be appointed or employed as a law enforcement officer or a part-time law enforcement officer unless that person has been certified as being qualified under the provisions of subsection (4) of this section.

(b) No person shall be appointed or employed as a law enforcement trainee by any law enforcement unit for a period to exceed two (2) years. The prohibition against the appointment or employment of a law enforcement trainee for a period not to exceed two (2) years may not be nullified by terminating the appointment or employment of such a person before the expiration of the time period and then rehiring the person for another period. Any person who, due to illness or other events beyond his control, could not attend the required school or training as scheduled, may serve with full pay and benefits in such a capacity until he can attend the required school or training.

(c) No person shall serve as a law enforcement officer in any full-time, part-time, reserve or auxiliary capacity during a period when that person's certification has been suspended, cancelled or recalled pursuant to the provisions of this chapter.

(4) In addition to the requirements of subsections (3), (7) and (8) of this section, the board, by rules and regulations consistent with other provisions of law, shall fix other qualifications for the employment of law enforcement officers, including minimum age, education, physical and mental standards, citizenship, good moral character, experience and such other matters as relate to the competence and reliability of persons to assume and discharge the responsibilities of law enforcement officers, and the board shall prescribe the means for presenting evidence of fulfillment of these requirements. Additionally, the board shall fix qualifications for the appointment or employment of part-time law enforcement officers to essentially the same standards and requirements as law enforcement officers. The board shall develop and implement a part-time law enforcement officer training program that meets the same performance objectives and has essentially the same or similar content as the programs approved by the board for full-time law enforcement officers and the board shall provide that such training shall be available locally and held at times convenient to the persons required to receive such training.

(5) Any elected sheriff, constable, deputy or chief of police may apply for certification. Such certification shall be granted at the request of the elected official after providing evidence of satisfaction of the requirements of subsections (3) and (4) of this section. Certification granted to such elected officials shall be granted under the same standards and conditions as established by law enforcement officers and shall be subject to recall as in subsection (7) of this section.

(6) The board shall issue a certificate evidencing satisfaction of the requirements of subsections (3) and (4) of this section to any applicant who presents such evidence as may be required by its rules and regulations of satisfactory completion of a program or course of instruction in another jurisdiction equivalent in content and quality to that required by the board for approved law enforcement officer education and training programs in this state, and has satisfactorily passed any and all diagnostic testing and evaluation as required by the board to ensure competency.

(7) Professional certificates remain the property of the board, and the board reserves the right to either reprimand the holder of a certificate, suspend a certificate upon conditions imposed by the board, or cancel and recall any certificate when:

- (a) The certificate was issued by administrative error;
- (b) The certificate was obtained through misrepresentation or fraud;

- (c) The holder has been convicted of any crime involving moral turpitude;
- (d) The holder has been convicted of a felony; or
- (e) Other due cause as determined by the board.

(8) When the board believes there is a reasonable basis for either the reprimand, suspension, cancellation of, or recalling the certification of a law enforcement officer or a part-time law enforcement training officer, notice and opportunity for a hearing shall be provided in accordance with law prior to such reprimand, suspension or revocation.

(9) Any full- or part-time law enforcement officer aggrieved by the findings and order of the board may file an appeal with the chancery court of the county in which such person is employed from the final order of the board. Such appeals must be filed within thirty (30) days of the final order of the board.

(10) Any full- or part-time law enforcement officer whose certification has been cancelled pursuant to this chapter may reapply for certification, but not sooner than two (2) years after the date on which the order of the board cancelling such certification becomes final. 1981, 474; 1990, 434; 1992, 415; 1993, 584; 1994, 516; 1998, 394; 1999, 506.

Cross references-

Definition of a part-time law enforcement officer, see 45-6-1.

45-6-13. Reimbursement for attending training program; professional library.

(1) The board shall establish, provide or maintain law enforcement training programs through such agencies and institutions as the board may deem appropriate.

(2) The board shall authorize, but only from such funds authorized and appropriated by the Legislature, the reimbursement to each political subdivision and to state agencies of at least fifty percent (50%) of the allowable salary and allowable tuition, living and travel expense incurred by law enforcement officers in attendance at approved training programs, provided said political subdivisions and state agencies do in fact adhere to the selection and training standards established by the board. The board shall authorize, but only from such funds authorized and appropriated by the Legislature, the direct funding of a part-time law enforcement officer training program. The board shall require the payment of a reasonable tuition fee to aid in funding the costs of administering the part-time law enforcement law enforcement officer training program.

(3) The board is authorized to expend funds for the purpose of providing a professional library and training aids that will be available to state agencies and political subdivisions.

(4) If any full- or part-time law enforcement officer in this state who is employed by a municipality, county or other governmental entity shall, within three (3) years after the date of his employment, resign from, or be terminated from, employment by such entity and immediately become employed by another governmental entity in a law enforcement capacity, then the governmental entity by which the resigned or terminated officer is employed shall reimburse the governmental entity from which the officer resigned or was terminated a proportionate share of the officer's law enforcement training expenses which were incurred by such entity, if any. 1981, 474; 1993, 458; 1998, 394.

45-6-17. Noncomplying officers and officers with certificates revoked or suspended not to exercise powers; salary not to be paid.

(1) Any full- or part-time law enforcement officer who does not comply with the provisions of this chapter, or whose certificate has been suspended or revoked under provisions of this chapter, shall not be authorized to exercise the powers of law enforcement officers generally, and particularly shall not be authorized to exercise the power of arrest.

(2) Any state agency or political subdivision that employs a person as a full- or part-time law enforcement officer who does not meet the requirements of this chapter, or who employs a person whose certificate has been suspended or revoked under provisions of this chapter, is prohibited from paying the salary of such person, or providing any public monies for the equipment or support of the law enforcement activities of such person and any

person violating this subsection shall be personally liable for making such payment. 1981, 474; 1992, 415; 1998, 394.

## **CHAPTER 7. COUNTY PATROL OFFICERS**

**45-7-1. Counties may employ men to enforce road laws.** The board of supervisors may employ not exceeding three men in counties of Classes 1 and 2, and not exceeding two men to be regularly employed at any time in counties of other classes, whose duty it shall be to patrol the roads of the county and to enforce the road and motor vehicle laws. 1946, 277.

**45-7-5. Compensation--transportation.** Subject to the provisions of this section the board of supervisors may compensate the county patrol officers an amount not to exceed \$500.00 per month for any one county. In no case shall any one patrol officer receive compensation in excess of \$200.00 per month. In addition to such compensation, the board of supervisors may furnish the patrol officers means of transportation. Special provisions are made for compensation of patrol officers in the following counties (by description): Yazoo, \$1,000.00 per month, but limited to \$500.00 per officer; Wilkinson, 400.00 per month per officer; Warren, \$1,500.00 per month, but limited to \$500.00 per month per officer; George, \$650.00 per month per officer; Kemper, \$600.00 per month per officer; Attala, \$2,000.00 per month per officer. 1976, 325; 2001, 441.

**45-7-21. Employment of patrol officers in certain Counties.** In addition to the power granted in Section 45-7-5, the board of supervisors in Hinds County (by description) may employ not exceeding nine persons, and in Madison County (by description) may employ not exceeding seven persons, whose duty it shall be to patrol the roads of the county and to enforce the road and motor vehicle laws. In Rankin County (by description) the board may employ one patrol officer for the supervisor's district wherein are located two incorporated municipalities. 1973, 492; 1980, 395.

**45-7-23 through 45-7-25. Radio equipment and uniforms.** The board of supervisors may acquire radio transmitting and receiving equipment for use by county patrol officers. Also, under the provisions of Section 45-7-23, the board may purchase uniforms for the county patrolmen. 1956, 196.

**Cross references--**

As to acquisition and operation of radio stations for law enforcement, see §19-5-5.

**45-7-27. Compensation of patrol officers--transportation--bond.** The board of supervisors may compensate the county patrol officers in an amount not to exceed \$2,000.00 per month for any one county and in no case shall any one patrol officer be paid in excess of \$400.00 per month. In addition, patrol officers may be furnished with means of transportation or shall be reimbursed for their actual and proven transportation expenses. All such compensation shall be paid out of the general county fund.

The boards of supervisors of Hinds, Madison, Copiah, and Jackson counties (by description) may compensate each such officer not to exceed \$1,500.00 per month.

The board of supervisors of Rankin County (by description) may pay the patrol officer in the district wherein are located two municipalities not to exceed \$450.00 per month.

Bond for each patrol officer shall be in the sum of \$10,000.00, the premium to be paid from the general county fund or from the special fund previously mentioned. 1979, 503; 1980, 557; 1985, 415; 1986, 400, 458; 1988, 500.

**45-7-41. Employment of patrol officers.** In addition to the counties provided for in the foregoing sections, this section makes special provision for Harrison, Lauderdale and Adams counties (by description), the first two being permitted to have as many as five road patrolmen and the latter not more than two of said officers. 1976, 338.

45-7-45. Compensation; transportation; uniforms; equipment. The board of supervisors of Harrison and Lauderdale counties (by description) may pay the county patrol officers an amount not to exceed \$5,000.00 per month for any one county; in no case shall any one patrol officer receive in excess of \$950.00 per month. Said board may also pay a reimbursement for expenses in an amount not to exceed \$500.00 per month for any one county-, in no case shall any one patrol officer receive in excess of \$100.00 per month. The board of supervisors of Adams County (by description) may pay the county patrol officers in an amount not to exceed \$1,000.00 per month; in no case shall any one patrol officer receive in excess of \$500.00 per month. The board of supervisors of any of these counties may furnish said patrol officers means of transportation or reimburse them for their actual travel expenses. Board may furnish uniforms and radios. All salaries to be paid from the general fund. 1980, 557.

## **CHAPTER 11. UNIFORM MINIMUM TRAINING STANDARDS FOR FIREFIGHTERS**

45-11-203. Employment of persons not completing training standards prohibited; training standards.

(1) After January 1, 1991, no person shall be employed as a full-time fire fighter by any local government, fire fighting unit for a period exceeding one (1) year, nor for a cumulative time exceeding two thousand eight hundred (2,800) compensated hours; unless that person is certified as completing the mandatory training requirements in subsection (2). Any state agency or political subdivision that employs a person as a fire fighter who does not meet the requirements of subsection (2) of this section is prohibited from paying the salary of such person, and any person violating this subsection shall be personally liable for making such payment. The Mississippi Fire Personnel Minimum Standards and Certification Board may grant an extension to individuals employed within the guidelines as established by the board not to exceed an additional year. Fire fighters serving as full-time employees prior to January 1, 1991, in a local fire fighting unit shall not be required to meet the minimum requirements in subsection (2).

(2) The uniform training standards for all paid fire fighters shall consist of satisfactory completion of a training program administered by the State Fire Academy or local governments that have the proper facilities and have been certified by the Mississippi Fire Personnel Minimum Standards and Certification Board which shall utilize National Fire Protection Association fire service professional qualification standards. 1994, 349.

## **TITLE 47. PRISONS AND PRISONERS**

### **CHAPTER 1. COUNTY PRISONS AND PRISONERS**

47-1-5. County convict farm. Boards of supervisors are granted authority to buy or lease a sufficient number of acres of land within reasonable and convenient distance of the county jail to be used by the county as a county convict farm. The board may have such work performed as is necessary to improve such farm, shall employ a superintendent thereof, and may buy or rent necessary mules or horses, tractors, farming tools and implements necessary to operate such farm. 1908, 168.

47-1-7. Board of supervisors of contiguous counties may own farm jointly--working prisoners in another county. 1960, 283.

47-1-9. Convicts may be worked on public roads or other county public works. 1908, 109.

47-1-21. Sheriff to keep a jail docket--what to contain. The sheriff shall keep a well bound alphabetical jail docket. In it he shall enter the name, age, color, and sex of each convict, the date of his or her commitment, each day worked on the county farm, time required to be served and amount of fine and costs and



the jail fees charged against the prisoner and the date of discharge. Said docket is to be presented to the board of supervisors at each of their regular meetings. 1908, 109.

47-1-37. Board of supervisors may hire additional labor to work on county farm. If it appears to be necessary, in order that crops may be gathered, and for other good reasons, the board of supervisors may, because of the lack of convict labor, employ free labor at current prices to complete and gather the crops started on the county farm, and pay for same out of the general fund. 1908, 109.

47-1-43. Keeping of county offenders in municipal jails pending trials; costs. The board of supervisors may enter into agreements with municipalities providing for the keeping of persons arrested for offenses committed within the county in which the municipality is located in the jail facilities of such municipality pending trial of such person. The sum to be paid for each such person shall not exceed \$5.00 for each day or part thereof 1968, 288.

47-1-49. Control over jails owned jointly by municipalities and counties. In the case of a jail owned jointly by a county and municipality, under the provisions of Section 17-5-1, the governing authorities of the county and municipality are hereby vested with full and complete authority, jurisdiction and control over such jointly owned jail facility and the governing authority of the municipality may appoint a jailer who shall be responsible for all municipal prisoners lodged in said jail in the same manner in which the sheriff is responsible for state prisoners, and such jailer shall have the same right of access to the jail as the sheriff. 1966, 369.

47-1-57. Furnishing of medical aid to prisoners; nurse screening for county prisoner for non-emergency medical complaints.

(1) When any person confined in jail shall be in need of medical or surgical aid, the sheriff shall immediately examine the condition of such prisoner and, if he is of the opinion that the prisoner needs such aid, he shall call in a nurse or physician to attend him. If the prisoner be unable to pay the cost, the account of the nurse or physician, when allowed and certified as required in respect to accounts of sheriffs for keeping prisoners, shall be paid, in like manner, out of the treasury of the county in which a prisoner is charged with the crime for which he is imprisoned. The board of supervisors may contract with a physician for the jail by the year.

(2) The board of supervisors of any county may authorize the sheriff to establish a program under which prisoners expressing the need for non-emergency medical attention will have access to a registered nurse who will evaluate their condition and determine the necessity for treatment by a physician. Charges for such a visit with a registered nurse shall be paid by the prisoner by deductions made by the sheriff out of any funds of the prisoner held by the sheriff or in any other manner satisfactory to the sheriff; however, such prisoner shall not be required to pay out of funds of the prisoner held by the sheriff, more than ten dollars (\$10.00) per visit. If the prisoner is unable to pay the cost, the costs shall be paid out of the county treasury in the same manner as provided for payment of other medical costs in subsection (1) of this section. 1994, 642.

47-1-59. Hospitalization of prisoners--expenses. 1971, 401.

### **CHAPTER 3. REMOVAL OF PRISONERS**

47-3-1. Removal to jail of another county. This section provides for the manner of transferring a county prisoner to a jail in another county. The county in which the offense is committed, or where the case stands for trial, shall pay all the expenses of such removal and safekeeping and return of the accused for trial. 1973, 319.

### **CHAPTER 4. PRIVATELY OPERATED CORRECTIONAL FACILITIES**

47-4-1. Privately operated correctional facilities authorized for federal and other states' inmates. 1992, 537; 1994 ex sess ch. 26, §5; 1997, 486.

## **CHAPTER 5. STATE OFFENDERS SERVING SENTENCES IN COUNTY JAILS**

### 47-5-116. Installation of "Biddle guard" on vehicle transporting prisoner.

(1) The term "Biddle guard" means a device or partition installed in a vehicle operated by a law enforcement officer which separates the front and rear passenger compartments.

(2) It is unlawful to transport a prisoner who is committed to the Department of Corrections in a vehicle which is not equipped with a secure Biddle guard. Each prisoner shall be restrained and a state, county, municipal or private correctional facility shall not release a prisoner into the custody of a law enforcement officer unless the prisoner is being transported in a vehicle equipped in accordance with this section.

(3) The Commissioner of Corrections, sheriff or chief law enforcement officer who is responsible for a vehicle in which any transportation in violation of this section occurs shall be assessed a civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) which shall be collected by the Attorney General and paid into the State Treasury.

(4) The Commissioner of Corrections, sheriff or chief law enforcement officer who is responsible for a vehicle in which a prisoner is transported in violation of this section shall not be liable personally for any damages arising from injuries to persons or property caused by a prisoner who has escaped while being transported in violation of this section.

(5) This section does not apply to any vehicle used by a correctional officer for transporting prisoners on the grounds of a correctional facility under the jurisdiction of the department, to any vehicle used by a field officer of the Department of Corrections when taking a prisoner into the custody of the Department of Corrections or to any vehicle used to transport prisoners in work release programs. 1989, 380; 1999; 525.

47-5-901. Service of sentence in county jail, reimbursement of costs. .....(2) If state prisoners are housed in county jails due to a lack of capacity at state correctional institutions, the Department of Corrections shall determine the cost for food and medical attention for such prisoners. The cost of feeding and housing offenders confined in such county jails shall be based on actual costs or contract price per prisoner not to exceed Twenty Dollars (\$20.00) per day per offender.

(3)(a) Upon vouchers submitted by the board of supervisors of any county housing persons due to lack of space at state institutions, the Department of Corrections shall pay to such county, out of any available funds, the actual cost of food, or contract price per prisoner, not to exceed Twenty Dollars (\$20.00) per day per offender, as determined under subsection (2) of this section for each day an offender is so confined beginning the day that the Department of Corrections receives a certified copy of the sentencing order and will terminate on the date on which the offender is released or otherwise removed from the custody of the county jail. The department shall pay the cost for medical attention for prisoners at an amount no greater than the reimbursement rate based on the Mississippi Medicaid reimbursement rate. This limitation applies to all medical care services, durable and nondurable goods, prescription drugs and medications. Such payment shall be placed in the county general fund and shall be expended only for food and medical attention for such persons.

(b) Upon vouchers submitted by the board of supervisors of any county housing offenders in county jails pending a probation or parole revocation hearing, the department shall pay, out of any available funds, the reimbursement costs provided in paragraph (a).

(c) If the probation or parole of an offender is revoked, the additional cost of housing the offender pending the revocation hearing shall be assessed as part of the offender's court cost and shall be remitted to the department.

(4) A person, on order of the sentencing court, may serve not more than twenty-four (24) months of his sentence

in a county jail if the person is classified in accordance with [Section 47-5-905](#) and the county jail is an approved county jail for housing state inmates under federal court order. The sheriff of the county shall have the right to petition the Commissioner of Corrections to remove the inmate from the county jail. The county shall be reimbursed in accordance with subsection (2)....

SB 2005 Ext. Session 1994; 1995, 566; 1997, 408; 1998, 419; 1999, 538; 2002, 426, 624; 2003, 421; 2004, 537; 2007, 603.

## **TITLE 49. CONSERVATION AND ECOLOGY**

### **CHAPTER 5. FISH AND GAME PROTECTION**

49-5-3. Board of supervisors authority in regard to bird and game preserve or sanctuary.

49-5-51. Disposition of fines. All moneys collected as fines or penalties for violations of the provisions of this chapter, or any law or regulation for the protection of wild animals, birds or fish, shall be paid over by the court, justice court judge, or other office collecting or receiving the fines and penalties to the county having jurisdiction over the violations as provided by law. 1994, 372.

### **CHAPTER 7. HUNTING AND FISHING**

49-7-21. License certificates; hunting, trapping or fishing without license prohibited; penalties.

49-7-23. Sale of hunting and fishing licenses by constables designated as deputy conservation officers. The executive director may designate constables as deputy conservation officers, and constables so designated may be permitted to sell hunting and fishing licenses and may retain the fee provided in Section 49-7-17 for issuing each such license. 1974, 569; 1978, 465; 1988, 435; 2000, 516.

49-7-25. Hunting and fishing licenses; records and reports. Each officer authorized to issue licenses shall keep in a book to be supplied to him by the commission, a correct and complete list, in numerical order, of all licenses, resident or nonresident, issued by him. He shall enter at the close of each week the name and residence of each individual to whom a license was issued during that week, and shall on or before the tenth day of each month, forward to the executive director, on blanks furnished to him by the executive director, a complete list of all licenses so granted, with the name and address of each licensee, and shall pay over to the executive director all sums collected by him for licenses during the preceding month, and at the end of the license year shall render a final report and return to the executive director all license stubs and all unused or mutilated license blanks. Thereupon the executive director shall cause the account of the officer to be audited and a final statement furnished such officer on the condition of the account. 1932, 123; 2000, 516.

49-7-201. Board of supervisors may participate in beaver control.

### **CHAPTER 17. POLLUTION OF WATERS, AIR, ETC.**

49-17-17. Grants made to and repaid by political subdivisions. 1972, 505; 1977, 327; 1981, 528; 1982, 411.

49-17-69. Repayment of grant by political subdivisions for construction of waste disposal plant; audit. 1972, 403; 1983, 383; 1988, SB 2087; 1994, 418; 2006, 545.

49-17-85. Water pollution control revolving fund established. Establishes procedures for pollution control grants to political subdivisions. 1997, 416; 2002, 490; 2004, 570; 2006, 545; 2007, 580.

49-17-101 through 49-17-123. County and municipal bonds for pollution control. 1973, 505; 1977, 420; 1985, SB 2113.

Cross references--

As to uniform system for issuance of county bonds, see §§19-9-1, *et seq.*

## CHAPTER 19. FORESTS AND FOREST PROTECTION

49-19-13. Part of severance tax may be donated by county for forestry work. Boards of supervisors may pay to the state forestry commission from the general fund of the county each year a sum of money not exceeding 25% of the forest (timber) severance tax received by the county the preceding year, such money to be used by the said forestry commission for forestry work and protection in said county. 1942, 220.

49-19-23. Federal forest funds--part to be allocated to counties. All national forestry reserve funds paid into the state treasury shall be apportioned by the state treasurer to the counties in which such national forest lands are located, in proportion to the area of such national forest lands in each county. Of the funds received by each county 50% shall be expended for the benefit of the public schools, and the remaining 50% shall be expended for the benefit of the public roads or of the public schools, in the discretion of the board of supervisors. Special provisions as to division of such funds are made for three counties [see code]. 1970, 320.

49-19-115. Forest acreage tax--Supervisors may levy.

(1) The board of supervisors of all counties are hereby directed to levy a special tax to be known as "the forest acreage tax." Such tax shall be Two Cents per acre on all timbered and uncultivable lands in the county in order to receive the financial and supervisory cooperation of the State Forestry Commission in carrying out organized forest fire control and other provisions of Sections 49-19-111 through 49-19-117.

(2) In addition to the tax levied under subsection (1) of this section, the board of supervisors of all counties are hereby directed to levy an additional forest acreage tax on all timbered and uncultivable lands in the county beginning October 1, 1989, and continuing for three (3) succeeding years in the following amounts:

	<u>Increase</u>	<u>Total Acreage Tax</u>
Fiscal year ending .....	\$.03 per acre ...	\$.05 per acre
September 30, 1990		
Fiscal year ending .....	\$.02 per acre ...	\$.07 per acre
September 30, 1991		
Fiscal year ending .....	\$.02 per acre ...	\$.09 per acre
September 30, 1992		

Upon completion of the third year, the total acreage tax shall remain at the Nine Cents (\$.09) per acre per year.

(3) Uncultivable lands shall not include bogs, unreclaimed strip mine areas, coastal beach sands, tidal and freshwater marshes, beaver ponds and flood or flowage easements.

(4) Those homeowners described in Section 27-33-67(2), who qualify for the exemptions allowed in Article 1, Chapter 33, Title 27, Mississippi Code of 1972, shall be exempt from any forest acreage tax levied pursuant to this section.

(5) The provisions of this section and the tax levy required herein shall not be applicable to any counties which were not levying such forest acreage tax on January 1, 1989.

(6) This section shall be repealed on June 30, 2008. 1980, 459; 1984, 453; 1989, 514; 1996, 490; 2003, 523; 2006, 599.

**49-19-117. Use of funds by state forestry commission.**

(1) All forest acreage taxes assessed and collected by such levy as provided for in Section 49-19-115 shall be remitted to the forest acreage account in the State Treasury and shall be expended by the Forestry Commission as the commission may deem necessary in carrying out the purpose and intent of Sections 49-19-111 through 49-19-117.

(2) The State Forestry Commission is hereby authorized to use state funds appropriated for the purpose of Sections 49-19-111 through 49-19-117 in addition to any funds made available from county forest acreage taxes, federal funds, and other sources.

(3) The State Forestry Commission is hereby authorized to expend the funds herein provided in such manner as to most effectively carry out the provisions of Sections 49-19-111 through 49-19-117. The forest acreage tax levied at the rate of Two Cents (\$.02) per acre under Section 49-19-115(l) shall be utilized on an economical and practical basis in order to foster, encourage, promote and bring about forestry education, timber management and organized forest fire control throughout the State of Mississippi. The additional forest acreage tax levied under Section 49-19-115(2) shall be utilized by the State Forestry Commission to purchase fire support equipment, including transport trucks, tractors and other related fire support equipment. The additional forest acreage tax levied under Section 49-19-115(2) shall be appropriated under the appropriation process. 1973, 369; 1982, 348; 1984, 495; 1986, 438; 1987, 483; 1992, 491.

**49-19-351. Restrictions on outdoor burning during drought or wildfire conditions; penalties.**

(1) In this section, "drought or wildfire conditions" means the existence of a deficit of moisture creating severe conditions with increased wildfire occurrences as determined by the State Forestry Commission through use of drought indices or models or the existence of extreme wildfire conditions.

(2) If the State Forestry Commission determines that drought or wildfire conditions exist in a county, the commission shall notify the board of supervisors of that county. The commission may recommend that a temporary outdoor burning ban or other restrictions be adopted by the board of supervisors.

(3) The board of supervisors may, by order, prohibit or restrict outdoor burning in all or part of the unincorporated parts of the county if drought or wildfire conditions have been determined to exist by the State Forestry Commission. An order must specify the period during which burning is restricted. The State Forestry Commission shall notify the board of supervisors when the drought or wildfire conditions no longer exist. Any order issued under this section shall expire upon the determination that the drought or wildfire conditions no longer exist.

(4) Any person who knowingly and willfully violates an order under this section is guilty of a misdemeanor and may be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00).

(5) The sheriff of the county shall enforce the order and may cite persons for violations of an order under this section. 2000, 420.

**TITLE 51. WATER AND WATER RESOURCES**

**CHAPTER 7. WATER MANAGEMENT DISTRICTS**

**51-7-27. Authority to borrow money and issue bonds.** 1976,352; 1983,494; 1985, SB 2113.

**51-7-29. Tax assessment and levies for water management districts.** This section provides

the manner in which the board of supervisors shall levy a tax for the support and maintenance of water management districts. 1977, 332; 1995, 392.

51-7-30. Assessment of benefited lands outside of district. If the commissioners at any time either before or after the organization of the district find that other land not embraced within the boundaries of the district will be benefited by the proposed improvement or improvements already made, they shall assess the estimated benefit to such lands and shall specially report to the chancery court, or chancellor in vacation, the assessments which they have made on land beyond the boundaries of the district, as already established. It shall thereupon be the duty of the clerk of the chancery court to give notice by two weekly insertions in a newspaper published in the county where such lands lie, describing the additional lands which have been assessed. The owners of real property so assessed shall be allowed not less than ten days after the last required publication of such notice in which to file with the clerk of the chancery court in writing their protest against being so assessed, or included within the district. The chancery court, or chancellor in vacation, shall within ninety days, investigate the question whether the lands beyond the boundaries of the district so assessed by the commissioners will in fact be benefited by the making of the improvement, and from its finding in that regard, either the property owner or the commissioners may, within twenty days, appeal to the supreme court. If the finding is in favor of the commissioners, the limits of the district shall be extended so as to embrace any lands that may be benefited by the making of the improvement. 1972, 529.

## **CHAPTER 8. JOINT WATER MANAGEMENT DISTRICTS**

51-8-1. Board of supervisors may create a joint water management district.

## **CHAPTER 9. PEARL RIVER REGION AND WATER SUPPLY**

51-9-11. Donations by certain counties to Pearl River Industrial Commission. Boards of supervisors of counties bordering on the Pearl River, or through which said river flows, may appropriate and donate such a sum of money as may by said boards be deemed reasonable and advisable to the Pearl River Industrial Commission and same shall be paid out of the general fund. 1963, 1st Ex Sess, 12.

51-9-101 through 51-9-163. Pearl River Water Supply District. All statutes, including those having to do with bonds and their repayment and tax levies to be levied by boards of supervisors for the Pearl River Water Supply District, are included in these sections. Counties affected are Hinds, Madison, Rankin, Leake and Scott. 1958, 197; 1993, 615.

## **CHAPTER 11. PEARL RIVER BASIN DEVELOPMENT DISTRICT**

51-11-1 through 51-11-51. Pearl River Basin Development District. Particular attention is directed to Section 51-11-31, which provides that each county in the district shall pay annually into the development district treasury a sum equal to one-half mill of the total assessed valuation of the county, same to be applied against any bonded indebtedness of said district; Section 51-11-35, which details the appropriation of the tax by the boards of supervisors of the counties concerned. As listed in Section 51-11-7 the counties eligible to be members of the district are: Attala, Copiah, Hancock, Hinds, Jefferson Davis, Lawrence, Leake, Lincoln, Marion, Neshoba, Pearl River, Pike, Rankin, Scott, Simpson, Walthall and Winston. 1964, 255; 1984, 426; 1986, 400; 1993, 615; 1997, 343; 2000, 516; 2004, 403.

## **CHAPTER 13. TOMBIGBEE VALLEY WATER MANAGEMENT DISTRICT**

51-13-101 through 51-13-155. Tombigbee River Valley Water Management District. 1962, 224; 1962; 1964, 251; 1986, 400; 1993, 615; 1995, 616; 2002, 515, 625. [Specifically, Section 51-13-129 for payments by board of supervisors of member counties; Section 51-13-131 for fund appropriation by county.]

## **CHAPTER 15. PAT HARRISON WATERWAY**

51-15-1 through 51-15-161. Pat Harrison Waterway District. [Generally, the provisions contained in these sections pertaining to the Pat Harrison Waterway District are similar to those applicable to other waterway districts.] 1962, 222; 1993, 615; 1995, 559; 1996, 465. [Note Sections 51-15-129 and 51-15-137]; 2005, 396.

## **CHAPTER 29. DRAINAGE DISTRICTS**

51-29-1 through 51-29-165. Drainage districts with local commissioners. [This chapter is devoted to statutes pertaining to drainage districts of Mississippi. Particular attention is directed to the following: Section 51-29-29 (preparation of assessment roll); Section 51-29-47 (board of supervisors to make a tax levy); Section 51-29-51 (collection of assessments); Section 51-29-81 (taxes collected; delinquent lands; settlements); Section 51-29-97 (financial statement and audit).] 1977, 332; 1985, 477; 1991, 573; 1995, 392; 1999, 510; 2004, 401.

## **CHAPTER 31. DRAINAGE DISTRICTS WITH COUNTY COMMISSIONERS**

51-31-1 through 51-31-143. Drainage districts with county commissioners. [ Note particularly Section 51-31-9 (selection of county drainage commissioners); Section 51-31-45 (assessment roll); Section 51-31-53 (payment of assessments); Section 51-31-61 (levy to provide estimated funds); Section 51-31-63 (tax levied to meet assessment); Section 51-31-65 (levy each year to meet bond obligations); Section 51-31-139 (district placed under supervisors)]. 1991, 573; 1995, 392.

## **CHAPTER 33. DRAINAGE DISTRICTS AND SWAMP LAND DISTRICTS**

51-33-1 through 51-33-123. Provisions common to drainage districts and swamp land districts. 1974, 361; 1991, 573; 1993, 615.

## **TITLE 55. PARKS AND RECREATION**

### **CHAPTER 3. STATE PARKS AND FORESTS**

55-3-13. Counties may purchase or condemn lands to be given to state for parks; tax. The board of supervisors of any county in the state is hereby authorized and empowered to purchase or acquire by eminent domain land to be conveyed to the state for state parks, forests and other purposes, as herein provided, and, for that purpose, is authorized and empowered to set aside, appropriate and expend moneys from the general fund. Said board shall have the authority to borrow money to make any such purchases of lands, in anticipation of the collection of taxes for the payment thereof. However, no lands occupied as a bona fide homestead shall be subjected to such power of eminent domain. 1935, 54; 1986, 400.

55-3-15. Disposition of revenues from forests and parks. Seventy-Five percent (75%) of the gross revenue derived from state forests shall be paid into the State Treasury to the credit of the general fund. Twenty-five (25%) derived from state forests shall be paid into the school fund of the county from which the revenue is derived, payment being made to the county as compensation for possible loss of revenue. Seventy-five (75%) of the gross revenue derived from fish and games refuges and/or preserves created and established by the Department of Wildlife, Fisheries and Parks in conjunction with the commission created in Section 55-3-5 shall be paid to the fisheries and wildlife fund of the state to be expended as other funds of the Department of Wildlife, Fisheries and Parks are expended, and twenty-five (25%) of such gross revenue shall be paid into the school fund of the county from which the revenue is derived. 1995, 438.

55-3-61. Appropriations and donations may be made by county boards of supervisors to park commission: tax levy. The board of supervisors of any county wherein a state park is located may pay out of the general county fund annually an amount not to exceed \$5,000.00 to the state park commission for the maintenance and support of the state park within such county. [See special provisions for Bolivar County (by description)]. 1964, 240; 1974, 331; 1986, 400; 1989, 544; 1998, 435.

## **CHAPTER 5. FEDERAL PARKS AND NATIONAL PARKWAYS**

55-5-5. Board of supervisors may convey land interests to federal government.

## **CHAPTER 7. BRIDGE AND PARK COMMISSIONS**

55-7-35. Imposition of tax levy by board of supervisors for payment of bonds of bridge and park commissions. 1962, 216.

## **CHAPTER 9. RECREATIONAL FACILITIES**

55-9-1 through 55-9-57. County and municipal recreational facilities. [Note especially Section 55-9-1 (issuance of bonds); Section 55-9-37 (appropriation for support and maintenance of recreational district); Section 55-9-53 (county recreational commission); Section 55-9-57 (all expenditures to be made from general county fund).] 1962, 209; 1986, 400; 2000, 516.

55-9-81 through 55-9-93. County park systems. [These sections deal with the creation, operation and maintenance of county park systems; how their operating funds are received and handled; fees and business operations; joint operations with other authorities; purchases and contracts; and in Section 55-9-93 is set forth the fact that the board of supervisors wherein is located a county park may appropriate from the general fund annually for the purpose of constructing, supporting and maintaining parks.] 1974, 494; 1985, HB 983; 1986, 400; 1987, 483.

## **CHAPTER 11. HARRISON COUNTY PARKWAY**

55-11-1 through 55-11-21. Harrison County Parkway. 1938, 287; 1975,337; 1986,400.

## **CHAPTER 13. NATCHEZ TRACE PARKWAY**

55-13-1 through 55-13-31. Natchez Trace Parkway. [Note Section 55-13-9 (counties shall pay half of cost of acquiring lands).]



## **CHAPTER 19. BIENVILLE RECREATIONAL DISTRICT**

55-19-1 through 55-19-47. Bienville Recreational District. Section 55-19-7 (creation; board of directors; tax levies); Section 55-19-9 (effect of failure to levy tax); Section 55-19-13 (required tax levy); Section 55-19-14 (reduction of tax levy); Sections 55-19-17, *et seq.* (borrowing of money and issuance of bonds); Section 55-19-31 (gifts and funds; collection of taxes; annual budget); Section 55-19-45 (advancement of funds by counties). 1972, 329; amended 1973, 500; 1983, 494; 1984, 488.

55-19-49. Distribution of funds to member counties. After the payment of any costs or expenses incurred under Sections 55-19-1, *et seq.*, all charges, tolls, rates, gifts, grants, bequests, moneys, tax proceeds and all other funds from any source whatsoever, with accrued interest, if there be any, which came into the possession of the Bienville Recreational District by virtue of the provisions of Sections 55-19-1, *et seq.* shall be distributed to the member counties on the same basis that said funds were received from the member counties. Real, personal or mixed property shall be sold at a fair market value and the proceeds therefrom shall be distributed to member counties on a pro rata basis. All funds distributed to the member counties shall be deposited into the general fund of the county. 1979, 431; 1981, 489.

## **TITLE 57. PLANNING, RESEARCH AND DEVELOPMENT**

### **CHAPTER 1. DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT; INDUSTRIAL ENTERPRISES**

57-1-1 through 57-1-51. Agricultural industrial board. Section 57-1-23 (counties may acquire lands and buildings); Section 57-1-29 (issuance of bonds); Section 57-1-31 (compensation of attorneys employed in bond issuance, etc.)

57-1-301 through 57-1-335. Local governments capital improvements revolving loan program. Establishes a local governments capital improvements revolving loan program for the purpose of assisting counties and municipalities in making capital improvements. 1994, 570; 1995, 415; 1996; 517; 1997, 534; 1999, 577; 2000, 584; 2002, 548; 2005, 497; 2006, 545; 2007, 388; 2007, 388, 1<sup>st</sup> Ex, 1.

### **CHAPTER 3. AGRICULTURE AND INDUSTRY PROGRAM**

57-3-5. Definitions. Definition of "municipality" means any county, supervisors district, incorporated city, town or village in the state. 1976, 419; 1986, 390; 1990, 71.

57-3-9. Additional powers conferred on municipalities. Permits, acquisition, whether by construction, purchase, gift or lease, one or more projects located within or without the municipality, etc. 1976, 419; 1980, 411; 1996, 403.

57-3-19. Bonds issued to finance projects. All bonds issued under authority of this chapter shall be limited obligations ... the principal of and interest on which shall be payable solely out of the revenue derived from the leasing of the project to finance which bonds are issued. Funds received from the sale of bonds may be invested in: bonds or other obligations of the United States; bonds or other obligations, the principal of which is unconditionally guaranteed by the United States; direct obligations issued by the United States or obligations guaranteed in full by the United States; C.O.D.'s issued by qualified depositories of the state of Mississippi; prime commercial paper; or bankers acceptances. 1984, 506; 1993, 397.

57-3-21. Security of bonds. Principal and interest secured by a pledge of the revenues received from the lease or sale of the project; may be secured by a mortgage covering all or any part of the project or any additional property granted as security for the bonds; may be secured by a pledge of the lease of such project and may be secured by such additional security as the governing body may require. ... Further and more detailed provisions are set forth in this section. 1976, 419.

#### **CHAPTER 4. INDUSTRIAL DEVELOPMENT FUND**

57-4-1. Industrial development fund established. 1977, 492; 1984, 324.

57-4-3. State contributions made as loans and credit obligations of political subdivisions. Any state contribution made as a loan on behalf of a political subdivision under the provisions of this chapter is made a full faith and credit obligation of such subdivision to the state. 1977, 492.

57-4-5 through 57-4-21. Other matters concerning state contributions, loans, etc., and their repayment. 1977, 492; 1984, 324.

57-4-23. Purposes for which funds may be used. 1977, 492.

#### **CHAPTER 5. INDUSTRIAL PARKS AND DISTRICTS**

57-5-1 through 57-5-23. Industrial Park Law of 1960. 1960, 386; 1969 ex sess 48, 49.

#### **CHAPTER 7. SALE OR DEVELOPMENT OF AIRPORT LANDS, OR OTHER LANDS, FOR INDUSTRIAL PURPOSES**

57-7-3. Provision for revenue bonds. 1976, 425; 1981, 462; 1982, 434; 1983, 541.

#### **CHAPTER 31. COUNTY INDUSTRIAL DEVELOPMENT AUTHORITIES**

57-31-1 through 57-31-33. County industrial authorities. [This entire chapter affects only Lowndes County (by description).] 1974, 504; 1976, 429; 1985, SB 2113; 1991, 409; 2002, 554; 2004, 424; 2007, 580, 1<sup>st</sup> Ex., 1.

#### **CHAPTER 32. SOUTHEAST MISSISSIPPI INDUSTRIAL COUNCIL**

57-32-1 through 57-32-19. Southeast Mississippi Industrial Council. [This entire chapter affects Jones County and the counties contiguous thereto (Smith, Jasper, Wayne, Perry, Forrest and Covington).] 1976, 432; 1985, HB 983; 1986, 400, 438; 1987, 483; 1992, 491.

#### **CHAPTER 36. CHICKASAW TRAIL ECONOMIC DEVELOPMENT COMPACT**

#### **CHAPTER 41. FINANCING INDUSTRIAL ENTERPRISE PROJECTS**

57-41-1 through 57-41-17. Issuance of notes, security of notes. 1981, 463; 1982, 453; 1983, 541; 1984, 506.

## **CHAPTER 75. MISSISSIPPI MAJOR ECONOMIC IMPACT ACT**

57-75-17. Powers and duties of public agencies; contracts or agreements; failure of public agency to pay indebtedness. 1989, 534; 2004, 3<sup>rd</sup> Ex, 1.

## **TITLE 59. PORTS, HARBORS, LANDINGS AND WATERCRAFT**

### **CHAPTERS 1 THROUGH 19. PORTS, HARBORS AND WATERCRAFT**

59-1-1 through 59-1-45. Harbor or port commissions; powers of political subdivisions. [Note particularly Section 59-1-31 (boards of supervisors authorized to aid port commissions); Section 59-1-33 (counties may join rivers and harbors association).]

59-5-1 through 59-5-69. State ports and harbors. [Note particularly Section 59-5-57 (payment of county's share of state ad valorem taxes for harbor purposes to state port authority).]

59-7-1 through 59-7-519. County and municipal harbors. [Note Section 59-7-1 (port fund; use of state tax); Section 59-7-105 (board of supervisors to issue bonds); Section 59-7-109 (bonds; maturities; interest); Section 59-7-111 (levy of special tax; creation of port bond interest and sinking fund); Section 59-7-121 (proceeds of bond issues to be placed in special fund); Section 59-7-123 (balance to be transferred to port bonds interest and sinking fund); Section 59-7-303 (certain counties authorized to levy tax, or withhold state tax under certain conditions for port fund); Section 59-7-501 (certain counties may issue revenue bonds for port or harbor improvement).] 1971, 445; 1973, 340; 1976, 443; 1976, 448; 1978, 460; 1986, 323; 1984, 444; 1988, 452; 1998, 365, 371.

59-9-1 through 59-9-85. County port authority or development commission.

59-9-13. Compensation; traveling expenses. Each member of any county port authority or county development commission ... shall receive as per diem compensation \$40.00 for each day engaged in attendance of meetings of the county port authority or county development commission or engaged in other duties of the port authority or the commission, not to exceed 120 in any one year, and shall receive their actual traveling expenses, to be audited and allowed by the county port authority or county development commission. 1974, 456; 1984, 445.

59-9-23. Establishment and development of industrial parks. Boards of supervisors may establish industrial parks under the provisions of this section. 1976, 416; 1988, SB 2906.

59-9-41. Revenue bonds. Boards of supervisors may issue revenue bonds for the purposes set out in this chapter. 1976, 416; 1985, SB 2113.

59-9-43. Sale and proceeds of bonds. The handling of the proceeds of bonds issued under the provisions of this chapter are presented in this section. 1976, 416; 1990, 570.

59-11-1 through 59-11-7. County port and harbor commission.

59-13-1 through 59-13-15. Harbor improvements by coast counties.

59-19-1 through 59-19-15. Landings on navigable rivers, bayous, bays or inlets.

## **TITLE 61. AVIATION**

### **CHAPTERS 3 AND 5. AIRPORT AUTHORITIES**

61-3-1 through 61-3-83, Airport authorities.

61-5-1 through 61-5-91. Acquisition, disposition and support of airport facilities.

### **CHAPTER 15. REGISTRATION OF AIRCRAFT**

61-15-11. Fees and taxes; reregistration.

(1) Registration fees shall be paid to and collected by the tax collector of the county in which the aircraft is based.

The registration and reregistration of aircraft shall be subject to the following schedule and rates:

(a) Aircraft other than those described in paragraph (b) of this subsection shall be taxed according to the following schedule:

MAXIMUM CERTIFICATED GROSS WEIGHT OF AIRCRAFT IN POUNDS	..... FEE.....
Less than 3,600	..... 25.00
3,601 through 10,000	..... 250.00
10,001 and over	..... ... 2,500.00

1994, 434.

## **TITLE 63. MOTOR VEHICLES AND TRAFFIC REGULATIONS**

### **CHAPTER 2. MANDATORY USE OF SAFETY SEAT BELTS**

63-2-7. Safety Seat Belt.

(1) A violation of this chapter shall be a misdemeanor, punishable by a fine of Twenty-five Dollars (\$25.00) upon conviction; however, only the operator of a vehicle may be fined for a violation of this chapter by the operator, for a violation of this chapter by a front seat passenger or for a violation of this chapter by a child who is at least four (4) years of age but under eight (8) years of age, regardless of the seat that the child occupies. The maximum fine that may be imposed against the operator of a vehicle for a violation of this chapter by the operator or for a violation of this chapter by one or more passengers shall be Twenty-five Dollars (\$25.00) in the aggregate.

(2) A violation of this chapter shall not be entered on the driving record of any individual so convicted, nor shall any state assessment provided for by Section 99-19-73, or any other state law, be imposed or collected.

This act shall take effect and be in force from and after May 27, 2006 1994, 567; 1998, 501; 2006, 302.

### **CHAPTER 3. TRAFFIC REGULATIONS AND RULES OF THE ROAD**

63-3-212. Localities prohibited from enacting ordinances restricting cell phone use in motor vehicles. No county, municipality or other political subdivision shall enact any ordinance restricting the use of cellular phones in any motor vehicle until such time as the state may authorize a county, municipality or other political subdivision to enact such an ordinance. 2002, 491.

63-3-519. Radar speed detection equipment--restrictions on purchase and use. It shall be unlawful for any person or peace officer or law enforcement agency, except the Mississippi Highway Safety Patrol, to purchase or use or allow to be used any type of radar speed detection equipment upon any public street, road or highway of this state. Exceptions are made in certain cases for municipal law enforcement officers or college or university campus police, but none appear for counties. 1968, 542.

### **CHAPTER 11. IMPLIED CONSENT LAW**

#### 63-11-31. Impoundment or immobilization of vehicles.

(1) In addition to the penalties authorized for any second or subsequent convictions of Section 63-11-30, the court shall order either the impoundment or immobilization of all vehicles registered to the person convicted for the entire length of license suspension to commence upon conviction and persist during the entire driver's license suspension period. However, a county, municipality, sheriff's department or the Department of Public Safety shall not be required to keep, store, maintain, serve as a bailee or otherwise exercise custody over a motor vehicle impounded under the provisions of this section. 2001, 477.

## **TITLE 65. HIGHWAYS, BRIDGES AND FERRIES**

### **CHAPTER 7. PUBLIC ROADS, STREETS, ETC.**

65-7-1. Jurisdiction over county roads; width of roads; drainage; inclusion of new roads in official records.

(1) The board of supervisors of each county shall have full jurisdiction over all matters relating to the public roads of the county, including the establishment, laying out, opening, abandonment, altering, changing, working and maintaining of such roads, except as otherwise provided by Section 170 of the Mississippi Constitution of 1890.

(2) All roads now laid out and opened or hereafter laid out and opened according to law shall be deemed public roads and highways and shall be opened and worked at least sixteen (16) feet wide, wherever practicable, and in any case not less than twelve (12) feet, and any greater width that may be necessary. Ditches and borrow pits shall be kept open or connected so as to drain off the water from the road bed, as far as practicable.

(3) From and after July 1, 2000, no road shall be included as a part of the county road system until and unless the board of supervisors, by appropriate action spread on its minutes, has established or accepted such road and caused the road to be included in the official record of the county road system as provided in Section 65-7-4. 1998, 539.

65-7-4. County road systems; official maps; register; hearings; additions, deletions, and changes.

(1) On or before July 1, 2000, the board of supervisors of each county shall prepare and adopt an official map designating and delineating all public roads on the county road system. Changes to the county road system shall be recorded on this map as soon as is reasonably possible. The map, as it is periodically revised, shall be kept on file in the office of the clerk of the board of supervisors where it shall be available for public inspection.

(2) On or before July 1, 2000, the board of supervisors of each county shall prepare and adopt a county road system register in which shall be entered:

(a) The number and name of each public road on the county road system.

(b) A general reference to the terminal points and course of each such road.

(c) A memorandum of every proceeding in reference to each such road, with the date of such proceeding, and the page and volume of the minute book of the board of supervisors where it is recorded; however, reference to proceedings before July 1, 2000, shall not be required.

(3) Before the initial adoption of the official map and the county road system register, the board of supervisors shall hold a public hearing on the content of the official map and the county road system registry and shall publish notice of the hearing at least one (1) time, not less than two (2) weeks before the date of the hearing, in a newspaper having general circulation in the county.

(4) All subsequent proceedings and changes to the county road system shall be recorded in the county road system register as soon as is reasonably possible. The county road system register, as it is periodically revised, shall be kept on file in the office of the clerk of the board of supervisors where it shall be available for public inspection.

(5) From and after July 1, 2000, the official record of the county road system shall consist of an official map, as provided for in subsection (1) of this section, and the county road system register, as provided for in subsection (2) of this section. The county road system register shall have priority in case of conflict between the register and the official map. The minutes of the board of supervisors containing proceedings with respect to county roads and the county road system shall serve as the official record until such proceedings are recorded on the official map and in the county road system register. The official record of the county road system, at a minimum, shall be revised and updated on or before July 1 of each year.

(6) It is the intention of the Legislature that the initial official record of the county road system prepared and adopted in accordance with this section shall include all public roads that the board of supervisors determines, consistent with fact, as of July 1, 2000, or such date the initial official record is adopted, are laid out and open according to law. From and after July 1, 2000, no road shall be added or deleted from the county road system or otherwise changed except by order or other appropriate action of the board of supervisors and such action shall be recorded in the minutes of the board. All additions, deletions or changes to the county road system shall be recorded in the official record of the county road system as provided for in this section. 1998, 539.

65-7-5. Order of board of supervisors necessary to change road. It shall not be lawful for any person to turn, alter, or change any public road unless by order of supervisors, under penalty of \$50.00 for each offense; and an old road shall not be obstructed until the new road is in all respects fit for travel. 1942, 8288.

65-7-9. Board of supervisors may condemn and remove timber dangerous on public roads.

65-7-15. Board of supervisors to erect signs. Board of supervisors may erect or cause to be erected at all forks, crossroads or road intersections on all of the state highways and all other principal roads within their county, sign or guide boards in compliance with specifications theretofore furnished by the state highway department or state highway engineer. 1926, 224.

65-7-45. Maximum loads of vehicles. The board of supervisors of any county in this state may, at the discretion of such board, regulate the maximum load of any vehicle using the public roads and bridges of such county, or any section or length of any public road, or any particular bridge in such county by order spread on its minutes, which order shall, before being in full force and effect, be first published in a newspaper published in the county for three (3) consecutive weeks, whereupon such resolution shall be in force and effect. 1983, 332.

65-7-57. Board of supervisors shall hear petition to have roads laid out or changed.

65-7-63. Water to be drained from roads. The board of supervisors shall have power, whenever necessary, to drain water off the public roads through and over the adjacent lands, and damages may be allowed and paid to the owners of said adjacent lands in the same manner as is provided in regard to locating public roads. 1942, 8317.

65-7-74. Roads, driveways and parking areas on public school property. The board of supervisors ... may ... construct, maintain and/or repair roads, driveways and parking areas into and on all property owned by any public school district within such county, and the expenditure of funds for the same is hereby authorized from any available funds. 1974, 342.

65-7-75. Board of supervisors may work line roads between two adjoining counties.

65-7-77. Board of supervisors may work road in adjoining counties.

65-7-81. Board of supervisors may maintain state highways lying within the county.

65-7-85. Construction and maintenance by county of streets within municipalities. The several counties of the state, acting by and through the boards of supervisors thereof, are hereby invested, within their discretion, with full authority to expend moneys and to do, within any municipalities of the county all acts regarding construction and maintenance of roads and streets that they may do within the county outside the limits of said municipalities. This authority shall be construed as additional and cumulative to all existing authority for the expenditure of county funds within municipalities. 1971, 324.

65-7-91. Supervisors may establish stations for work. 1988 Ex Sess, 14.

65-7-93. Board of supervisors may employ available road funds to match federal funds.

65-7-95. Methods of construction and maintenance. This section provides for methods of constructing, reconstructing and maintaining public roads and bridges in the state other than those under the charge of the state highway department. The board of supervisors may do any and all things necessary to be done to work, construct, reconstruct and maintain public roads and bridges. The board, in its discretion, may hire a competent engineer to do this work. The board may award contracts, but no contract shall extend beyond thirty days from the termination and end of the board members' terms.

Before the board may rent, lease, or hire any heavy equipment, they shall enter an order adjudicating the necessity for renting such, the purposes for which it is to be used, the type of machinery or equipment, and the reasons why the leasing or renting thereof will promote the public interest of the county. Contracts for leasing or renting of equipment shall be let to the lowest and best bidder. All invoices submitted for the leasing or renting of such machinery or equipment shall identify the equipment by number and name and shall include the number of hours of labor performed and the dates thereof 1980, 90; 1988, 14.

65-7-97. Installment buying prohibited. The boards of supervisors are hereby prohibited from purchasing any machinery or equipment under a contract requiring installment or deferred payments. 1932, 205.

Cross references--

As to purchase of road equipment by the board of supervisors, see §19-13-17.

65-7-99. Acquisition of gravel beds and sale of excess supply.

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

Any county, or road district organized and operating under any road law of the state, is authorized and empowered to purchase and hold, or to lease, any land containing gravel, sand, clay, chert, or other road building material to be used in the construction and maintenance of roads, and to sell off any of such road building material in excess of its own needs. Such land or lease is to be held in the name of the county when purchased or leased by the county, and to be held in the name of the county for the use of the road district when the purchase or lease is made for the district, but no purchase shall be made by a district except with the consent of the board of supervisors. Such land or lease is to be paid for out of the proper county fund when purchased or leased by the county, and to be paid for out of any district, and any funds arising from the sale of material is to be turned back into the fund from which the purchase price was made. And the necessary roads....may be constructed and maintained by the county or road district.

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

Any county is authorized and empowered to purchase and hold, or to lease, any land containing gravel, sand, clay, chert or other road building material to be used in the construction and maintenance of roads, and to sell off any of such road building material in excess of its own needs. Such land or lease is to be held in the name of the county. Such land or lease is to be paid for out of the proper county fund, and any funds arising from the sale of material are to be turned back into the fund from which the purchase price was made. The necessary roads or other means to reach and use the property aforesaid may be constructed and maintained by the county. 1988 Ex Sess, ch. 14.

65-7-101. Timber and gravel for bridges and causeways.

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

The overseer, road commissioner, or contractor of the road on which any bridge or roadway is to be erected or repaired shall have authority to take from the land, stream, bayous, or banks lying within a reasonable distance of the bridge or causeway or roadway the timber, gravel dirt, and other road material necessary for such bridge, causeway, or roadway after the board of supervisors has assessed the value thereof and paid or tendered to the owner of the timber, gravel dirt, or other road material the value thereof, by a warrant on the county treasurer. If the proprietor be dissatisfied with such valuation, he may appeal to the circuit court; but the valuation of the board shall be prima facie evidence of the value of the timber, gravel or dirt. But no shade trees or ornamental trees shall be taken to be used on roads.

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

Whenever any bridge or roadway is to be erected or repaired, the county road manager shall have authority to take from the land, stream, bayous or banks lying within a reasonable distance of the bridge or causeway or roadway the timber, gravel, dirt, and other road material necessary for such bridge, causeway or roadway after the board of supervisors has assessed the value thereof and paid or tendered to the owner of the timber, gravel dirt or other road material the value there-of, by a warrant on the county treasurer. If the proprietor be dissatisfied with such valuation, he may appeal to the circuit court; but the valuation of the board shall be prima



facie evidence of the value of the timber, gravel or dirt. But no shade trees or ornamental trees shall be taken to be used on roads. 1916, 178; 1988 Ex Sess, ch. 14.

65-7-107. Contracts in vacation. Where a contract is made by any member of the board of supervisors in vacation without competitive bids, and the amount of the contract exceeds \$100.00, the board member making such contract shall obtain bids from at least two bidders before making such contract, and to file a statement of the amount of each such bid with the board at its next meeting. 1928, 157.

65-7-113. Working roads with convicts. Board of supervisors may provide for the working of public roads with the convicts sentenced to the county jails, or committed for failure to pay the fine and costs imposed upon them. 1942, 8342.

65-7-115. Supervisors to have general supervision over roads.  
[With regard to any county which is exempt from the provisions of Section 19-2-3, this section shall read as follows:]

The supervisor in each district in each county is to have and is required to exercise general supervision over the public highways of his district.

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

(1) The board of supervisors in each county is to have and is required to exercise jurisdiction over the public highways of the county.

(2) The board of supervisors may by order duly adopted and entered on its minutes, provide for such transportation of individual members of the board as is necessary and essential in the performance of their official duties. 1942, 8343; 1988 Ex Sess, ch. 14.

65-7-117. Members of the board to inspect the roads.  
[With regard to any county which is exempt from the provision 19-2-3, this section shall read as follows:]

Each member of the board of supervisors shall inspect every road, bridge, and ferry in each district at least annually, at times to be fixed by the board, and shall file with the clerk of the board a report, under oath, of the condition of the several roads, bridges and ferries inspected by him, with such recommendations as are needful, which reports shall be presented to the board of supervisors and kept on file for three years.

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

Each member of the board of supervisors shall inspect every road and bridge in the county under the jurisdiction of the county not later than December 31, 1989, and, thereafter, not less than once each fiscal year. Each member shall file with the clerk of the board a report, under oath, of the condition of the roads and bridges inspected by him with recommendations by him for a four-year plan for construction and major maintenance of such roads and bridges. Based upon such reports, the board of supervisors shall on or before February, 1990, and on or before February 1 of each year thereafter, adopt and spread upon its minutes a four year plan for the construction and maintenance of county roads and bridges. The plan may be amended at any time by a vote of the majority of the members of the board of supervisors. 1942, 8344; 1986, 307; 1988 Ex Sess, ch. 14.

65-7-119. Liability of supervisors for neglect of duty. The circuit judge shall at each term of the court, especially charge the grand jury to inquire into the condition of the roads in the county. Any ... supervisor who neglects his duty shall be guilty of a misdemeanor and be liable to indictment and, upon conviction, shall be fined not more than \$100.00. 1942, 8345.

**65-7-121. Abandonment by board of supervisors of any section of county road system; hearing; notice; posting of signs; liability after abandonment; notice to railroad; easements.**

(1) The board of supervisors of any county may, upon its own motion or upon the petition of any interested resident of the county, by resolution spread upon its minutes, declare any section of the county road system abandoned upon its finding that one or more of the following circumstances are applicable to the section in question:

- (a) The section does not provide primary access to occupied properties;
- (b) Traffic on the section has for a period of at least ten (10) consecutive years been intermittent and of such low volume that no substantial public purpose is being served thereby;
- (c) The board of supervisors has, for a period of at least the previous five (5) consecutive years, not maintained such section as part of the county road system, or
- (d) For any reason, the public interest or convenience does not require the section to remain open to the public or that it is in the public interest or convenience to close, vacate and abandon the section.

(2) Except as provided in subsection (3) of this section, before any section of the county road system may be abandoned as provided in this section, the board of supervisors shall hold a public hearing on the question of such abandonment and shall publish notice of such hearing at least two (2) times, not less than two (2) weeks prior to the date of the hearing, in a newspaper having general circulation in the county.

(3) If any section of the county road system intersects with a roadway that has been closed to the public by the board of supervisors, and the section has no other destination, such section of the county road system shall be declared abandoned by the board of supervisors, without the necessity of notice and a hearing, immediately upon the written request of all owners of the property through which the section extends. This subsection (3) shall be repealed from and after July 1, 1993.

(4) The resolution of the board of supervisors abandoning any section of the county road system will abrogate the casement theretofore owned, held, claimed or used by or on behalf of the general public but will not affect any private easements.

(5) Upon the abandonment of any section of the county road system, the board of supervisors shall post clearly visible signs at any intersection of the abandoned roadway with the county road system indicating that the abandoned section is no longer part of the county road system and is not maintained by the county. Once the required signs are posted, the county shall not be liable for the death of or injury to a vehicle owner, operator or passenger, or for damage to a vehicle or its contents, resulting from a dangerous condition on the abandoned section. If there exists a public railroad grade crossing or railroad bridge on the section of county road so abandoned, the county shall furnish the railroad or individual owning such railroad trackage with a copy of the resolution authorizing the abandonment and thereupon, the railroad company or individual owning such trackage may barricade the crossing or remove the bridge.

(6) From and after July 1, 2000, any proceedings under this section shall be documented in the official record of the county road system in accordance with the requirements of Section 65-7-4. 1992, 480; 1998, 539.

**65-7-123. Requirement on certain county roads for temporary center line safety stripes while undergoing reconstruction or maintenance.** Any segment of a county-maintained, hard-surfaced highway normally marked by center line safety stripes which is overplayed with hot mix asphalt while undergoing reconstruction or maintenance shall be marked with temporary center line safety stripes if permanent center line safety stripes will not be installed before such segment is opened for public use. 1994, 367.

**65-7-143. Board of supervisors shall number and name all streets and roads.**

**65-7-145. Board of supervisors must assign all dwellings a street and number address.**

## CHAPTER 9. STATE AID ROADS IN COUNTIES

65-9-1 through 65-9-31. State aid roads in counties, generally. [In this chapter are to be found laws dealing with state aid roads in counties. Particular attention is directed to Section 65-9-13 (right of county to state aid); Section 65-9-15 (county engineer); Section 65-9-17 (state aid funds allocated to counties for approved projects); Section 65-9-19 (how contracts are awarded); Section 65-9-30 (accounts and utilization of funds).] 1976, 450; 1981, 462; 1985, HB 1224; 1986, 458; 1992, 496; 1995, 401; 2001, 492.

65-9-23. Accounting controls and safeguards. Such accounting controls and safeguards may be required of each board of supervisors as the state aid engineer may deem necessary; but general and uniform rules must first be promulgated by said engineer, only with the advice and approval of the state auditor. 1963, 1st ex sess, 20.

65-9-25. Maintenance of state aid roads. Boards of supervisors are responsible for the proper maintenance of state aid roads. If the state aid road engineer finds and determines that one or more state aid roads is not being properly maintained, he shall notify such board in writing, and if, within 60 days, proper maintenance work has not been done, said state aid engineer may have the necessary work done and charge the same to any state aid road funds belonging to said county that may then be in the state treasury, etc. If such failure to maintain continues, state aid shall be withdrawn and notice of this shall be given to the state auditor and treasurer. 1981, 452; 1982, 324.

## CHAPTER 11. COUNTY HIGHWAY AID

65-11-1 through 65-11-61. County Highway Aid Law of 1946, amended.

## CHAPTER 15. COUNTY FUNDS FOR ROADS AND BRIDGES

65-15-1. Funds for roads and bridges.

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

The board of supervisors may raise funds for working, constructing, reconstructing and maintaining public roads or for building bridges by an ad valorem tax on all assessed taxable property in the county or supervisor's district, or districts, or by a bond issue, or by either or both of said methods.

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

The board of supervisors may raise funds for working, constructing, reconstructing and maintaining public roads or for building bridges by an ad valorem tax on all assessed taxable property in the county, or by a bond issue, or by either or both of said methods. 1928, 157; 1988 Ex Sess, ch. 14.

65-15-3. Tax for construction and maintenance of highways. The board shall levy annually a tax upon the taxable property of such county to be used for road and bridge purposes. ... The proceeds of the collection of such taxes shall be paid into the county depository. ... Such funds shall be kept as a separate road fund and shall be paid out on allowance and warrants of the board of supervisors. 1914, 175.

65-15-7. Tax for bridges and culverts. The board of supervisors may levy annually an ad valorem tax ... to be used for constructing and maintaining all bridges and culverts on the public roads throughout the county. 1936, 273.

Cross references--

As to homestead exemptions, see §27-33-3.

65-15-9. Gasoline tax in payment of road bond issues.

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

The board of supervisors of any county in which there are county road bonds, district road bonds, sea wall bonds, or road protection bonds outstanding, which were issued for the purpose of building bridges or constructing public roads or sea walls, may, in its discretion, in addition to all other lawful uses, use such county's share, or any part thereof, of the funds heretofore or hereafter derived from the tax on gasoline and the road and bridge privilege tax for the further purpose of paying interest and principal of such county road bonds or road district bonds heretofore issued for any of the said above stated purposes. However, nothing in this section shall in anywise affect Section 65-33-45, Mississippi Code of 1972.

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

The board of supervisors of any county in the state in which there are county road bonds, sea wall bonds, or road protection bonds outstanding which were issued for the purpose of building bridges or constructing public roads may, in its discretion, in addition to all other lawful uses, use such county's share, or any part thereof, of the funds heretofore or hereafter derived from the tax on gasoline and the road and bridge privilege tax for the further purpose of paying interest and principal of such county road bonds heretofore issued for any of the said above stated purposes. However, nothing in this section shall in anywise affect Section 65-33-45. 1931, 20; 1988 Ex Sess, ch. 14.

65-15-11. Board of supervisors not required to set aside gasoline tax where sufficient amount on hand to pay bonds.

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

In any county having countywide road or bridge bonds or district road or bridge bonds outstanding and having on hand in the county treasury to the credit of a special fund from set aside from the county's share of the gasoline tax for the payment of the principal and interest of such bonds, or to the credit of bond and interest sinking funds, a sufficient amount to pay the principal of and interest on all such countywide road or bridge bonds and district road or bridge bonds outstanding, the board of supervisors shall no longer be required to set aside any part of the county's share of the county's share of the gasoline tax or the county's share of motor vehicle privilege taxes, to be used in paying the principal and interest of such road or bridge bonds as they mature. In any such case, however, the funds already set aside from the county's share of gasoline tax or the county's share of the motor vehicle privilege taxes, for the payment of the principal and interest of said bonds, shall be applied to the payment of the principal and interest of said bonds as they mature and shall not be used by the board of supervisors for any other purposes; however, when all of said bonds shall have been paid, any balance remaining in said funds may be transferred by the board of supervisors to the county or district road or bridge maintenance fund.

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

In any county having road or bridge bonds outstanding, and having on hand in the county treasury to the credit of a special fund set aside from the county's share of the gasoline tax for the payment of the principal and interest of such bonds, to the credit of bond and interest sinking funds, a sufficient amount to pay the principal of an interest on all such road or bridge bonds outstanding, the board of supervisors shall no longer be required to set aside any part of the county's share of the gasoline tax or the county's share of motor vehicle privilege taxes, to be used in paying the principal and interest of such road or bridge bonds as they mature. In any such case, however, the funds already set aside from the county's share of the gasoline tax or the county's share of the motor vehicle privilege taxes, for the payment of the principal and interest of said bonds, shall be applied to the

payment of the principal and interest of said bonds as they mature and shall not be used by the board of supervisors for any other purpose; however, when all of said bonds shall have been paid, any balance remaining in said funds may be transferred by the board of supervisors to the county road or bridge maintenance fund. 1944, 193; 1988 Ex Sess., ch. 14.

**65-15-13. Use of gasoline tax not to affect other financing.**

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

No existing law providing methods for the construction or maintenance of any public highways, bridges, or culverts of the county or special or separate road districts shall be affected by Section 65-15-9; and it does not supersede or impair the obligation of any county to levy a sufficient legal ad valorem tax for the purpose of construction and maintenance of public highways, bridges or culverts, or a sufficient ad valorem tax to pay the interest and principal of any bonds heretofore or hereafter issued for the purpose of building bridges and construction of public roads. Nor does it supersede or impair any right to issue bonds for any purpose, and it shall not alter, amend or repeal any statute except insofar as such statutes are inconsistent herewith.

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

No existing law providing methods for the construction or maintenance of any public highway, bridge or culvert of the county shall be affected by Section 65-15-9; and it does not supersede or impair the obligation of any county to levy a sufficient legal ad valorem tax for the purpose of construction and maintenance of public highways, bridges or culverts, or a sufficient ad valorem tax to pay the interest or principal of any bonds heretofore or hereafter issued for the purpose of building bridges and constructing public roads. Nor does it supersede or impair any right to issue bonds for any purpose, and it shall not alter, amend or repeal any statute except insofar as such statutes are inconsistent herewith. 1926, 208; 1988 Ex Sess, ch. 14.

**65-15-15. Tax for payment of bonds and interest.** The board shall levy annually a special tax to be used exclusively in paying the interest on such road bonds and in providing a sinking fund for their redemption. 1914, 175.

**65-15-17. Special fund paid into general fund.** In counties which have heretofore created special or general road funds under then existing laws, the board of supervisors may use such funds as if originally collected hereunder ... 1942, 8365.

**65-15-19. Balance in sinking fund after payment of bonds.**

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

Where bonds have been issued for any road district, separate road district or special road district, and said bonds and the interest thereon have been paid and there remains in the sinking fund or maintenance fund of such district any balance of funds collected for the purpose of paying such bonds or interest, the board of supervisors of the county in which such district or districts is located may, in its discretion, transfer any or all of said funds to the county road or bridge fund or any supervisors district road or bridge fund, to be used and expended in working and maintaining the roads of the district for which such bonds were issued, or may, without such transfer, spend such funds for maintenance of roads within the district from which said funds were collected.

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

Where bonds have been issued by any road district, separate road district or special road district, and said bonds and interest thereon have been paid and there remains in the sinking fund or maintenance fund of such district any balance of funds collected for the purpose of paying such bonds or interest, the board of supervisors of the county in which such district or districts are located shall transfer any or all of said funds to the

county road or bridge fund to be used and expended in working and maintaining the roads of the county. 1942, 211; 1988 Ex Sess, ch. 14.

**65-15-21. Refund to municipalities.**

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

One-half of all ad valorem taxes collected by or for a county or separate or special road district on property within a municipality (the streets of which are worked at the expense of the municipal treasury, or worked by municipal authority) for road purposes of such county or district, not including taxes for the purposes of paying bonds issued for road purposes or the interest thereon or for creating a bond and interest fund for retiring the same, shall be paid over to the treasurer of such municipality for said municipality.

Any municipality may contract with its board of supervisors, or any member thereof, whereby work may be performed on the streets maintained by said municipality in lieu of the refund of one-half of the road taxes collected under this section and in such event such agreement shall be spread at large upon the minutes of both the governing authorities of such municipality and the board of supervisors of such county.

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

One half of all ad valorem taxes collected by or for a county on property within a municipality (the streets of which are worked at the expense of the municipal treasury, or worked by municipal authority) for road purposes of such county, not including taxes for the purposes of paying bonds issued for road purposes or the interest thereon or for creating a bond and interest fund for retiring the same, shall be paid over to the treasurer of such municipality for said municipality.

Any municipality may contract with its board of supervisors, whereby work may be performed on the streets maintained by said municipality in lieu of the refund of one-half of the road taxes collected under this section, and in such event such agreement shall be spread at large upon the minutes of both the governing authorities of such municipality and the board of supervisors of such county. 1950, 233; 1988 Ex Sess, ch. 14.

**Cross references--**

As to homestead exemptions, see §27-33-3.

**65-15-23. Payment of municipal refund.** Where levy is made for road purposes as provided in Section 65-15-21, the tax assessor of the county shall set up a column on the assessment rolls ... which shall show the amount of the assessed valuation within the municipality which maintains its own streets and which pays the road taxes authorized to be levied under the aforesaid section. When these taxes are collected the tax collector shall isolate and separate the proportionate part of said taxes going to said municipality and shall cover same into the municipal treasury monthly, as provided by law. 1950, 233.

**65-15-25. Authority to transfer surplus tolls to county road and bridge fund.** In any county where tolls collected for the use of a bridge or bridges are allocated to the payment of bonds and interest thereon, and the expense of operating and maintaining said bridge or bridges, if the tolls so collected are more than sufficient to pay such bonds and interest as same become due, and the expenses of operating and maintaining said bridge or bridges, the board of supervisors may transfer to the county road and bridge fund any excess of tolls collected over and above the amount necessary to provide for the items mentioned hereinabove. 1932, 184.

## **CHAPTER 17. COUNTY ROAD OFFICIALS**

**65-17-1. Establishment of county road department; appointment of county road manager; powers and duties of manager.**

(1) This section, relating to the establishment of a county road department, the employment of a county road manager and prescribing the powers and duties of the county road manager, shall not be mandatory in any county which is not required to operate under a countywide system of road administration; provided, however, such county may, by order of the board of supervisors, adopt all or part of the procedures prescribed by this section.

(2) The board of supervisors of each county shall establish a county road department. The board of supervisors shall adopt the general policies to be followed in administration of the county road department and shall appoint as administrative head of the county road department a county road manager who shall be educated or experienced in the construction and maintenance of highways, bridges and other facets of county highway responsibilities. Provided, however, that in any county which, on July 1, 1988, employed two (2) county road managers each of whom managed an administrative division of the county for road construction and maintenance, the board of supervisors may continue to employ two (2) county road managers. The county road manager shall not be a member of the board of supervisors. The county road manager, under the policies determined by the board of supervisors and subject to the board's general supervision and control, shall administer the county road department, superintend the working, construction and maintaining of the public roads and the building of bridges in such county, and carry out the general policies of the board in conformity with the estimates of expenditures fixed in the annual budget as finally adopted by the board or as thereafter revised by appropriate action of the board. All requisitions for the purchase and repair of all equipment, heavy equipment, machinery, supplies, commodities, materials and services for the county road department shall be prepared by the county road manager and submitted to the county department of purchasing for processing in accordance with the central purchasing system. The county road manager shall serve at the will and pleasure of the board of supervisors and may be removed from such position by a majority vote of the board.

(3) The county road manager shall receive such compensation, to be paid from the county road and bridge funds, as the board of supervisors shall determine. The county road manager, before entering upon his duties, shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty in such amount as may be approved by the board of supervisors, but not less than Fifty Thousand Dollars (\$50,000.00).

(4) A county may appoint as county road manager the same person whom it has under the law employed as its county engineer for its state aid road system, provided that such county road manager is being compensated by the county for serving as county road manager and for all duties, if any, that he performs as county engineer by payment of an annual salary and not on the basis of a percentage of the cost of road projects.

(5) Nothing shall preclude one (1) person from serving two (2) or more counties as county road manager by agreement between such counties.

(6) Nothing in this section shall be construed to require new county personnel to be employed but, to the extent practicable, an existing county employee shall be appointed as the county road manager.

(7) The responsibility for construction and maintenance of all "local farm roads" (including bridges) as the same are defined in Sections 65-9-1 and 65-9-3, Mississippi Code of 1972, together with all functions not vested by law in the county state aid engineer in the construction and maintenance of state aid roads shall be vested in the county's road department.

(8) The county road manager each year shall prepare, or shall assist the county administrator (if one has been appointed) in the preparation of, a tentative road budget containing all proposed expenditures for the ensuing fiscal year for construction and maintenance of county roads and bridges and the operation of the county road department. Such tentative road budget shall be submitted to the board of supervisors for incorporation, with such modification as the board may adopt, in the county budget, as prescribed by law.

(9) The county road manager shall employ, subject to approval of the board of supervisors, such assistants and employees as may be necessary in conformity with the budget and county policies and procedure with respect to personnel and subject to approval of the board as to salary or other compensation to be paid. He shall have supervision and jurisdiction over personnel and assignments of personnel engaged in the work of the road department. He may purchase, lease or hire such equipment and purchase such materials and supplies as may be necessary for operation of the county road department in conformity with the budget, in accordance with the central purchase system and existing laws and subject to approval of the board as to price or rental. He shall

have jurisdiction over the assignment of equipment needed in performance of the work of the county road department.

(10) The board of supervisors may, by a majority vote of the entire board, supersede any act of the road manager or change, modify or revoke any act which has been completed by the road manager, provided the change, modification or revocation does not constitute a breach of contract. Hemingway's 1921 Supp. 7157d; 1930, 6398; 1942, 8346; 1920, 276; 1928, 157; 1952, 223; 1960, 209; 1966, Ex. Sess. ch. 29, Sec. 1; 1986, 458; 1988 Ex Sess, ch. 14, Sec. 56; 1991, 461.

65-17-5. Duties of commissioner, may secure help from engineer. The road commissioner shall supervise the construction of roads and their maintenance thereafter, and may call to his assistance, when necessary, the service of a competent civil engineer. Said engineer shall be paid a reasonable compensation by the board of supervisors, to be paid out of the proceeds of the sale of such bonds as are issued for the purpose of construction of such roads. 1914, 175.

65-17-101. Supervisors may elect road accountant; may meet payrolls weekly, etc. The board of supervisors may elect a road accountant, whose salary shall be fixed by the board and who shall give bond in the sum of not less than \$10,000.00. For the purpose of enabling the road accountant, in counties working their roads and building and repairing bridges on the unit system or countywide basis, to meet weekly payrolls and to pay for same each week or biweekly, the board of supervisors may advance to him at each regular monthly meeting, out of the road and bridge fund, a sum not exceeding 50% of the amount of his bond. Said road accountant shall place such funds in the county depository to his credit as road accountant, to be checked on by him to meet weekly payrolls for labor, and said fund shall be a public fund and shall be secured as other funds are secured. The road accountant shall make report to the board of supervisors at the next regular meeting as to his disposition of said funds. ... It shall be the duty of the road accountant to pay all labor employed on the road and bridge work of the county, to pay transportation charges on supplies and materials used in such road and bridge work, and all bills for repairs. Every three months he shall take an inventory of all the personal property of the county used in said road and bridge work. 1946, 316; 1986, 458.

65-17-103. Road accountant; estimates and reports. The road accountant shall attend all meetings of the board and shall submit estimates on future needs of funds to pay labor, transportation charges, and repair bills. Said board shall set aside a fund to be known as the "road labor" fund, etc., which the accountant shall use to pay such bills. He shall make regular monthly reports to the board. 1920, 266.

65-17-105 and 65-17-107. Accountant to be purchasing agent and to submit trial balance. The road accountant shall be the purchasing agent of the county and, by and with the consent of the board of supervisors, shall purchase all materials, implements, and supplies used in road and bridge work. 1920, 266. The road accountant shall keep a complete set of books, showing in detail all receipts and disbursements had or made by him and he shall submit monthly to the board of supervisors, a trial balance of the said books, etc. 1920, 266.

65-17-201 Authority to employ engineer.

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

The boards of supervisors of the several counties of the State of Mississippi are authorized and empowered at their discretion to employ, as county engineer, a civil engineer or person qualified to perform the duties of a county engineer, and such assistant engineers as may be necessary. On all projects for the construction or reconstruction of a bridge which will cost more than Five Thousand Dollars (\$5,000.00), or for the construction or reconstruction of roads which will cost more than Five Thousand Dollars (\$5,000.00) per mile, the employment of an engineer qualified under the chapter on engineers shall be obligatory, whether the work is



being done by the county or by a separate district, and whether the work is done by contract or otherwise; however, in obligatory cases the employment may be for the particular work, rather than for a term.

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

The boards of supervisors of the several counties of the State of Mississippi are authorized and empowered at their discretion to employ, as county engineer, a civil engineer or person qualified to perform the duties of a county engineer, and such assistant engineers as may be necessary. On all projects for the construction or reconstruction of a bridge which will cost more than Twenty-five Thousand Dollars (\$25,000.00), or for the construction or reconstruction of roads which will cost more than Twenty-five Thousand Dollars (\$25,000.00) per mile, the employment of an engineer qualified under the chapter on engineers shall be obligatory, whether the work is being done by contract or otherwise; however, in obligatory cases the employment may be for the particular work rather than for a term. 1988 Ex Sess, 14.

65-17-203 through 65-17-209. Board may employ county engineer, salary, etc. Salary of said engineer shall be determined by the board of supervisors and annually spread upon the minutes. The employment and work of said engineer is to be under the control of the board of supervisors. 1924, 215; 1966, 304; 1962, 255; 1987, 447.

## **CHAPTER 18. LOCAL SYSTEM ROAD PROGRAM**

[This chapter is detailed and the Mississippi Code should be consulted for relevant provisions.]

## **CHAPTER 19. SEPARATE ROAD DISTRICTS**

65-19-1 through 65-19-87. Separate road districts.

## **CHAPTER 21. BRIDGES; GENERAL PROVISIONS**

65-21-1 through 65-21-29. [Width of bridges and culverts; penalties; illumination; toll bridges and ferries.] 1934, 221.1

## **CHAPTER 25. MISSISSIPPI RIVER BRIDGE REVENUE BOND LAW**

65-25-1 through 65-25-63. Mississippi River bridge revenue bond law. [Note Section 65-25-3 (counties authorized to construct or acquire bridges and issue bridge revenue bonds); Section 65-25-7 (may purchase bridges); Section 65-25-15 (may issue bridge revenue bonds); Section 65-25-21 (may charge tolls); Section 65-25-23 (may contribute apart from bridge earnings); Section 65-25-25 (may cease to charge tolls); Section 65-25-29 (may receive contributions); Section 65-25-35 (refunding bonds); Section 65-25-41 (bonded debt limitations not to apply); Section 65-25-51 (supervisors to appoint members of bridge commission). This entire chapter, while general in scope, is primarily for Warren County.]

## **TITLE 67. ALCOHOLIC BEVERAGES**

### **CHAPTER 3. SALE OF LIGHT WINE, BEER, AND OTHER ALCOHOLIC BEVERAGES**

67-3-65. Board of supervisors may pass ordinances regulating the sale of beer.

## **TITLE 69. AGRICULTURE, HORTICULTURE, ETC.**

### **CHAPTERS 5 THROUGH 27. FAIRS; STOCK SHOWS; STOCK LAWS; ESTRAYS; SOIL CONSERVATION**

69-5-101 through 69-5-121. Stock shows and improvement of livestock. [Particular attention is directed to Section 69-5-113 (supervisors may appropriate money in aid of livestock shows); Section 69-5-117 (Mississippi Delta Livestock Fair Association--appropriations by supervisors); Section 69-13-113 (state or county not liable for injury to impounded livestock); Section 69-13-115 (penalty for removal of impounded livestock without paying fees).]

69-13-1 through 69-13-27. General stock law.

69-13-101 through 69-13-117. Livestock at-large on federal or state highways. [Particular attention is directed to Section 69-13-105 (charges against impounded livestock); Section 69-13-113 (state or county not liable for injury to impounded livestock); Section 69-13-115 (penalty for removal of impounded livestock without paying fees).]

69-13-201 through 69-13-211. Highway fencing law. [Particular attention is directed to Section 69-13-205 (authority and duty of supervisors); Section 69-13-207 (authority of supervisors to levy tax); Section 69-13-209 (use of proceeds of tax; authority of supervisors where tax not levied).]

69-13-301 through 69-13-339. Estrays. [These sections include fees for ranger, justice of the peace, etc.]

69-25-1 through 69-25-47. Plant diseases and pests. [Note Section 69-25-33 (boards of supervisors may make appropriation).] 1972, 369; 1974, 380; 1979, 338; 1995, 577; 2000, 372; 2003, 401.

69-27-1 through 69-27-223. Soil conservation; county aid in certain counties.

69-27-201 through 69-27-223. Soil conservation; county aid in certain counties.

## **TITLE 71. LABOR AND INDUSTRY**

### **CHAPTER 3. WORKERS' COMPENSATION**

71-3-5. Board of supervisors' duties in regard to workers' compensation.

### **CHAPTER 5. UNEMPLOYMENT COMPENSATION**

71-5-11. Board of supervisors' duties in regard to unemployment compensation.

### **CHAPTER 11. EMPLOYMENT PROTECTION ACT**

71-11-1. Legislative findings and policy.

71-11-3. Mississippi Employment Protection Act; definitions; citizenship or residency employment eligibility; status verification; prospective effect; discriminatory practices; liabilities, immunities, exemptions; third-party employers; deadlines; violations; penalties.

- (1) This act shall be known as the "Mississippi Employment Protection Act."
- (2) The provisions of this section shall be enforced without regard to race, gender, religion, ethnicity or national origin.
- (3) For the purpose of this section only, the following words shall have the meanings ascribed herein unless the content clearly states otherwise:
  - (a) "Employer" is any person or business that is required by federal or state law to issue a United States Internal Revenue Service Form W-2 or Form 1099 to report income paid to employed or contracted personnel in Mississippi.
  - (b) "Employee" is any person or entity that is hired to perform work within the State of Mississippi and to whom a United States Internal Revenue Service Form W-2 or Form 1099 must be issued.
  - (c) "Third-party employer" is any person or company that provides workers for another person or company. This includes, but is not limited to, leasing companies and contract employers.
  - (d) "Status verification system" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, [Public Law 104-208](#), Division C, Section 403(a); [8 USC Section 1324a](#), and operated by the United States Department of Homeland Security, known as the E-Verify Program.
  - (e) "Unauthorized alien" means an alien as defined in [Section 1324a\(h\)\(3\) of Title 8 of the United States Code](#).
  - (f) "Public employer" means every department, agency or instrumentality of the state or a political subdivision of the state.
  - (g) "Subcontractor" means a subcontractor, contract employee, staffing agency or any contractor regardless of its tier.
- (4)
  - (a) Employers in the State of Mississippi shall only hire employees who are legal citizens of the United States of America or are legal aliens. For purposes of this section, a legal alien is an individual who was lawfully present in the United States at the time of employment and for the duration of employment, or was permanently residing in the United States under color of law at the time of employment and for the duration of employment.
  - (b)
    - (i) Every employer shall register with and utilize the status verification system to verify the federal employment authorization status of all newly hired employees.
    - (ii) No contractor or subcontractor shall hire any employee unless the contractor or subcontractor registers and participates in the status verification system to verify the work eligibility status of all newly hired employees.
    - (iii) No contractor or subcontractor who enters into a contract with a public employer shall enter into such a contract or subcontract unless the contractor or subcontractor registers and participates in the status verification system to verify information of all newly hired employees.
  - (c) The provision of this section shall not apply to any contracts entered into on or before July 1, 2008.
  - (d) It shall be a discriminatory practice for an employer to discharge an employee working in Mississippi who is a United States citizen or permanent resident alien while retaining an employee who the employing entity knows, or reasonably should have known, is an unauthorized alien hired after July 1, 2008, and who is working in Mississippi in a job category that requires

- equal skill, effort and responsibility, and which is performed under similar working conditions, as defined by [29 USC, Section 206\(d\)\(1\)](#), as the job category held by the discharged employee.
- (e) An employing entity which, on the date of the discharge in question, was enrolled in and used the status verification system to verify the employment eligibility of its employees in Mississippi hired after July 1, 2008, shall be exempt from liability, investigation or suit arising from any action under this section.
- (f) No cause of action for a violation of this section shall lie under any other Mississippi law but shall arise solely from the provisions of this section.
- (5) Any employer that complies with the requirements of this section shall be held harmless by the Mississippi Department of Employment Security, provided the employer is not directly involved in the creation of any false documents, and provided that the employer did not knowingly and willfully accept false documents from the employee.
- (6) (a) All third-party employers that conduct business in Mississippi shall register to do business in Mississippi with the Mississippi Department of Employment Security before placing employees into the workforce in Mississippi.
- (b) Third-party employers shall provide proof of registration and any participation in the status verification system to any Mississippi employer with whom they do business.
- (7) (a) State of Mississippi agencies and political subdivisions, public contractors and public subcontractors and private employers with two hundred fifty (250) or more employees shall meet verification requirements not later than July 1, 2008.
- (b) Employers with at least one hundred (100) but less than two hundred fifty (250) employees shall meet verification requirements not later than July 1, 2009.
- (c) Employers with at least thirty (30) but less than one hundred (100) employees shall meet verification requirements not later than July 1, 2010.
- (d) All employers shall meet verification requirements not later than July 1, 2011.
- (e) (i) Any employer violating the provisions of this section shall be subject to the cancellation of any state or public contract, resulting in ineligibility for any state or public contract for up to three (3) years, the loss of any license, permit, certificate or other document granted to the employer by any agency, department or government entity in the State of Mississippi for the right to do business in Mississippi for up to one (1) year, or both.
- (ii) The contractor or employer shall be liable for any additional costs incurred by the agencies and institutions of the State of Mississippi, or any of its political subdivisions, because of the cancellation of the contract or the loss of any license or permit to do business in the state.
- (iii) Any person or entity penalized under this section shall have the right to appeal to the appropriate entity bringing charges or to the circuit court of competent jurisdiction.
- (f) The Department of Employment Security, State Tax commission, Secretary of State, Department of Human Services and the Attorney General shall have the authority to seek penalties under this section and to bring charges for noncompliance against any employer or employee.
- (8) (a) There shall be no liability under this section in the following circumstances:
- (i) An employer who hires an employee through a state or federal work program that requires verification of the employee's social security number and provides for verification of the employee's lawful presence in the United States in an employment-authorized immigration status;
- (ii) Any candidate for employment referred by the Mississippi Department of Employment Security, if the Mississippi Department of Employment Security has verified the social security number and provides for verification of the candidate's lawful presence in the United States in an employment-authorized immigration status; or
- (iii) Individual homeowners who hire workers on their private property for noncommercial purposes, unless required by federal law to do so.
- (b) (i) Compliance with the sections of this statute shall not exempt the employer from regulations and requirements related to any federal laws or procedures related to employers.

- (ii) This section shall not be construed as an attempt to preempt federal law.
- (c) (i) It shall be a felony for any person to accept or perform employment for compensation knowing or in reckless disregard that the person is an unauthorized alien with respect to employment during the period in which the unauthorized employment occurred. Upon conviction, a violator shall be subject to imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00), or both.
- (ii) For purposes of determining bail for persons who are charged under this section, it shall be a rebuttable presumption that a defendant who has entered and remains in the United States unlawfully is deemed at risk of flight for purposes of bail determination.

CREDIT(S)

Added by [Laws 2008, Ch. 312, § 2, eff. July 1, 2008](#) for state and third-party employers, eff. January 1, 2009 for all other employers.

## **TITLE 73. PROFESSIONS AND VOCATIONS**

### **CHAPTER 13. ENGINEERS AND LAND SURVEYORS**

73-13-45. Public Works. Neither the state nor any of its political subdivisions shall award construction contracts of any public work involving engineering or architecture unless the plans, specs and estimates have been prepared and the work supervised by a registered professional engineer or architect. This does not apply if the expenditure does not exceed \$75,000...Built "in-house," the limit is \$150,000.

## **TITLE 75. REGULATION OF TRADE, COMMERCE AND INVESTMENTS**

### **CHAPTER 49. MOVABLE HOMES**

75-49-21. Permit fee for inspection. Authorizes all counties to charge a permit fee for inspecting the fitness and safety of any manufactured or mobile home to be set up in the county. 1994, 611.

### **CHAPTER 85. TRANSIENT VENDOR**

75-85-13. License fee; bond requirements.

(1) Each applicant for a transient vendor license shall include a license fee set by the governing authority of the county or municipality not to exceed Two Hundred Fifty Dollars (\$250.00) with the application, which fee shall be deposited in the general fund of the county or municipality that issues the license. 1994, 522.

## **TITLE 77. PUBLIC UTILITIES AND CARRIERS**

### **CHAPTER 5. ELECTRIC POWER**

77-5-169. County aid to districts. Any county wherein is situated a municipality which is part of an electric power district may advance funds to such district to pay the preliminary organization and administrative expenses thereof, on such terms of repayment as the governing body of such municipality or county shall determine. Notwithstanding the provisions of any law to the contrary, any such municipality or county is authorized and empowered to borrow money for a period not to exceed one year from the date of such borrowing, for the purpose of making such advances. 1936, 187.

## TITLE 83. INSURANCE

### CHAPTER 1. DEPARTMENT OF INSURANCE

83-1-39. County volunteer fire department fund; fund for insurance rebate monies not expended for fire protection purposes.

(1) The State Tax Commission is hereby authorized and directed to pay over to the State Treasurer, to be credited to a fund entitled "County Volunteer Fire Department Fund", the sum of Four Million Eight Hundred Fifty Thousand Dollars (\$4,850,000.00) annually out of the insurance premium tax in addition to the amount collected by it under the provisions of Section 27-15-103, *et seq.* Such funds, hereinafter referred to as insurance rebate monies, are hereby earmarked for payment to the various counties of the state and shall be paid over to the counties by the Department of Finance and Administration on the basis of the population of each county as it compares to the population of participating counties, not counting residents of any municipality. Such insurance rebate monies shall only be distributed to those counties which are in compliance with subsection (5) and (6) of this section. Of these monies, Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be designated for the purposes prescribed in subsection (3)(f) of this section. 1994, 577; 2008,412.

(2) Using 1990 as a base year, the State Tax Commission is hereby authorized and directed to pay over to the State Treasurer, to be credited to a fund entitled "County Volunteer Fire Department Fund," an amount representing one-half of ten percent ( $\frac{1}{2}$  of 10%) of any growth after 1990 of the insurance premium tax collected annually from the taxes levied on the gross premium on fire insurance policies written on properties in this state, in addition to the amount collected by it under the provisions of Section 27-15-103, *et seq.*

(3) Insurance rebate monies shall be expended by the board of supervisors for fire protection purposes of each county for the following categories:

- (a) For training expenses;
- (b) Purchase of equipment, purchase of fire trucks, repair and refurbishing of fire trucks and fire fighting equipment, and capital construction anywhere in the county or pledging as security for a period of not more than ten (10) years for such purchases;
- (c) Purchase of insurance on county-owned fire fighting equipment;
- (d) Fire protection service contracts, including but not limited to municipalities, legal fire protection districts, and nonprofit corporations providing or coordinating fire service in or out of the county;
- (e) Appropriations to legal fire protection district located in counties subject to all restrictions applicable to the use of insurance rebate monies; or
- (f) Training of any county personnel as needed for the adoption of and compliance with the codes established and promulgated by the Mississippi Building Codes Council. Any county-owned equipment or other property, at the option of the board of supervisors, may be used by any legally created fire department.

Any county-owned equipment or other property, at the option of the board of supervisors, may be used by any legally created fire department.

(4) Insurance rebate monies not expended in a given fiscal year for fire protection purposes shall be placed in a special fund with a written plan approved by the Commissioner of Insurance for disposition and expenditure of such monies. After the contracts for fire protection services have been approved and accepted by

the board of supervisors, the monies shall be released to be expended in such manner as provided by this section.

(5) No county shall receive payments pursuant to this section after July 1, 1988, unless such county:

- (a) Designates a county fire service coordinator who is responsible for seeing that standard guidelines established by the Commissioner of Insurance pursuant to Section 45-11-7(9), Mississippi Code of 1972, are followed. The county fire coordinator must demonstrate that he possesses fire-related knowledge and experience;
- (b) Designates one (1) member of the sheriff's department to be the county fire investigator and, from and after July 1, 2008, requires the designated member of the sheriff's department to attend the State Fire Academy to be trained in arson investigation; however, in the event of a loss of the county fire investigator due to illness, death, resignation, discharge or other legitimate cause, notice shall be immediately given to the Commissioner of Insurance and the county may continue to receive payments on an interim basis for a period not to exceed one (1) year;
- (c) Adheres to the standard guidelines established by the Commissioner of Insurance pursuant to Section 45-11-7(9); and
- (d) Counties shall levy a tax of not less than one-fourth (1/4) mill on all property of the county or appropriate avails of not less than one-fourth (1/4) mill from the county's general fund for fire protection purposes. Municipalities making a written declaration to the county that they fund and provide their own fire services shall be exempted from this levy. This levy shall be used for fire protection purposes which include but are not limited to contracting with any provider of fire protection services.

(6)(a) No funds shall be paid by the county to any provider of fire protection services except in accordance with a written contract entered into in accordance with guidelines established by the Commissioner of Insurance and properly approved by the board of supervisors and Commissioner of Insurance. No county shall distribute funds to any fire service provider which has not met the reporting requirements required by the Commissioner of Insurance. At such time that a fire protection services provider, particularly a county volunteer fire department, a municipality or a fire protection district, has fulfilled the obligations of the written contract and has met the reporting requirements provided for in this subsection and the board of supervisors has received the insurance rebate monies, the board of supervisors shall disburse the appropriate amount to the fire protection services provider within a reasonable time, not to exceed six (6) weeks, from the time such requirements are met. Insurance rebate monies used for the purposes of contracting shall be expended by the fire service provider for capital constructions, training expenses, purchase of fire fighting equipment including payments on any loans made for the purpose of purchasing fire fighting equipment, and purchase of insurance for any fire equipment owned or operated by the provider.

(b) If the Commissioner of Insurance believes that a county is using the funds in a manner not consistent with subsections (5) and (6) of this section, the commissioner shall request the State Auditor to conduct an investigation pursuant to Section 7-7-211(e).

(7) The board of supervisors of any county may contribute funds directly to any provider of fire protection services serving such county. Such contributions must be used for fire protection purposes as may be reasonably established by the Commissioner of Insurance.

(8) Any municipal, county or local water association or other utility district supply water may, upon adoption of a resolution authorizing such action, contribute free of charge to a volunteer fire department or fire protection district serving such local government, political subdivision or utility district, such water as is necessary for fire fighting or training activities of such volunteer fire department or fire protection district.

(9) The board of supervisors of any county is hereby authorized and empowered, in its discretion, to grade, gravel, shell and/or maintain real property of a county volunteer fire department, including roads, or driveways thereof, as necessary for the effective and safe operation of such county volunteer fire department. Any action taken by the board of supervisors under the authority of this subsection shall be spread upon the minutes of the board of supervisors when the work is authorized.

(10) For the purpose of this section, "fire protection district" means a district organized under Section 19-5-151, *et seq.*, or pursuant to any other Code section or by any local and private act authorizing the establishment of a fire protection district, unless the context clearly requires otherwise. 1991, 536; 1994, 577; 2004,522; 2007, 485; 2008, 412.

## **CHAPTER 13. FIRE INSURANCE**

83-13-23. Insurer required to pay volunteer fire department for protecting property insured by insurer. Any insurance company shall pay to the responsible volunteer fire department a minimum of One Hundred Dollars (\$100.00) for each initial response to save from destruction by fire any structures which are located in areas rated as Class 9 or 10 and which are insured by that insurance company. 1994, 482.

## **CHAPTER 39. BAIL BONDS AND BONDSMEN**

83-39-31. Appearance bond fees to be collected at final adjudication. 1995, 371; 1999, 364; 2009

## **TITLE 89. REAL AND PERSONAL PROPERTY**

### **CHAPTER 5. RECORDING OF INSTRUMENTS**

## **TITLE 93. DOMESTIC RELATIONS**

### **CHAPTER 1. MARRIAGE**

93-1-17. Board of supervisors may solemnize marriage.

## **TITLE 97. CRIMES**

### **CHAPTER 11. OFFENSES INVOLVING PUBLIC OFFICIALS**

97-11-1. Alteration of records. If any clerk of any court, or public officer ... shall wittingly make any false entry, or erase any work or letter, or change any record belonging to any court or public office, whether in his keeping or not, he shall, on conviction thereof, be imprisoned in the penitentiary for a term not exceeding ten years, and be liable to the action of the party aggrieved. 1942, 2004.

97-11-9. Bond--approving worthless bond. If any officer shall approve any official bond, knowing or having good reason to believe the sureties to be insufficient, he shall, upon conviction, be punished by fine or imprisonment, or both, the fine not to exceed \$500.00 and the imprisonment not to exceed six months in the county jail. 1942, 2308.

97-11-11. Bribery; offer, promise or gift of property to candidate, officer, agent or trustee to influence his action. Every person who shall promise, offer or give to any officer, agent or trustee, either public or private, while holding such office, agency or trust, or after he has become a candidate or applicant for the same, any money, goods, chattels, right in action or other property , real or personal, with intent to



influence his vote, opinion, action or judgment on any question, matter, cause or proceeding which may be then pending, or may be thereafter subject to vote, opinion, action or judgment of such officer, agent or trustee shall, on conviction, be imprisoned in the penitentiary not more than ten (10) years, or fined not more than Five Thousand Dollars (\$5,000.00), or both, and shall be forever disqualified from holding any public office, trust or appointment, and shall forfeit his office, if any be held. 1995, 463.

97-11-13. Bribery--penalty, when officer, agency, trustee, or his wife accepts bribe. If an officer, agent, or trustee shall accept any gift, offer, or promise, or if his wife, with his knowledge or consent, shall accept any gift, offer or promise prohibited by Section 97-11-11; he shall, on conviction, be forever disqualified from holding office. . . .and shall forfeit his office, if any be held, and be imprisoned in the penitentiary not more than ten years, or be fined not more than \$5,000.00, or both. 1942, 2028; 1995, 463.

Cross references--

As to punishment for offer or acceptance of inducements to influence award of public contracts, see §97-11-53.

97-11-15. Circuit clerk--penalty for failure to send up certificate of appeal. Any clerk of a circuit court who shall willfully or negligently fail or refuse to send up the certificate of appeal, as provided in Section 99-35-121 ... within the time required, shall be guilty of a misdemeanor ... and shall be punished ... by a fine of not more than \$200.00, or by imprisonment in the county jail for not more than three months, or both. 1920, 147.

97-11-17. Clerk refusing to give certified copy of papers. ... he shall be guilty of a misdemeanor. 1971, 487.

97-11-23. Drunkenness in office. Any officer who shall be guilty of habitual drunkenness, or who shall be drunk while in the actual discharge of the duties of his office, or when called on to perform them, may be indicted therefor, and, upon conviction, shall be removed from office. 1942, 2307.

97-11-25. Embezzlement--officers, trustees and public employees converting property to own use. If any state or county officer ... or any other person holding any public office or employment ... shall unlawfully convert to his own use any money or other valuable thing which comes to his hands, or possession by virtue of his office or employment, or shall not, when lawfully required to turn over such money or deliver such thing, immediately do so according to his legal obligation, he shall, on conviction, be imprisoned in the penitentiary not more than twenty years, or be fined not more than \$5,000.00. 1979, 508.

Cross references--

As to disqualification to hold office of one liable for public moneys unaccounted for, see Miss Const §43. As to duties and liabilities as to public funds, see §§25-1-67, *et seq.*

97-11-27. Embezzlement--officers failing to deliver money, records, etc., to successor. 1942, 2121.

97-11-29. Embezzlement--accounts to be kept by all public officers--false entries, false certificates, loans of public funds and fraud on the treasury. The state treasurer, auditor of public accounts, assessors and collectors of taxes, and all other state and county officers, and municipal officers, shall make and keep in their offices, subject to inspection at all times, an accurate entry of each and every sum of public money, etc. by him received, transferred or disbursed; and if any of said officers ... or a clerk, agent or employee of such officer, shall willfully and fraudulently make any false entry therein or make any certificate or endorsement of any warrant on the treasury that the same is genuine, when the same is in fact not a genuine

warrant, or shall loan any portion of the public moneys, securities, stock, or other public property entrusted to him, for any purpose whatever; or shall defraud or attempt to defraud the state, or any county or municipality, of any moneys, security, or property, he shall, on conviction thereof, be guilty of embezzlement, and fined not less than double the value of the money, etc. or other property so embezzled, or committed to the department of corrections for not more than ten years, or both. 1979, 508.

Cross references--

As to duties and liabilities as to public funds, see §§25-1-67, *et seq.*

As to county budget, see §§19-11-1, *et seq.*

97-11-31. Embezzlement--fraud committed in public office. If any officer, or other person employed in any public officer, shall commit any fraud or embezzlement therein, he shall be committed to the department of corrections not more than ten years, or be fined not more than \$5,000.00, or both. 1979, 508.

97-11-33. Extortion--collecting unauthorized fees and fees for services not actually rendered. ... If convicted, fine not to exceed \$5,000.00, or imprisonment ... for not more than five years, or both, and shall be removed from office. 1979, 508; 1986, 459; 1997, 431, 462.

97-11-35. Failure to return offenders. If any judge, justice court judge, constable, member of the board of supervisors, sheriff, or other peace officer, shall willfully neglect or refuse to return any person committing any offense of the laws, committed in his view or knowledge, or of which he has any notice, or shall willfully absent himself when such offense is being or is about to be committed, for the purpose of avoiding a knowledge of the same, he shall, on conviction, be fined not less than \$100.00 nor more than \$500.00, and may ... be removed from office. 1942, 2297; 1986, 459.

Cross references--

As to penalties for officers not performing duties, see §19-21-19.

97-11-37. Failure to perform any duty. If any person ... holding any county office whatever ... shall knowingly or willfully fail, neglect or refuse to keep any record required to be kept by law, or shall secrete the same, or shall violate his duty in any respect, he shall, on conviction thereof, be fined not exceeding \$1,000.00, or be imprisoned in the county jail not exceeding six months, or both. 1942, 2298; 1986, 459.

Cross references--

As to penalty for constable's neglect of duty, see §19-19-15.

As to penalties for sheriff or constable neglecting duties, see §19-21-19.

As to duties of tax assessors, see §27-1-5.

As to liability of tax collector and assessor, see §27-29-29.

As to penalty for violating chapter on public purchases, see §31-7-55.

97-11-41. Oath of office and bond--elected officials not to exercise duties before taking oath, giving bond, as required. If any person elected to any office shall undertake to exercise the same or discharge the duties thereof without first having taken the oath of office or given bond as required by law, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than \$500.00, or imprisoned in the county jail not longer than one year, or both. 1942, 2114.

97-11-43. Railroad fares--government officials to pay same fare as general passengers--accepting and using a free pass on a railroad prohibited; penalties. Laws 1884, page 45; 1942, 2303.

**97-11-45. Tax collector and chancery clerk--failure to perform duty in respect to duplicate tax receipts.** Any tax collector who shall fail to fill up, in case of the payment of taxes to him, the duplicate tax receipt required by law to be filled up by him, or to preserve the book of duplicate receipts filled, or to submit such book or books to the clerk of the chancery court shall, upon conviction, be removed from office, and be fined not less than \$1,000.00, and be imprisoned in the county jail not less than six months; and any clerk who shall refuse to receive or receipt for such book or books when delivered or tendered to him, or to preserve the same as a record of his office, shall be fined not more than \$300.00, and imprisoned in the county jail not exceeding three months. 1942, 2310.

**97-11-47. Tax collector--failure to make settlement.** Any tax collector who shall willfully fail or refuse for ten days after the time appointed by law for any monthly payment or final settlement, to make the same, shall be guilty of a misdemeanor, and, on conviction, he shall be removed from office and fined not exceeding \$1,000.00. 1942, 2311.

**Cross references--**

As to governor's power to suspend alleged defaulting tax collectors, see Miss Const §125.

As to suspension of alleged defaulting tax collectors, see §7-1-57.

As to monthly reports required of tax collector, see §27-29-11.

As to effect of tax collector's failure to report, see §27-29-25.

As to debits and credits to tax collector, see §§19-17-13, *et seq.*

As to duties of tax collector about to go out of office, see §27-29-31.

**97-11-49. Tax collector--collecting privilege tax without issuing license.** ... on conviction, be fined not less than double the amount of the tax ... imprisoned not less than one week; and if the failure be willful, he shall be removed from office. 1968, 361.

**97-11-53. Offer of inducements to influence public official's action on award of contracts or accomplishment of official acts.**

...No person shall directly or indirectly offer, promise, give or agree to give any public official or his spouse any money, property, or other tangible or intangible thing of value as an inducement or incentive for (a) the awarding or refusal to award a contract; (b) the purchase, sale or lease of property; or (c) the accomplishment of any official act or purpose involving public funds or public trust. Penalties are provided.

...No public official shall directly or indirectly accept, receive, offer to receive or agree to receive any gift, offer, or promise of any money, property or other tangible or intangible thing of value as an inducement or incentive (a) for the awarding or refusal to award a contract; (b) the purchase, sale or lease of property; or (c) the accomplishment of any official act or purpose involving public funds or public trust.

Any public official who violates the terms of this section or whose spouse does so with his knowledge and consent, shall be guilty of a felony and shall, upon conviction, be imprisoned in the penitentiary not more than ten years, or be fined not more than \$5,000.00, or both; and, in addition, . . . shall forfeit his office, if any he hold, and be forever disqualified from holding any public office, trust, appointment or employment with the state or any political subdivision thereof or with any other public entity referred to in this section. Each violation of the provisions of this section shall constitute a separate offense. 1974, 541.

**Cross references--**

As to regulations governing public purchases, generally, see §§31-7-1, *et seq.*

## **CHAPTER 21. FORGERY AND COUNTERFEITING**

**97-21-1. Account books kept in public offices.** Every person who, with intent to defraud, shall make any false entry, or shall falsely alter any entry made in any book of accounts kept in the office of the auditor of public accounts, or in the office of the treasurer of this state, or in the office of any county treasurer, or in any other public office, by which any demand or obligation, claim, right, or interest, either against or in favor of this

state, or any county, city, town, or village, or any individual, shall be or purport to be discharged, diminished, increased, created, or in any manner affected, shall, upon conviction thereof, be guilty of forgery. 1942, 2174.

Cross references--

As to penalty for forgery, see §97-21-33.

As to duty of chancery clerk to keep and preserve county books and records, see §27-105-343.

As to county books of accounts, see §19-11-13.

97-21-21. Destruction, erasure, or obliteration of a writing deemed forgery. 1942, 2181.

97-21-27. Intent to defraud. Whenever ... an intent to defraud is required to constitute a forgery, it shall be sufficient if such intent appear to defraud the United States, any state or territory, and body corporate, county, city, town, or village, or any public officer in his official capacity, any copartnership, or any one of such partners, or any real person whatever. 1942, 2184.

97-21-33. Penalty for forgery. 1970, 343; 2003, 499.

97-21-35. Pleadings, process and other court papers, licenses, or written instruments, generally. 1942, 2173.

97-21-47. Seal of state and other government ... seals or their impressions. 1942, 2162.

97-21-51. Unauthorized use or signing of another's name to ... petition, etc. If any person shall willfully and falsely, or fraudulently forge, sign, or otherwise use the name of another person to a ... petition or related communication or instrument of writing with intent to deceive, defraud, or for personal gain or benefit, or for the benefit of another person, without the express written approval of such person, he shall be guilty of a misdemeanor. ... Penalty ninety days in county jail, or fine of \$500.00, or both. 1962, 316.

97-21-61. Warrants on ... county ... treasury. If any person shall falsely or fraudulently make, forge, or alter any writing, being, or pretending to be ... any order or warrant ... of any county ... with intent to defraud ... he shall be guilty of forgery. 1942, 2186.

### **CHAPTER 33. GAMBLING AND LOTTERIES**

97-33-3. Gambling--penalties on certain officers--penalty for use of public money. If any judge of any court, or attorney general or district attorney, or a constable, sheriff, or any person charged by law with the custody of public money, shall violate the provisions of Section 97-33-1 [prohibiting gambling or wagering generally], such person, so offending, on conviction thereof, shall be fined \$500.00, and be imprisoned in the county jail twenty days. In case any public officer shall in any manner use or loan public money in his hands by virtue of his office, in any game, wager, or bet, on conviction thereof, his commission shall thereby be deemed vacated, and the vacancy supplied as in case of death, resignation, or removal from office. 1942, 2191; 1986, 459.

### **CHAPTER 37. WEAPONS AND EXPLOSIVES**

97-37-7. Deadly weapons; persons permitted to carry weapons; bond; permit to carry weapon; grounds for denying application for permit; required weapons training course.

... A law enforcement officer, as defined in section 45-6-3, and certain others shall be authorized to carry weapons in courthouses in performance of his official duties. This bill shall in no way interfere with the right of a

trial judge to restrict the carrying of firearms in the courtroom. 1998, 472; 2000, 439; 2001, 566; 2002, 577; 2008, 319.

## **TITLE 99. CRIMINAL PROCEDURE**

### **CHAPTER 1. GENERAL PROVISIONS**

#### **99-1-5. Time limitation on prosecutions.**

A person shall not be prosecuted for any offense, with the exception of murder, manslaughter, aggravated assault, kidnapping, arson, burglary, forgery, counterfeiting, robbery, larceny, rape, embezzlement, obtaining money or property under false pretenses or by fraud, felonious abuse or battery of a child as described in Section 97-5-39, touching or handling a child for lustful purposes as described in Section 97-5-23, sexual battery of a child as described in Section 97-3-95(1)(c), (d) or (2) or exploitation of children as described in Section 97-5-33, unless the prosecution for such offense be commenced within two years (2) next after the commission thereof, but nothing contained in this section shall bar any prosecution against any person who shall abscond or flee from justice, or shall absent himself from this state or out of the jurisdiction of the court, or so conduct himself that he cannot be found by the officers of the law, or that process cannot be served upon him. 1912, 261; 1993, 440; 1998, 582; 2003, 497; 2004, 539.

**99-1-7. Time limitation on prosecutions--commencement of prosecution.** A prosecution may be commenced within the meaning of Section 99-1-5 by the issuance of a warrant, or by binding over or recognizing the offender to compel his appearance to answer the offense, as well as by indictment or affidavit. 1942, 2438.

**99-1-9. Time limitation on prosecutions--additional year allowed in certain cases.** 1942, 2439.

### **CHAPTER 3. ARRESTS**

**99-3-35. Reward for arrest and delivery of fleeing killer.** A person who shall arrest anyone who kills another and is fleeing, or attempting to flee, before arrest, and shall deliver him up for trial, shall be entitled to the sum of \$100.00 (payable) out of the treasury of the county in which the homicide occurred, upon the allowance of the circuit court and the board of supervisors of the county in the manner provided by law. 1910, 187.

**99-3-37. Reward for arrest and delivery of fleeing killer--sheriff and other officers may receive.** The sheriff or other officers who shall arrest anyone who kills another and is fleeing, or attempting to flee, shall be entitled to the reward provided for in Section 99-3-35 the same as other persons, provided the killing is not done in the county in which the officer making the arrest resides. 1910, 187.

**99-3-39. Rewards for information may be offered by counties, etc.** Boards of supervisors ... may ... offer monetary rewards, the amount of which shall be fixed by said authorities ... for information leading to the apprehension of any person subsequently convicted of any crime or misdemeanor committed within this state; information regarding the whereabouts of missing persons; the ascertaining or divulging of any information necessary or helpful for the governing of the tranquility of any ... county of this state or for any like purpose, provided said reward shall not exceed the sum of Fifteen Thousand Dollars (\$15,000.00). Law enforcement officers or any employee of the county offering such reward or any member of the immediate family of either are not eligible to receive such rewards. 1970, 345; 2007, 513.

## CHAPTER 5. BAIL

### 99-5-9. Cash bail bond.

(1) In addition to any type of bail allowed by statute, any committing court, in its discretion, may allow any defendant, to whom bail is allowable, to deposit cash as bail bond in lieu of a surety or property bail bond, by depositing such cash sum as the court may direct with the sheriff or officer having custody of defendant, who shall receipt therefor and who shall forthwith deliver the said monies to the county treasurer, who shall receipt therefor in duplicate. The sheriff, or other officer, upon receipt of the county treasurer, shall forthwith deliver one (1) copy of such receipt to the committing court who shall then order the release of such defendant.

(2) The order of the court shall set forth the conditions upon which such cash bond is allowed and shall be determined to be the agreement upon which the bailee has agreed.

(3) The sums received by the county treasurer shall be deposited by him in a special fund to be known as "Cash Bail Fund," and shall be received by him subject to the terms and conditions of the order of the court.

(4) If the committing court authorizes bail by a cash deposit under subsection (1) of this section, but anyone authorized to release a criminal defendant allows the deposit of an amount less than the full amount of the bail ordered by the court, the defendant may post bail by a professional bail agent in an amount equal to one-fourth (1/4) of the full amount fixed under subsection (1) or the amount of the actual deposit whichever is greater. 1960, 267; 2007, 390.

## CHAPTER 9. PROCESS

### 99-9-15. Subpoena to compel attendance of witness from nearby county during term.

... The sheriff shall execute the process ... but ... the court may appoint some person other than an officer to execute and return such process ... and who shall be entitled to the same fees therefor as the sheriff would be entitled to for executing the process. 1936, 250.

## CHAPTER 13. INSANITY PROCEEDINGS

99-13-11. Mental examination of person charged with felony--cost. When the circuit judge shall order a mental examination of a person charged with a felony, any cost or expense in connection therewith shall be paid by the county in which such criminal action is pending. 1960, 262; 1997, 474.

## CHAPTER 15. PRETRIAL PROCEEDINGS

99-15-1. Conservators of peace--defined. The judges of the supreme, circuit and chancery courts and of the court of appeals are conservators of the peace throughout the state, and each judge of the county court and every justice of the peace is such within his county. 1942, 2568; 1996, 385.

99-15-15. Appointment of counsel for indigents. 1971, 490; 1999, 375; 2001, 375.

99-15-17. Compensation of counsel--amount. The compensation for counsel for indigents appointed as provided in Section 99-15-15, shall be approved and allowed by the appropriate judge and in any one case may not exceed One Thousand Dollars (\$1,000.00) for representation in circuit court whether on appeal or originating in said court. Provided, however, if said case is not appealed to or does not originate in a court of record, the maximum compensation shall not exceed Two Hundred Dollars (\$200.00) for any one case, the

amount of such compensation to be approved by a judge of the chancery court, county court or circuit court in the county where the case arises. Provided, however, in a capital case two attorneys may be appointed, and the compensation may not exceed Two Thousand Dollars (\$2,000.00) per case. If the case is appealed to the state supreme court by counsel appointed by the judge, the allowable fee for services on appeal shall not exceed One Thousand Dollars (\$1,000.00) per case. In addition, the judge shall allow reimbursement of actual expenses. The attorney or attorneys so appointed shall itemize the time spent in defending said indigents together with an itemized statement of expenses of such defense, and shall present same to the appropriate judge. The fees and expenses as allowed by the appropriate judge shall be paid by the county treasurer out of the general fund of the county in which the prosecution was commenced. 1971, 490; 1974, 428; 1980, 444.

99-15-19. Compensation of counsel--reimbursement of county in certain cases. 1971, 490.

99-15-45. Change of venue--costs paid by county from which venue is changed. 1942, 2513.

## **CHAPTER 19. JUDGMENT, SENTENCE, ETC.**

99-19-18. Mandatory minimum sentence for embezzlement or other unlawful conversion of public funds. When any person is convicted of a felony or felonies in which public funds in the amount of Ten Thousand Dollars (\$10,000.00) or more were unlawfully taken, obtained or misappropriated, the sentence imposed by the court shall include a minimum term of imprisonment of one (1) year in the custody of the Department of Corrections. Notwithstanding any other law to the contrary, such mandatory minimum term shall not be reduced or suspended nor shall such person be eligible for probation or parole before the expiration of one (1) year of incarceration. 2002, 309.

99-19-35. Conviction of certain crimes not to practice medicine or hold office. 1942, 2563; 1987, 499.

99-19-45. Commitment to penitentiary--circuit clerks to furnish commitment papers to secretary of board of trustees--clerk's fee. 1991, 379; 2002, 624; 2006, 455.

99-19-53. Execution of death sentence--fee of state executioner, etc. paid by county. 1984, 448.

99-19-55. Execution of death sentence--disposition of body--costs to county. 1984, 448; 1994, 479; 1998, 361.

99-19-65. Collection of fines, penalties, and list reported. The clerk of the circuit court shall, immediately after the adjournment of every term, issue execution according to the nature of the case, for all fines, penalties and forfeitures assessed by the court, or which shall have accrued to the state or to the county, and remaining due and unpaid. Said clerk shall, within thirty days after such adjournment, transmit a list of such executions to the clerk of the board of supervisors, etc. 1942, 1562.

99-19-69. Liability of officers for default as to fines. 1942, 1564.

99-19-73. Standard State monetary assessment for certain violations, misdemeanors and felonies; suspension or reduction of assessment prohibited; collection and deposit of assessments; refunds.

This section establishes the uniform state assessments for various types of offenses, as follows:

Traffic violations .....	\$69.50
Implied Consent Law violations .....	\$199.50
Game and Fish Law violations .....	\$74.00
Litter Law violations .....	\$25.00
Other misdemeanors .....	\$88.00
Other felonies .....	\$166.50

2007, 332, 559, 578.

**CHAPTER 27. INTOXICATING BEVERAGES OFFENSES**

99-27-13. Seized property--certain costs paid into county treasury. 1942, 2619.

99-27-37. Supervisors may appropriate money to procure evidence of liquor and narcotics violations. The amount in each case is not to exceed 1/3 of the fines collected. 1970, 347; 1986, 327.

99-27-39. Payment by liquor dealers of penalty to state, county or municipality. 1962, 588.

**CHAPTER 37. RESTITUTION OF CRIME VICTIMS**

99-37-25. Payment by county of initial medical examination of rape victim; defendant to make restitution to county.