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Chapter No. 406  
10/HR03/R1283SG  
CT 15P

***HOUSE BILL NO. 1158***

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1158

AN ACT TO AMEND SECTION 21-23-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE GOVERNING AUTHORITIES OF A MUNICIPALITY TO APPOINT ONE ADDITIONAL MUNICIPAL JUDGE; TO AMEND SECTION 21-23-5, MISSISSIPPI CODE OF 1972, TO REVISE THE POPULATION THRESHOLD UNDER WHICH A MUNICIPAL JUDGE IS NOT REQUIRED TO BE AN ATTORNEY WHO RESIDES WITHIN THAT MUNICIPALITY; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 21-23-3, Mississippi Code of 1972, is amended as follows:

21-23-3. In all municipalities having a population of ten thousand (10,000) or more, according to the latest available federal census, there shall be a municipal judge and a prosecuting attorney, who shall be appointed by the governing authorities of the municipality at the time provided for the appointment of other officers. The municipal governing authorities may appoint one (1) additional municipal judge, who shall exercise the same authority and prerogatives of the office, regardless of the presence or absence of the other municipal judge. Except as otherwise provided in Section 21-23-5, a municipal judge shall be a qualified elector of the county in which the municipality is located and shall be an attorney at law. Such municipal judges and prosecuting attorney shall receive a salary, to be paid by the municipality, and to be fixed by the governing authorities of the municipality.

In any proceeding in which a conflict of interest arises for the prosecuting attorney, or any other reason dictates that he recuse himself, the mayor of the municipality may appoint a special prosecuting attorney for that particular proceeding. Such

special prosecuting attorney shall be compensated for his services in the same manner and amount as allowed under Section 21-23-7 for appointed counsel for indigent persons.

Provided, however, the governing authorities of any municipality having a population in excess of ten thousand (10,000) persons according to the latest available federal census and situated in a county having an area in excess of nine hundred thirty-five (935) square miles and having a county court may, in their discretion, follow the provisions as set out in Section 21-23-5 for municipalities having a population of less than ten thousand (10,000).

Provided, further, the governing authorities of any municipality having a population in excess of fifty thousand (50,000) according to the latest federal decennial census may, in their discretion, provide for the appointment of not more than six (6) municipal judges for said municipality, each of whom shall exercise the same authority and prerogatives of their office, regardless of the presence or absence of the other municipal judges.

**SECTION 2.** Section 21-23-5, Mississippi Code of 1972, is amended as follows:

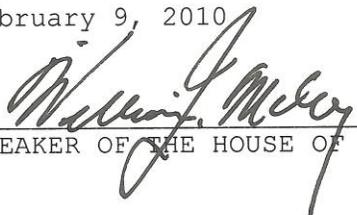
21-23-5. In any municipality having a population of less than ten thousand (10,000) according to the latest available federal census, it shall be discretionary with the governing authorities of the municipality as to whether or not a municipal judge or a prosecuting attorney, or both, shall be appointed. If the authorities of any municipality having a population of less than twenty thousand (20,000) according to the latest available federal census appoint a municipal judge, he may be a licensed attorney of such county, a licensed attorney of a county adjacent to such county or a justice court judge of such county. In all municipalities where a municipal judge is not appointed, the mayor, or mayor pro tempore, shall be the municipal judge, but he

shall not receive additional compensation from the municipality for such service.

The Mississippi Judicial College of the University of Mississippi Law Center shall conduct, if funds are available, courses of training and education for mayors and mayors pro tempore who serve as municipal judges. This course of training shall be known as the Municipal Judges Training Course and it shall consist of at least twelve (12) hours of training. The content of the course of training, when and where it is to be conducted, shall be determined by the said Judicial College consistent with the need. A certificate of completion shall be furnished those mayors who complete the full course. No mayor elected or reelected for a term of office after July 1, 1979, except one who has been admitted to practice law in this state, shall serve as municipal judge unless he has completed the course of training prescribed herein. The provisions of this paragraph shall not apply if funds are unavailable for such training courses.

**SECTION 3.** This act shall take effect and be in force from and after its passage.

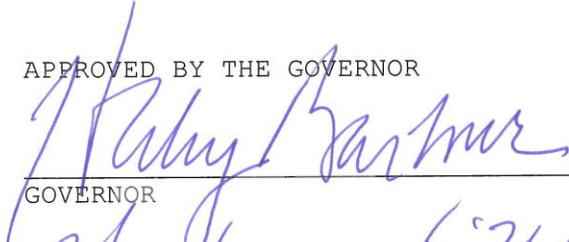
PASSED BY THE HOUSE OF REPRESENTATIVES  
February 9, 2010

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 3, 2010

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR  
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