

By: Representative Perry

To: Judiciary A;
Appropriations

HOUSE BILL NO. 761

1 AN ACT TO ESTABLISH A MISSISSIPPI JUDICIAL COMPENSATION
2 COMMISSION; TO PROVIDE FOR APPOINTMENT OF MEMBERS TO THE
3 COMMISSION; TO PROVIDE FOR TERMS OF OFFICE; TO PROVIDE FOR FILLING
4 VACANCIES; TO PROHIBIT MEMBERS OF THE COMMISSION FROM ENGAGING IN
5 PUBLIC SERVICE; TO PROVIDE FOR THE DESIGNATION OF A CHAIRPERSON;
6 TO PROVIDE FOR MEETINGS; TO PROVIDE THAT THE COMMISSION SHALL BE
7 UNDER THE ADMINISTRATIVE OFFICE OF COURTS FOR ADMINISTRATIVE AND
8 STAFFING PURPOSES; TO PROVIDE FOR REIMBURSEMENT OF EXPENSES; TO
9 PROVIDE THAT MEMBERS OF THE COMMISSION SHALL RECEIVE NO
10 COMPENSATION; TO REQUIRE REPORTS AND RECOMMENDATIONS; TO PRESCRIBE
11 CRITERIA FOR RECOMMENDATIONS; TO PROVIDE FOR THE BINDING NATURE OF
12 SUCH REPORTS; TO AMEND SECTION 25-3-35, MISSISSIPPI CODE OF 1972,
13 IN CONFORMITY; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE
14 LEGISLATURE OF THE STATE OF MISSISSIPPI:
15

16 SECTION 1. **Establishment of commission.**

17 A Mississippi Judicial Compensation Commission is hereby
18 created that shall establish, subject to the veto power of the
19 Legislature, the compensation, excluding benefits, to be paid from
20 the State Treasury and other sources for all justices and judges
21 of this state, including retired justices and judges sitting on
22 assignment, but excluding county court judges, family court judges
23 and justice court judges.

24 SECTION 2. **Appointment of members.**

25 (1) The Mississippi Judicial Compensation Commission shall
26 consist of nine (9) members selected from among the registered
27 voters of this state as follows:

28 (a) The Governor shall appoint one (1) member, who is
29 not actively practicing law in the State of Mississippi;

30 (b) The Lieutenant Governor shall appoint one (1)
31 member, who is not actively practicing law in the State of
32 Mississippi;

33 (c) The Speaker of the House of Representatives shall

34 appoint one (1) member, who is not actively practicing law in the
35 State of Mississippi;

36 (d) The Chief Justice of the Supreme Court of
37 Mississippi shall appoint one (1) member, who is not actively
38 practicing law in the State of Mississippi;

39 (e) The Attorney General of the State of Mississippi
40 shall appoint one (1) member, who is not actively practicing law
41 in the State of Mississippi;

42 (f) The Mississippi Bar shall appoint one (1) member;

43 (g) The Magnolia Bar Association shall appoint one (1)
44 member;

45 (h) The Dean of the University of Mississippi School of
46 Law or his designee shall be a member of the commission; and

47 (i) The Dean of the Mississippi College School of Law
48 or his designee shall be a member of the commission.

49 (2) In the case of members appointed by the officials
50 designated in paragraphs (a), (b), (c), (d) and (e) above, the
51 official with the power to appoint a member shall be the person in
52 office on the day of commencement of the member's term.

53 (3) The Mississippi Bar shall appoint its member by such
54 procedure as may to it appear appropriate.

55 (4) The Magnolia Bar Association shall appoint its member by
56 such procedure as may to it appear appropriate.

57 (5) The Deans of the University of Mississippi School of Law
58 and the Mississippi College School of Law shall be permanent
59 members of the commission, provided that each dean may designate a
60 person to serve in his stead, subject to revocation of the will
61 and pleasure of the dean.

62 **SECTION 3. Terms of office.**

63 As soon as is reasonably practicable after the effective date
64 of this act, the initial members of the commission shall be
65 appointed. The initial members of the commission appointed by the
66 Lieutenant Governor, the Speaker of the House and The Mississippi
67 Bar shall serve until December 31, 2000. The initial members of

68 the commission appointed by the Chief Justice of the Supreme Court
69 and by the Attorney General shall serve until December 31, 2002.
70 The initial members of the commission appointed by the Governor
71 and the Magnolia Bar Association shall serve until December 31,
72 2004. Thereafter, members of the Judicial Compensation Commission
73 shall serve for terms of six (6) years, beginning January 1, 2001,
74 for members appointed by the Lieutenant Governor, the Speaker of
75 the House and The Mississippi Bar; beginning January 1, 2003, for
76 members appointed by the Chief Justice of the Supreme Court and by
77 the Attorney General; and beginning January 1, 2005, for members
78 appointed by the Governor and by the Magnolia Bar Association.
79 Members appointed as provided in paragraphs (a), (b), (c), (d),
80 (e), (f) and (g) of Section 2 of this act shall be limited to two
81 (2) consecutive terms.

82 SECTION 4. **Vacancies.**

83 Any vacancy on the Judicial Compensation Commission shall be
84 filled promptly for the remainder of the term in the same manner
85 in which such position was originally filled under Section 2 of
86 this act. In the event that a vacancy remains unfilled for more
87 than ninety (90) days, a temporary member of the Judicial
88 Compensation Commission shall be appointed by a majority vote of
89 the remaining commission members to serve with full powers of a
90 commission member. Such a temporary member of the commission
91 shall serve until such time as the vacancy is filled by the public
92 official, bar association or dean with the power to appoint the
93 member under Section 2 of this act and this section.

94 SECTION 5. **Prohibition on public service.**

95 No member of the Judicial Compensation Commission shall hold
96 any other public office, nor shall any member be the employee or
97 member of any state department, agency, board or commission during
98 such member's tenure on the Judicial Compensation Commission. A
99 violation of this section by any member of the commission shall
100 result in immediate constructive resignation, and the resulting
101 vacancy shall be filled according to Section 4 of this act. The

102 position of dean or member of the faculty of the University of
103 Mississippi School of Law is not a public office.

104 SECTION 6. **Designation of chairperson.**

105 The members of the Judicial Compensation Commission shall, by
106 majority vote, designate a chairperson from among their number who
107 shall serve for two (2) years from the date of election or until
108 his or her successor is designated by majority vote and assumes
109 the responsibilities.

110 SECTION 7. **Meeting, quorum, concurrence.**

111 The Judicial Compensation Commission shall meet, either in
112 person or by teleconference, on the call of the chairperson or on
113 the request of at least three (3) members. The presence of at
114 least five (5) members shall be required to conduct a meeting.
115 The concurrence of at least five (5) members shall be required for
116 any formal action taken by the Judicial Compensation Commission.

117 SECTION 8. **Administration under Administrative Office of
118 Courts.**

119 For administrative and staffing purposes only, the Judicial
120 Compensation Commission shall be attached to the Administrative
121 Office of Courts, Section 9-21-1 et seq., Mississippi Code of
122 1972. The Judicial Compensation Commission shall be entitled to
123 request and receive and shall utilize such staff support, meeting
124 facilities, temporary work facilities, including computer,
125 telephone, reproduction and facsimile equipment, available data,
126 and other resources of the Administrative Office of Courts as it
127 reasonably deems necessary to carry out properly its powers and
128 duties hereunder. No reasonable request for such staff support
129 and resources, as provided in this section, shall be denied by the
130 administrative director. The Administrative Office of Courts
131 shall take into account such staffing requirements, resource
132 requirements and reimbursement expenditures under Section 9 of
133 this act when formulating its own budget requirements for the
134 fiscal year.

135 SECTION 9. **Reimbursement.**

136 Members of the commission shall receive a per diem as
137 provided in Section 25-3-69 for actual attendance upon meetings of
138 the commission, together with reimbursement for traveling and
139 subsistence expenses incurred as provided in Section 25-3-41,
140 Mississippi Code of 1972.

141 SECTION 10. **No compensation.**

142 Except as provided in Section 9 of this act, the members of
143 the Judicial Compensation Commission shall receive no compensation
144 for their services.

145 SECTION 11. **No special appropriation.**

146 Because the Judicial Compensation Commission shall use the
147 resources of the Administrative Office of Courts, it shall not be
148 necessary for the Legislature separately to appropriate any funds
149 for the establishment of and expenses of the Judicial Compensation
150 Commission.

151 SECTION 12. **Biennial report required.**

152 Not later than November 1 of each even-numbered year,
153 beginning with the year 2000, the Judicial Compensation Commission
154 shall make its biennial report to the Legislature. The report
155 shall include findings, conclusions and recommendations as to the
156 proper compensation, excluding benefits, to be paid from the State
157 Treasury and other sources for all justices and judges of this
158 state, including retired justices and judges sitting on
159 assignment, but excluding county court judges, family court judges
160 and justice court judges. The report shall also include such
161 legislative proposals as the Judicial Compensation Commission
162 deems necessary to implement these recommendations.

163 SECTION 13. **Directive of commission.**

164 The Judicial Compensation Commission shall conduct its study
165 and make its recommendations with respect to judicial compensation
166 in this state to the end that the judicial compensation structure
167 shall be adequate to assure that the most highly qualified
168 individuals in this state, selected from a diversity of life and
169 professional experiences, will be attracted to the state judiciary

170 and will be able to serve and to continue to serve without
171 unreasonable economic hardship and with a level of judicial
172 independence unaffected by financial concerns, all to the end that
173 the judiciary in this state shall enjoy the highest level of
174 public confidence.

175 SECTION 14. **Criteria for recommendations.**

176 In order to carry out its responsibilities under Section 12
177 of this act to make findings, conclusions and recommendations as
178 to the proper compensation for all justices and judges of this
179 state, and in order to fulfill the directive of the Judicial
180 Compensation Commission as set out in Section 13 of this act, the
181 Judicial Compensation Commission may consider the following
182 factors:

183 (a) The responsibility, skill and experience required
184 of the particular judgeship at issue;

185 (b) The time required of the particular judgeship at
186 issue;

187 (c) The value of compensable service performed by
188 justices and judges, as determined by reference to judicial
189 compensation in other states and the federal government;

190 (d) The value of comparable service performed in the
191 private sector, including private judging, arbitration and
192 mediation, based on the responsibility and discretion required in
193 the particular judgeship at issue and the demand for such services
194 in the private sector;

195 (e) The compensation of attorneys in the private
196 sector;

197 (f) The average consumer prices commonly known as the
198 cost of living, as well as the changes in such measure;

199 (g) The overall compensation presently received by
200 other public officials in this state including state
201 constitutional officeholders and deans, presidents and chancellors
202 of the public university systems, and also including district
203 attorneys, chiefs of police, county attorneys and city attorneys

204 in major metropolitan areas for which such information is readily
205 available;

206 (h) Such other factors, not confined to the foregoing,
207 that are normally or traditionally taken into consideration in the
208 determination of such compensation; and

209 (i) Most importantly, that level of overall
210 compensation adequate to ensure that the most highly qualified
211 individuals in this state, selected from a diversity of life and
212 professional experiences, will be attracted to the judiciary and
213 will be able to serve and to continue to serve without
214 unreasonable economic hardship and with a level of judicial
215 independence unaffected by financial concerns, all to the end that
216 the judiciary in this state shall enjoy the highest level of
217 public confidence.

218 SECTION 15. **Binding nature of report.**

219 The recommendations made by the Judicial Compensation
220 Commission in its report to the Legislature shall be binding and
221 have the full force and effect of law upon the first day of July
222 following the lodging of the report with the Clerk of the House of
223 Representatives and the Secretary of the Senate; provided that, if
224 a majority of the Senate and a majority of the House of
225 Representatives vote to reject any or all of such recommendations
226 prior to the effective date thereof, the recommendation(s)
227 rejected shall be of no force or effect. In the event that it
228 votes to reject any or all of such recommendations, each house
229 must issue to the Governor, the Chief Justice of the Supreme
230 Court, the President of The Mississippi Bar and the President of
231 the Magnolia Bar a report detailing the reasons for each such
232 rejection of a recommendation made by the Judicial Compensation
233 Commission in its biennial report.

234 SECTION 16. Section 25-3-35, Mississippi Code of 1972, is
235 amended as follows:

236 25-3-35. (1) Until January 1, 2000, the annual salaries of
237 the following judges are fixed as follows, to begin at the

238 commencement of the next term of office immediately succeeding the
239 existing term:

240 Chief Justice of the Supreme Court..... \$100,900.00
241 Presiding Justice of the Supreme Court..... 98,900.00
242 Associate Justices of the Supreme Court, each... 98,300.00

243 However, in addition to their present official duties, there
244 are imposed upon the Supreme Court Justices the extra duties of
245 making a special study of existing laws and reporting to each
246 regular session of the Legislature such constructive suggestions
247 as they may deem necessary for the improvement of the
248 administration of justice, and of advising and counseling with the
249 State Librarian in the selection of law books for purchase and use
250 in the State Law Library, advising with the librarian thereof upon
251 the removal from the library of any books which may be the least
252 frequently used, and for the placing of same in a convenient
253 location so as to provide additional space for such books and
254 other current publications which may be more frequently used or
255 called for. For such extra services each justice, from and after
256 the effective date of Laws, 1997, Chapter 577, shall receive a sum
257 sufficient when added to the present salaries of the justices to
258 aggregate One Hundred Thousand Nine Hundred Dollars (\$100,900.00)
259 for the Chief Justice, Ninety-eight Thousand Nine Hundred Dollars
260 (\$98,900.00) for the Presiding Justice, and Ninety-eight Thousand
261 Three Hundred Dollars (\$98,300.00) for Associate Justices, per
262 annum, and from and after January 1, 2000, shall receive a sum
263 sufficient when added to otherwise authorized compensation to
264 aggregate such other salary as the Judicial Compensation
265 Commission may establish as provided in House Bill No. _____, 1999
266 Regular Session. As each existing term expires and the
267 above-captioned salaries or such other salary as the Judicial
268 Compensation Commission may establish become effective in due
269 course, the extra duties and compensation provided for shall
270 cease.

271 (2) Until January 1, 2000, the annual salaries of the judges

272 of the Court of Appeals of Mississippi are fixed as follows:

273 Chief Judge of the Court of Appeals..... \$94,300.00
274 Associate Judges of the Court of Appeals, each.. 91,500.00

275 From and after January 1, 2000, the annual salaries of all
276 judges of the Court of Appeals shall be fixed as set forth in
277 House Bill No. _____, 1999 Regular Session.

278 (3) Until January 1, 1999, the annual salaries of the
279 chancery and circuit court judges are fixed as follows:

280 Chancery Judges, each..... \$88,700.00
281 Circuit Judges, each..... 88,700.00

282 From and after January 1, 1999, the salary of chancellors and
283 circuit judges shall be as set forth in House Bill No. _____, 1999
284 Regular Session, consistent with Section 166 of the Mississippi
285 Constitution of 1890.

286 (4) The Supreme Court shall prepare a payroll for chancery
287 judges and circuit judges and submit such payroll to the
288 Department of Finance and Administration.

289 (5) The annual salary of the full-time district attorneys
290 shall be Seventy-nine Thousand Eight Hundred Thirty Dollars
291 (\$79,830.00).

292 (6) The annual salary of the full-time legal assistants
293 shall be not less than Fifteen Thousand Dollars (\$15,000.00) nor
294 more than Sixty-seven Thousand Five Hundred Dollars (\$67,500.00),
295 as established by the district attorney.

296 SECTION 17. This act shall take effect and be in force from
297 and after its passage.