

By: Senator(s) Tollison

To: Judiciary

SENATE BILL NO. 2076

1 AN ACT TO CREATE THE MISSISSIPPI ADVISORY COMMITTEE ON
2 JUDICIAL NOMINATIONS TO MAKE RECOMMENDATIONS TO THE GOVERNOR TO
3 FILL JUDICIAL VACANCIES; TO PROVIDE FOR THE APPOINTMENT OF MEMBERS
4 OF THE COMMITTEE; TO PROVIDE FOR OFFICERS OF THE COMMITTEE; TO
5 PROVIDE FOR SUBCOMMITTEES; TO SPECIFY THE POWERS AND DUTIES OF THE
6 COMMITTEE AND ITS SUBCOMMITTEES; TO PRESCRIBE STANDARDS FOR
7 NOMINEES; TO AMEND SECTION 25-41-3, MISSISSIPPI CODE OF 1972, TO
8 EXEMPT THE MISSISSIPPI ADVISORY COMMITTEE ON JUDICIAL NOMINATIONS
9 AND ITS SUBCOMMITTEES FROM THE DEFINITION OF PUBLIC BODY; AND FOR
10 RELATED PURPOSES.

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

12 SECTION 1. There is hereby created the Mississippi Advisory
13 Committee on Judicial Nominations. The committee shall, as
14 hereinafter provided in this act, receive applications from and
15 nominate persons who are qualified and eligible to fill vacancies
16 in the Mississippi Supreme Court, the Court of Appeals and in the
17 various chancery, circuit and county courts.

18 SECTION 2. (1) The committee shall consist of nineteen (19)
19 members who shall be appointed in the following manner:

20 (a) The Governor shall make the following appointments:

21 (i) One (1) member who is not an attorney and one
22 (1) member who is a member of the Mississippi Trial Lawyers
23 Association who are residents of the First Supreme Court District;

24 (ii) One (1) member who is a member of The
25 Mississippi Bar and one (1) member who is a member of the Magnolia
26 Bar Association who are residents of the Second Supreme Court
27 District;

28 (iii) One (1) member who is a member of The
29 Mississippi Bar and one (1) member who is a member of the
30 Mississippi Prosecutor's Association who are residents of the

31 Third Supreme Court District;

32 (b) The Lieutenant Governor shall make the following
33 appointments:

34 (i) One (1) member who is not an attorney and one
35 (1) member who is a member of the Mississippi Trial Lawyers
36 Association who are residents of the Second Supreme Court
37 District;

38 (ii) One (1) member who is a member of The
39 Mississippi Bar and one (1) member who is a member of the Magnolia
40 Bar Association who are residents of the Third Supreme Court
41 District;

42 (iii) One (1) member who is a member of The
43 Mississippi Bar and one (1) member who is a member of the
44 Mississippi Prosecutor's Association who are residents of the
45 First Supreme Court District;

46 (c) The Speaker of the House shall make the following
47 appointments:

48 (i) One (1) member who is not an attorney and one
49 (1) member who is a member of the Mississippi Trial Lawyers
50 Association who are residents of the Third Supreme Court District;

51 (ii) One (1) member who is a member of The
52 Mississippi Bar and one (1) member who is a member of the Magnolia
53 Bar Association who are residents of the First Supreme Court
54 District;

55 (iii) One (1) member who is a member of The
56 Mississippi Bar and one (1) member who is a member of the
57 Mississippi Prosecutor's Association who are residents of the
58 Second Supreme Court District.

59 The appointing authorities shall endeavor to create and to
60 maintain a nominating committee whose membership is not limited to
61 a particular race, gender or interest group. The Governor shall
62 appoint one (1) of the members as chairperson. Appointment as
63 chairperson shall be for a period of one (1) year, and, except for
64 the initial appointment, each person appointed chairperson shall
65 have served on the committee for at least one (1) year. During
66 the period of time when a member is serving as chairperson, the
67 Governor shall appoint one (1) additional committee member who

68 shall be a resident of the chairperson's state Supreme Court
69 district and who will serve only during the tenure of such
70 chairperson.

71 (2) At the initial meeting of the committee, the members
72 shall set their terms' expiration so that the terms of members
73 shall be as follows:

74 (a) Two (2) members from each state Supreme Court
75 district shall serve for two (2) years each;

76 (b) Two (2) members from each state Supreme Court
77 district shall serve for one (1) year each; and

78 (c) Two (2) members from each state Supreme Court
79 district shall serve for three (3) years each. Thereafter, all
80 appointments shall be for terms of three (3) years each. An
81 appointment to fill any vacancy due to the death, resignation or
82 disability of a member shall be for the unexpired term only. No
83 member shall be eligible for reappointment to the committee for a
84 period of one (1) year after the date on which his or her term
85 ends.

86 (3) No member of the Mississippi Advisory Committee on
87 Judicial Nominations shall be eligible for appointment to judicial
88 office during his or her service on the committee or for a period
89 of one (1) year after the date on which his or her term on the
90 committee ends.

91 SECTION 3. The Governor shall designate a secretary to the
92 committee who may or may not be a member of the committee and who
93 shall be responsible for maintaining the records of the committee.

94 SECTION 4. Each group of six (6) committee members who are
95 residents of the same state Supreme Court district shall
96 constitute a subcommittee of the committee and shall be designated
97 with the number of the Supreme Court district in which they
98 reside. The Chairperson of the Mississippi Advisory Committee on
99 Judicial Nominations shall appoint the chairperson of each such
100 subcommittee from the subcommittee members who are practicing

101 attorneys.

102 SECTION 5. (1) Whenever a vacancy occurs in a chancery,
103 circuit or county judgeship, the chair of the committee, upon
104 knowledge of a vacancy or notice from the Governor, shall call a
105 meeting of the Mississippi Advisory Committee on Judicial
106 Nominations' subcommittee in whose state Supreme Court district
107 the vacancy occurs. The subcommittee shall meet to seek, receive
108 and review applications and other information concerning the
109 qualifications and eligibility of proposed nominees for such
110 vacant judgeship. A vacancy shall be deemed to have occurred when
111 the Governor has been notified that the term of office of a judge
112 has been terminated by resignation or otherwise at a specified
113 future date.

114 The subcommittee shall notify The Mississippi Bar, the county
115 or local bar association within the appropriate judicial
116 jurisdiction where the vacancy exists, and any other professional
117 or citizens' organizations deemed appropriate by the subcommittee;
118 and, in such notification, the subcommittee shall relate the
119 existence of the vacancy and solicit nominations therefor. The
120 subcommittee may receive nominations from any interested citizens
121 and groups.

122 (2) Not less than thirty (30) days after the initial meeting
123 of the subcommittee as provided in subsection (1) of this section
124 or immediately at the call of the Governor, whichever comes first,
125 the full Mississippi Advisory Committee on Judicial Nominations
126 shall meet, evaluate subcommittee recommendations and select, by a
127 majority vote of its entire membership, prospective nominees whom
128 it finds fully qualified for judicial office. From among those
129 found fully qualified, the committee shall designate three (3)
130 nominees for each judicial vacancy; however, if the jurisdiction
131 in which the vacancy exists has fewer than forty (40) actively
132 practicing attorneys as shown by the most recent judicial records
133 of The Mississippi Bar, then the committee may designate less than

134 three (3) nominees.

135 SECTION 6. Whenever a vacancy occurs on the state Supreme
136 Court or the Court of Appeals, the procedure shall be generally as
137 provided in Section 5 of this act except that the full committee,
138 rather than a subcommittee, shall seek, receive and review
139 proposed nominees, and five (5) nominees shall be designated for
140 each vacancy.

141 SECTION 7. No prospective nominee shall be found "fully
142 qualified" for judicial office by a subcommittee or the committee
143 as a whole unless he is found to have the following
144 qualifications:

145 (a) It must affirmatively appear that the prospective
146 nominee possesses all of the qualifications established by law for
147 the judicial office involved; and

148 (b) It must affirmatively appear that the prospective
149 nominee possesses the personal qualities and attributes of
150 character and experience, judicial temperament, professional
151 competence and other personal characteristics essential to the
152 judgeship involved and necessary to fully qualify a person to
153 serve the public as a judicial officer; and that he or she, if
154 nominated and appointed, will fairly administer justice without
155 respect to any person's race, color, sex, religion or national
156 origin, will administer justice equally to the poor and the rich,
157 and will faithfully and impartially discharge and perform all
158 duties incumbent upon the judicial office according to the best of
159 the applicant's ability and understanding, in accordance with the
160 Constitution, laws and treaties of the United States and the
161 Constitution and laws of the State of Mississippi.

162 SECTION 8. Not less than ten (10) days after the meeting
163 authorized in Section 5(2) and Section 6 of this act, the
164 Mississippi Advisory Committee on Judicial Nominations shall
165 transmit to the Governor, in alphabetical sequence, those nominees
166 it is designating to fill a particular judicial vacancy. If

167 approval of such nominees shall be rejected by the Governor or
168 shall notify the Governor of their unwillingness or inability to
169 accept appointment, the Governor may request the committee to
170 designate additional nominees. No permanent appointment shall be
171 made until the Governor receives the nominations of the committee
172 or before the expiration of sixty (60) days, whichever occurs
173 first.

174 SECTION 9. (1) With the approval of the Governor, the
175 Mississippi Advisory Committee on Judicial Nominations may adopt
176 such operating rules, forms and notices as it deems necessary and
177 as are not inconsistent with the provisions of this act.

178 (2) All applications and information received from or
179 concerning nominees and all proceedings of the committee or a
180 subcommittee thereof shall be confidential.

181 SECTION 10. Nothing in this act shall be construed as an
182 impairment or delegation of the constitutional and statutory
183 duties or prerogatives of the Governor with respect to the filling
184 of judicial vacancies by appointment. The right to reject any or
185 all of the nominees recommended pursuant to this act is reserved
186 to the Governor.

187 SECTION 11. Section 25-41-3, Mississippi Code of 1972, is
188 amended as follows:

189 25-41-3. For purposes of this chapter, the following words
190 shall have the meaning ascribed herein, to wit:

191 (a) "Public body" shall mean: (i) any executive or
192 administrative board, commission, authority, council, department,
193 agency, bureau or any other policy-making entity, or committee
194 thereof, of the State of Mississippi, or any political subdivision
195 or municipal corporation of the state, whether such entity be
196 created by statute or executive order, which is supported wholly
197 or in part by public funds or expends public funds, and (ii) any
198 standing, interim or special committee of the Mississippi
199 Legislature. There shall be exempted from the provisions of this

200 chapter the judiciary, including all jury deliberations, public
201 and private hospital staffs, public and private hospital boards
202 and committees thereof, law enforcement officials, the military,
203 the State Probation and Parole Board, the Workers' Compensation
204 Commission, the Mississippi Advisory Committee on Judicial
205 Nominations and its subcommittees, legislative subcommittees and
206 legislative conference committees, and license revocation,
207 suspension and disciplinary proceedings held by the Mississippi
208 State Board of Dental Examiners.

209 (b) "Meeting" shall mean an assemblage of members of a
210 public body at which official acts may be taken upon a matter over
211 which the public body has supervision, control, jurisdiction or
212 advisory power.

213 SECTION 12. This act shall take effect and be in force from
214 and after its passage.