

By: Ross

To: Judiciary; Elections

SENATE BILL NO. 2148

1 AN ACT TO PROVIDE THAT THE GOVERNOR SHALL FILL ANY VACANCY IN
2 AN OFFICE OF THE SUPREME COURT OR THE COURT OF APPEALS BY
3 APPOINTMENT; TO AMEND SECTIONS 23-15-973, 23-15-991 AND 23-15-993,
4 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THIS ACT; TO REPEAL
5 SECTION 23-15-995, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT
6 THE GENERAL ELECTION LAWS SHALL APPLY TO GOVERN THE ELECTION OF
7 JUDGES OF THE SUPREME COURT; TO AMEND SECTIONS 23-15-975,
8 23-15-977 AND 9-4-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO
9 THIS ACT; TO REPEAL SECTION 9-4-15, MISSISSIPPI CODE OF 1972,
10 WHICH PROVIDES THAT ELECTION FOR THE OFFICE OF JUDGE OF THE COURT
11 OF APPEALS SHALL BE HELD AT THE SAME TIMES AS GENERAL ELECTIONS
12 FOR CONGRESSIONAL OFFICES; TO AMEND SECTION 23-15-197, MISSISSIPPI
13 CODE OF 1972, IN CONFORMITY TO THIS ACT; TO REPEAL SECTION
14 23-15-607, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE
15 DETERMINATION OF THE ELECTION OF JUDGES OF THE SUPREME COURT AND
16 COURT OF APPEALS; TO AMEND SECTION 23-15-849, MISSISSIPPI CODE OF
17 1972, IN CONFORMITY TO THIS ACT; AND FOR RELATED PURPOSES.

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

19 SECTION 1. Section 23-15-973, Mississippi Code of 1972, is
20 amended as follows:

21 23-15-973. It shall be the duty of the judges of the circuit
22 court to give a reasonable time and opportunity to the candidates
23 for the offices of * * * circuit judge and chancellor to address
24 the people during court terms. In order to give further and every
25 possible emphasis to the fact that the said judicial offices are
26 not political but are to be held without favor and with absolute
27 impartiality as to all persons, and because of the jurisdiction
28 conferred upon the courts by this chapter, the judges thereof
29 should be as far removed as possible from any political
30 affiliations or obligations. It shall be unlawful for any
31 candidate for any of the offices mentioned in this section to
32 align himself with any candidate or candidates for any other
33 office or with any political faction or any political party at any

34 time during any primary or general election campaign. Likewise it
35 shall be unlawful for any candidate for any other office nominated
36 or to be nominated at any primary election, wherein any candidate
37 for any of the judicial offices in this section mentioned, is or
38 are to be nominated, to align himself with any one or more of the
39 candidates for said offices or to take any part whatever in any
40 nomination for any one or more of said judicial offices, except to
41 cast his individual vote. Any candidate for any office, whether
42 nominated with or without opposition, at any primary wherein a
43 candidate for any one of the judicial offices herein mentioned is
44 to be nominated who shall deliberately, knowingly and willfully
45 violate the provisions of this section shall forfeit his
46 nomination, or if elected at the following general election by
47 virtue of said nomination, his election shall be void.

48 SECTION 2. Section 23-15-991, Mississippi Code of 1972, is
49 amended as follows:

50 23-15-991. The term of office of judges of the Supreme Court
51 shall be as provided in the Constitution and * * * shall * * *
52 begin on the first Monday of January of the year in which the term
53 of the incumbent * * * expires.

54 SECTION 3. Section 23-15-993, Mississippi Code of 1972, is
55 amended as follows:

56 23-15-993. For the purpose of appointment, each of the nine
57 (9) judgeships of the Supreme Court shall be considered a separate
58 office. The three (3) offices in each of the three (3) Supreme
59 Court districts shall be designated Position Number 1, Position
60 Number 2 and Position Number 3 * * *. In Supreme Court District
61 Number 1: Position Number 1 shall be that office for which the
62 term ends in January 1966; Position Number 2 shall be that office
63 for which the term ends in January 1965; and Position Number 3
64 shall be that office for which the term ends in January 1969. In
65 District Number 2: Position Number 1 shall be that office for
66 which the term ends in January 1972; Position Number 2 shall be
67 that office for which the term ends in January 1969; and Position
68 Number 3 shall be for that office for which the term ends in
69 January 1973. In District Number 3: Position Number 1 shall be
70 that office for which the term ends in January 1969; Position

71 Number 2 shall be that office for which the term ends in January
72 1969; and Position Number 3 shall be that office for which the
73 term ends in January 1965.

74 SECTION 4. Section 23-15-995, Mississippi Code of 1972,
75 which provides that the general election laws shall apply to
76 govern the election of judges of the Supreme Court, is repealed.

77 SECTION 5. Section 23-15-975, Mississippi Code of 1972, is
78 amended as follows:

79 23-15-975. As used in Sections 23-15-974 through 23-15-985
80 of this subarticle, the term "judicial office" includes the office
81 of * * * circuit judge, chancellor, county court judge and family
82 court judge. All such * * * judges shall be full-time positions
83 and such * * * judges shall not engage in the practice of law
84 before any court, administrative agency or other judicial or
85 quasi-judicial forum except as provided by law for finalizing
86 pending cases after election to judicial office.

87 SECTION 6. Section 23-15-977, Mississippi Code of 1972, is
88 amended as follows:

89 23-15-977. (1) All candidates for judicial office as
90 defined in Section 23-15-975 of this subarticle shall file their
91 intent to be a candidate with the proper officials not later than
92 the first Friday after the first Monday in May prior to the
93 general election for judicial office and shall pay to the proper
94 officials the following amounts:

95 * * *

96 (a) Candidates for circuit judge and chancellor, the
97 sum of One Hundred Dollars (\$100.00).

98 (b) Candidates for county judge and family court judge,
99 the sum of Fifteen Dollars (\$15.00).

100 (2) Candidates for judicial offices listed in paragraph

101 (a) * * * of subsection (1) of this section shall file their
102 intent to be a candidate with, and pay the proper assessment made
103 pursuant to subsection (1) of this section to, the State Board of

104 Election Commissioners.

105 (3) Candidates for judicial offices listed in paragraph (b)
106 of subsection (1) of this section shall file their intent to be a
107 candidate with, and pay the proper assessment made pursuant to
108 subsection (1) of this section to, the circuit clerk of the proper
109 county. The circuit clerk shall notify the county commissioners
110 of election of all persons who have filed their intent to be a
111 candidate filed with, and paid the proper assessment to, such
112 clerk. Such notification shall occur within two (2) business days
113 and shall contain all necessary information.

114 SECTION 7. Section 9-4-5, Mississippi Code of 1972, is
115 amended as follows:

116 9-4-5. (1) The term of office of judges of the Court of
117 Appeals shall be eight (8) years. An election shall be held on
118 the first Tuesday after the first Monday in November 1994, to
119 elect the ten (10) judges of the Court of Appeals, two (2) from
120 each congressional district. The judges of the Court of Appeals
121 shall begin service on the first Monday of January 1995.

122 (2) (a) In order to provide that the offices of not more
123 than a majority of the judges of said court shall become vacant at
124 any one time, the terms of office of six (6) of the judges first
125 to be elected shall expire in less than eight (8) years. For the
126 purpose of all elections of members of the court, each of the ten
127 (10) judges of the Court of Appeals shall be considered a separate
128 office. The two (2) offices in each of the five (5) congressional
129 districts shall be designated Position Number 1 and Position
130 Number 2 * * *.

131 (i) In Congressional District Number 1, the judge
132 of the Court of Appeals for Position Number 1 shall be that office
133 for which the term ends January 1, 1999, and the judge of the
134 Court of Appeals for Position Number 2 shall be that office for
135 which the term ends January 1, 2003.

136 (ii) In Congressional District Number 2, the judge

137 of the Court of Appeals for Position Number 1 shall be that office
138 for which the term ends on January 1, 2003, and the judge of the
139 Court of Appeals for Position Number 2 shall be that office for
140 which the term ends January 1, 2001.

141 (iii) In Congressional District Number 3, the
142 judge of the Court of Appeals for Position Number 1 shall be that
143 office for which the term ends on January 1, 2001, and the judge
144 of the Court of Appeals for Position Number 2 shall be that office
145 for which the term ends January 1, 1999.

146 (iv) In Congressional District Number 4, the judge
147 of the Court of Appeals for Position Number 1 shall be that office
148 for which the term ends on January 1, 1999, and the judge of the
149 Court of Appeals for Position Number 2 shall be that office for
150 which the term ends January 1, 2003.

151 (v) In Congressional District Number 5, the judge
152 of the Court of Appeals for Position Number 1 shall be that office
153 for which the term ends on January 1, 2003, and the judge of the
154 Court of Appeals for Position Number 2 shall be that office for
155 which the term ends January 1, 2001.

156 (b) Until January 1, 2001, the laws regulating the
157 general elections shall apply to and govern the elections of
158 judges of the Court of Appeals except as otherwise provided in
159 Sections 23-15-974 through 23-15-985. Upon the expiration of any
160 term of office, a vacancy shall exist which shall be filled by
161 appointment as provided in this section.

162 (c) From and after January 1, 2001, the Governor shall
163 fill vacancies in the office of judge of the Court of Appeals by
164 appointment, subject to the advice and consent of the Senate. The
165 appointee's term of office shall thereafter begin on the first
166 Monday of January of the year in which the term of the
167 incumbent * * * expires, unless the vacancy arises prior to
168 expiration of term, in which case the appointee shall serve from
169 the time of appointment until the expiration of that term.

170 (d) Any Court of Appeals judge holding office, or
171 elected thereto, on or after the effective date of Senate Bill No.
172 _____ , 2000 Regular Session, shall, unless removed for cause,
173 remain in office for the term to which he was elected or
174 appointed.

175 (3) No person shall be eligible for the office of judge of
176 the Court of Appeals who has not attained the age of thirty (30)
177 years at the time of his appointment and who has not been a
178 practicing attorney and citizen of the state for five (5) years
179 immediately preceding his appointment.

180 * * *

181 SECTION 8. Section 9-4-15, Mississippi Code of 1972, which
182 provides that general elections for the office of judge of the
183 Court of Appeals shall be held at the same times as general
184 elections for congressional offices, is repealed.

185 SECTION 9. Section 23-15-197, Mississippi Code of 1972, is
186 amended as follows:

187 23-15-197. (1) Times for holding primary and general
188 elections for congressional offices shall be as prescribed in
189 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

190 * * *

191 (2) Times for holding elections for the office of circuit
192 court judge and the office of chancery court judge shall be as
193 prescribed in Sections 23-15-974 through 23-15-985, and Section
194 23-15-1015.

195 (3) Times for holding elections for the office of county
196 election commissioners shall be as prescribed in Section
197 23-15-213.

198 SECTION 10. Section 23-15-607, Mississippi Code of 1972,
199 which provides for the determination of the election of judges of
200 the Supreme Court and Court of Appeals, is repealed.

201 SECTION 11. Section 23-15-849, Mississippi Code of 1972, is
202 amended as follows:

203 23-15-849. * * * Vacancies in the office of * * * circuit
204 judge or chancellor shall be filled for the unexpired term by the
205 qualified electors at the next regular election for state officers
206 or for representatives in Congress occurring more than nine (9)
207 months after the existence of the vacancy to be filled, and the
208 term of office of the person elected to fill a vacancy shall
209 commence on the first Monday in January following his election.
210 Upon the occurring of such a vacancy, the Governor shall appoint a
211 qualified person from the district in which the vacancy exists to
212 hold the office and discharge the duties thereof until the vacancy
213 shall be filled by election as hereinabove provided.

214 * * *

215 SECTION 12. The Attorney General of the State of Mississippi
216 is hereby directed to submit this act, immediately upon approval
217 by the Governor, or upon approval by the Legislature subsequent to
218 a veto, to the Attorney General of the United States or to the
219 United States District Court for the District of Columbia in
220 accordance with the provisions of the Voting Rights Act of 1965,
221 as amended and extended.

222 SECTION 13. This act shall take effect and be in force
223 either on the date it is effectuated under Section 5 of the Voting
224 Rights Act of 1965, as amended and extended, or from and after
225 January 1, 2001, whichever is later, provided that the amendments
226 to the Mississippi Constitution of 1890 as proposed by Senate
227 Concurrent Resolution No. _____, 2000 Regular Session, are
228 certified by the Secretary of State as having been ratified by the
229 people.