

By: Representative Reeves

To: Judiciary A

HOUSE BILL NO. 260

1 AN ACT TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FOR THE APPOINTMENT OF SPECIAL JUDGES WHEN THE ENTIRE
3 SUPREME COURT RECUSES ITSELF; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 9-1-105, Mississippi Code of 1972, is
6 amended as follows:

7 9-1-105. (1) Whenever any judicial officer is unwilling or
8 unable to hear a case or unable to hold or attend any of the
9 courts at the time and place required by law by reason of the
10 physical disability or sickness of such judicial officer, by
11 reason of the absence of such judicial officer from the state, by
12 reason of the disqualification of such judicial officer pursuant
13 to the provision of Section 165, Mississippi Constitution of 1890,
14 or any provision of the Code of Judicial Conduct, or for any other
15 reason, the Chief Justice of the Mississippi Supreme Court, with
16 the advice and consent of a majority of the justices of the
17 Mississippi Supreme Court, may appoint a person as a special judge
18 to hear the case or attend and hold a court.

19 (2) Upon the request of the Chief Judge of the Court of
20 Appeals or the senior judge of a chancery or circuit court
21 district, the Chief Justice of the Mississippi Supreme Court, with
22 the advice and consent of a majority of the justices of the
23 Mississippi Supreme Court, shall have the authority to appoint a
24 special judge to serve on an emergency basis in a circuit or
25 chancery court. It shall be the duty of any special judge so
26 appointed to assist the court to which he is assigned in the
27 disposition of causes so pending in such court.



28 (3) When a vacancy exists for any of the reasons enumerated
29 in Section 9-1-103, the vacancy has not been filled within seven
30 (7) days by an appointment by the Governor, and there is a pending
31 cause or are pending causes in the court where the vacancy exists
32 that in the interests of justice and in the orderly dispatch of
33 the court's business require the appointment of a special judge,
34 the Chief Justice of the Supreme Court, with the advice and
35 consent of a majority of the justices of the Mississippi Supreme
36 Court, may appoint a qualified person as a special judge to fill
37 the vacancy until the Governor makes his appointment and such
38 appointee has taken the oath of office.

39 (4) If the Chief Justice pursuant to this section shall make
40 an appointment within the authority vested in the Governor by
41 reason of Section 165, Mississippi Constitution of 1890, the
42 Governor may at his election appoint a person to so serve. In the
43 event that the Governor makes such an appointment, any appointment
44 made by the Chief Justice pursuant to this section shall be void
45 and of no further force or effect from the date of the Governor's
46 appointment.

47 (5) When a judicial officer is unwilling or unable to hear a
48 case or unable or unwilling to hold court for a period of time not
49 to exceed two (2) weeks, the trial judge or judges of the affected
50 district or county and other trial judges may agree among
51 themselves regarding the appointment of a person for such case or
52 such limited period of time. The trial judges shall submit a
53 notice to the Chief Justice of the Supreme Court informing him of
54 their appointment. If the Chief Justice does not appoint another
55 person to serve as special judge within seven (7) days after
56 receipt of such notice, the person designated in such order shall
57 be deemed appointed.

58 (6) A person appointed to serve as a special judge may be
59 any presently sitting or retired chancery, circuit or county court
60 judge, Court of Appeals judge or Supreme Court Justice, or any



61 other person possessing the qualifications of the judicial office
62 for which the appointment is made; provided, however, that a judge
63 or justice who was retired from service at the polls shall not be
64 eligible for appointment as a special judge in the district in
65 which he served prior to his defeat.

66 (7) Except as otherwise provided in subsection (2) of this
67 section, the need for an appointment pursuant to this section may
68 be certified to the Chief Justice of the Mississippi Supreme Court
69 by any attorney in good standing or other officer of the court.

70 (8) The order appointing a person as a special judge
71 pursuant to this section shall describe as specifically as
72 possible the duration of the appointment.

73 (9) A special judge appointed pursuant to this section shall
74 take the oath of office, if necessary, and shall, for the duration
75 of his appointment, enjoy the full power and authority of the
76 office to which he is appointed.

77 (10) Any presently sitting justice or judge appointed as a
78 special judge under this section shall receive no additional
79 compensation for his or her service as special judge. Any other
80 person appointed as a special judge hereunder shall, for the
81 period of his service, receive compensation from the state for
82 each day's service a sum equal to 1/260 of the current salary in
83 effect for the judicial office; provided, however, that no retired
84 chancery, circuit or county court judge, retired Court of Appeals
85 judge or any retired Supreme Court Justice appointed as a special
86 judge pursuant to this section may, during any fiscal year,
87 receive compensation in excess of twenty-five percent (25%) of the
88 current salary in effect for a chancery or circuit court judge.
89 Any person appointed as a special judge shall be reimbursed for
90 travel expenses incurred in the performance of the official duties
91 to which he may be appointed hereunder in the same manner as other
92 public officials and employees as provided by Section 25-3-41,
93 Mississippi Code of 1972.



94 (11) If any person appointed as such special judge is
95 receiving retirement benefits by virtue of the provisions of the
96 Public Employees' Retirement Law of 1952, appearing as Sections
97 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
98 shall not be reduced in any sum whatsoever because of such
99 service, nor shall any sum be deducted as contributions toward
100 retirement under said law.

101 (12) The Supreme Court shall have authority to prescribe
102 rules and regulations reasonably necessary to implement and give
103 effect to the provisions of this section.

104 (13) Nothing in this section shall abrogate the right of
105 attorneys engaged in a case to agree upon a member of the bar to
106 preside in a case pursuant to Section 165 of the Mississippi
107 Constitution of 1890.

108 (14) The Supreme Court shall prepare the necessary payroll
109 for special judges appointed pursuant to this section and shall
110 submit such payroll to the Department of Finance and
111 Administration.

112 (15) Special judges appointed pursuant to this section shall
113 direct requests for reimbursement for travel expenses authorized
114 pursuant to this section to the Supreme Court and the Supreme
115 Court shall submit such requests to the Department of Finance and
116 Administration. The Supreme Court shall have the power to adopt
117 rules and regulations regarding the administration of travel
118 expenses authorized pursuant to this section.

119 (16) When the entire Supreme Court recuses itself from a
120 case, the Governor shall appoint nine (9) special judges within
121 fourteen (14) days of the recusal. The special judges shall
122 possess the same qualifications as the justices of the Supreme
123 Court. The Governor shall notify the Supreme Court Clerk of any
124 appointments made pursuant to this subsection.

125 **SECTION 2.** This act shall take effect and be in force from
126 and after July 1, 2002.

