

By: Senator(s) Ross

To: Judiciary; Elections

SENATE BILL NO. 2099

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 CREATE SECTION 9-3-4, MISSISSIPPI CODE OF 1972, TO
 4 SET THE TERM AND EXPIRATION OF OFFICES OF SUPREME COURT JUSTICES;
 5 TO AMEND SECTIONS 23-15-973, 23-15-975, 23-15-977, 9-4-5,
 6 23-15-197 AND 23-15-849, MISSISSIPPI CODE OF 1972, IN CONFORMITY
 7 TO THIS ACT; TO REPEAL SECTION 9-4-15, MISSISSIPPI CODE OF 1972,
 8 WHICH PROVIDES THAT ELECTION FOR THE OFFICE OF JUDGE OF THE COURT
 9 OF APPEALS SHALL BE HELD AT THE SAME TIME AS GENERAL ELECTIONS FOR
 10 CONGRESSIONAL OFFICES; TO REPEAL SECTION 23-15-607, MISSISSIPPI
 11 CODE OF 1972, WHICH PROVIDES FOR THE DETERMINATION OF THE ELECTION
 12 OF JUDGES OF THE SUPREME COURT AND COURT OF APPEALS; TO REPEAL
 13 SECTION 23-15-991, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT
 14 THE TERM OF OFFICE OF JUSTICES OF THE SUPREME COURT SHALL BE EIGHT
 15 YEARS; TO REPEAL SECTION 23-15-993, MISSISSIPPI CODE OF 1972,
 16 WHICH SETS THE TERMS OF OFFICE FOR JUSTICES OF THE SUPREME COURT;
 17 TO REPEAL SECTION 23-15-995, MISSISSIPPI CODE OF 1972, WHICH
 18 PROVIDES THAT THE GENERAL ELECTION LAWS SHALL APPLY TO GOVERN THE
 19 ELECTION OF JUDGES OF THE SUPREME COURT; AND FOR RELATED PURPOSES.

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

21 **SECTION 1.** The following shall be codified as Section 9-3-4,
 22 Mississippi Code of 1972:

23 9-3-4. The term of office of judges of the Supreme Court
 24 shall be as provided in the Constitution of 1890 and shall begin
 25 on the first Monday of January of the year in which the term of
 26 the incumbent expires. Each of the nine (9) judgeships of the
 27 Supreme Court shall be considered a separate office. The three
 28 (3) offices in each of the three (3) Supreme Court districts shall
 29 be designated Position Number 1, Position Number 2 and Position
 30 Number 3. In Supreme Court District Number 1: Position Number 1
 31 shall be that office for which the term ends in January 1966;
 32 Position Number 2 shall be that office for which the term ends in
 33 January 1965; and Position Number 3 shall be that office for which
 34 the term ends in January 1969. In District Number 2: Position
 35 Number 1 shall be that office for which the term ends in January



36 1972; Position Number 2 shall be that office for which the term
37 ends in January 1969; and Position Number 3 shall be that office
38 for which the term ends in January 1973. In District Number 3:
39 Position Number 1 shall be that office for which the term ends in
40 January 1969; Position Number 2 shall be that office for which the
41 term ends in January 1969; and Position Number 3 shall be that
42 office for which the term ends in January 1965.

43 **SECTION 2.** Section 23-15-973, Mississippi Code of 1972, is
44 amended as follows:

45 23-15-973. It shall be the duty of the judges of the circuit
46 court to give a reasonable time and opportunity to the candidates
47 for the office of * * * circuit judge and chancellor to address
48 the people during court terms. In order to give further and every
49 possible emphasis to the fact that the said judicial offices are
50 not political but are to be held without favor and with absolute
51 impartiality as to all persons, and because of the jurisdiction
52 conferred upon the courts by this chapter, the judges thereof
53 should be as far removed as possible from any political
54 affiliations or obligations. It shall be unlawful for any
55 candidate for any of the offices mentioned in this section to
56 align himself with any candidate or candidates for any other
57 office or with any political faction or any political party at any
58 time during any primary or general election campaign. Likewise it
59 shall be unlawful for any candidate for any other office nominated
60 or to be nominated at any primary election, wherein any candidate
61 for any of the judicial offices in this section mentioned, is or
62 are to be nominated, to align himself with any one or more of the
63 candidates for said offices or to take any part whatever in any
64 nomination for any one or more of said judicial offices, except to
65 cast his individual vote. Any candidate for any office, whether
66 nominated with or without opposition, at any primary wherein a
67 candidate for any one of the judicial offices herein mentioned is
68 to be nominated who shall deliberately, knowingly and willfully



69 violate the provisions of this section shall forfeit his
70 nomination, or if elected at the following general election by
71 virtue of said nomination, his election shall be void.

72 **SECTION 3.** Section 23-15-975, Mississippi Code of 1972, is
73 amended as follows:

74 23-15-975. As used in Sections 23-15-974 through 23-15-985
75 of this subarticle, the term "judicial office" includes the office
76 of * * * circuit judge, chancellor, county court judge and family
77 court judge. All such * * * judges shall be full-time positions
78 and such * * * judges shall not engage in the practice of law
79 before any court, administrative agency or other judicial or
80 quasi-judicial forum except as provided by law for finalizing
81 pending cases after election to judicial office.

82 **SECTION 4.** Section 23-15-977, Mississippi Code of 1972, is
83 amended as follows:

84 23-15-977. (1) All candidates for judicial office as
85 defined in Section 23-15-975 of this subarticle shall file the
86 intent to be a candidate with the proper officials not later than
87 5:00 p.m. on the first Friday after the first Monday in May prior
88 to the general election for judicial office and shall pay to the
89 proper officials the following amounts:

90 * * *

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

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

95 (2) Candidates for judicial offices listed in paragraph
96 (a) * * * of subsection (1) of this section shall file the intent
97 to be a candidate with, and pay the proper assessment made
98 pursuant to subsection (1) of this section to, the State Board of
99 Election Commissioners.

100 (3) Candidates for judicial offices listed in paragraph (b)
101 of subsection (1) of this section shall file the intent to be a



102 candidate with, and pay the proper assessment made pursuant to
103 subsection (1) of this section to, the circuit clerk of the proper
104 county. The circuit clerk shall notify the county commissioners
105 of election of all persons who have filed the intent to be a
106 candidate filed with, and paid the proper assessment to, such
107 clerk. Such notification shall occur within two (2) business days
108 and shall contain all necessary information.

109 **SECTION 5.** Section 9-4-5, Mississippi Code of 1972, is
110 amended as follows:

111 9-4-5. (1) The term of office of judges of the Court of
112 Appeals shall be eight (8) years. An election shall be held on
113 the first Tuesday after the first Monday in November 1994, to
114 elect the ten (10) judges of the Court of Appeals, two (2) from
115 each congressional district; provided, however, judges of the
116 Court of Appeals who are elected to take office after the first
117 Monday of January 2002, shall be elected from the Court of Appeals
118 Districts described in subsection (5) of this section. The judges
119 of the Court of Appeals shall begin service on the first Monday of
120 January 1995.

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

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



135 (ii) In Congressional District Number 2, the judge
136 of the Court of Appeals for Position Number 1 shall be that office
137 for which the term ends in January * * * 2003, and the judge of
138 the Court of Appeals for Position Number 2 shall be that office
139 for which the term ends in January * * * 2001.

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

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

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

155 (b) Upon the expiration of any term of office, a
156 vacancy shall exist which shall be filled by appointment as
157 provided in this section.

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



166 (d) Any Court of Appeals judge holding office on the
167 first Monday in January 2003, shall remain in office for the term
168 to which he was elected or appointed unless removed for cause.

169 (3) * * * To be eligible for the office of judge of the
170 Court of Appeals, a person must have attained the age of thirty
171 (30) years * * * and have been a practicing attorney and citizen
172 of the state for five (5) years immediately preceding his
173 appointment.

174 (4) Any vacancy on the Court of Appeals shall be filled by
175 appointment of the Governor for that portion of the unexpired term
176 prior to the election to fill the remainder of said term according
177 to provisions of Section 23-15-849, Mississippi Code of 1972.

178 (5) (a) The State of Mississippi is hereby divided into
179 five (5) Court of Appeals Districts as follows:

180 **FIRST DISTRICT.** The First Court of Appeals District shall be
181 composed of the following counties and portions of counties:
182 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,
183 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,
184 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada
185 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;
186 in Montgomery County the precincts of North Winona, Lodi, Stewart,
187 Nations and Poplar Creek; in Panola County the precincts of East
188 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North
189 Springport, South Springport, Eureka, Williamson, East Batesville
190 4, West Batesville 4, Fern Hill, North Batesville A, East
191 Batesville 5 and West Batesville 5; and in Tallahatchie County the
192 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,
193 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,
194 Murphreesboro and Rosebloom.

195 **SECOND DISTRICT.** The Second Court of Appeals District shall
196 be composed of the following counties and portions of counties:
197 Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys,
198 Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower,



199 Tunica, Warren, Washington and Yazoo; in Attala County the
200 precincts of Northeast, Hesterville, Possomneck, North Central,
201 McAdams, Newport, Sallis and Southwest; that portion of Grenada
202 County not included in the First Court of Appeals District; in
203 Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41,
204 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga,
205 Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas,
206 St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the
207 precincts of Conway, West Carthage, Wiggins, Thomastown and
208 Ofahoma; in Madison County the precincts of Farmhaven, Canton
209 Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6,
210 Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora,
211 Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon,
212 Canton Precinct 1 and Canton Precinct 4; that portion of
213 Montgomery County not included in the First Court of Appeals
214 District; that portion of Panola County not included in the First
215 Court of Appeals District; and that portion of Tallahatchie County
216 not included in the First Court of Appeals District.

217 **THIRD DISTRICT.** The Third Court of Appeals District shall be
218 composed of the following counties and portions of counties:
219 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,
220 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that
221 portion of Attala County not included in the Second Court of
222 Appeals District; in Jones County the precincts of Northwest High
223 School, Shady Grove, Sharon, Erata, Glade, Myrick School,
224 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,
225 Antioch and Landrum; that portion of Leake County not included in
226 the Second Court of Appeals District; that portion of Madison
227 County not included in the Second Court of Appeals District; and
228 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,
229 Diamond, Chaparral, Matherville, Coit and Eucutta.

230 **FOURTH DISTRICT.** The Fourth Court of Appeals District shall
231 be composed of the following counties and portions of counties:



232 Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,
233 Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson;
234 that portion of Hinds County not included in the Second Court of
235 Appeals District; and that portion of Jones county not included in
236 the Third Court of Appeals District.

237 **FIFTH DISTRICT.** The Fifth Court of Appeals District shall be
238 composed of the following counties and portions of counties:
239 Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Pearl
240 River, Perry and Stone; and that portion of Wayne County not
241 included in the Third Court of Appeals District.

242 (b) The boundaries of the Court of Appeals Districts
243 described in paragraph (a) of this subsection shall be the
244 boundaries of the counties and precincts listed in paragraph (a)
245 of this subsection as such boundaries existed on October 1, 1990.

246 **SECTION 6.** Section 23-15-197, Mississippi Code of 1972, is
247 amended as follows:

248 23-15-197. (1) Times for holding primary and general
249 elections for congressional offices shall be as prescribed in
250 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

251 * * *

252 (2) Times for holding elections for the office of circuit
253 court judge and the office of chancery court judge shall be as
254 prescribed in Sections 23-15-974 through 23-15-985, and Section
255 23-15-1015.

256 (3) Times for holding elections for the office of county
257 election commissioners shall be as prescribed in Section
258 23-15-213.

259 **SECTION 7.** Section 23-15-849, Mississippi Code of 1972, is
260 amended as follows:

261 23-15-849. * * * Vacancies in the office of * * * circuit
262 judge, or chancellor, shall be filled for the unexpired term by
263 the qualified electors at the next regular election for state
264 officers or for representatives in Congress occurring more than



265 nine (9) months after the existence of the vacancy to be filled,
266 and the term of office of the person elected to fill a vacancy
267 shall commence on the first Monday in January following his
268 election. Upon the occurring of such a vacancy, the Governor
269 shall appoint a qualified person from the district in which the
270 vacancy exists to hold the office and discharge the duties thereof
271 until the vacancy shall be filled by election as hereinabove
272 provided.

273 * * *

274 **SECTION 8.** Section 9-4-15, Mississippi Code of 1972, which
275 provides that general elections for the office of judge of the
276 Court of Appeals shall be held at the same times as general
277 elections for congressional offices, is repealed.

278 **SECTION 9.** Section 23-15-607, Mississippi Code of 1972,
279 which provides for the determination of the election of judges of
280 the Supreme Court and Court of Appeals, is repealed.

281 **SECTION 10.** Section 23-15-991, Mississippi Code of 1972,
282 which provides that the term of office of judges of the Supreme
283 Court shall be eight (8) years, is repealed.

284 **SECTION 11.** Section 23-15-993, Mississippi Code of 1972,
285 which sets the terms of office of judges of the Supreme Court, is
286 repealed.

287 **SECTION 12.** Section 23-15-995, Mississippi Code of 1972,
288 which provides that the general election laws shall apply to
289 govern the election of judges of the Supreme Court, is repealed.

290 **SECTION 13.** The Attorney General of the State of Mississippi
291 shall submit this act, immediately upon approval by the Governor,
292 or upon approval by the Legislature subsequent to a veto, to the
293 Attorney General of the United States or to the United States
294 District Court for the District of Columbia in accordance with the
295 provisions of the Voting Rights Act of 1965, as amended and
296 extended.



297 **SECTION 14.** This act shall take effect and be in force
298 either on the date it is effectuated under Section 5 of the Voting
299 Rights Act of 1965, as amended and extended, or from and after
300 January 1, 2003, whichever is later, provided that the amendments
301 to the Mississippi Constitution of 1890 as proposed by Senate
302 Concurrent Resolution No. 513, 2002 Regular Session, are certified
303 by the Secretary of State as having been ratified by the people.

