

By: Senator(s) Ross, Carlton

To: Judiciary

SENATE BILL NO. 2289
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 23-15-839, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THAT VACANCIES IN THE OFFICE OF COUNTY JUDGE ARE TO BE
3 FILLED IN THE SAME MANNER AS VACANCIES IN THE OFFICE OF CIRCUIT
4 JUDGE; TO AMEND SECTION 9-1-103, MISSISSIPPI CODE OF 1972, TO
5 PROVIDE THAT THE GOVERNOR'S APPOINTMENT OF A JUDGE TO FILL A
6 VACANCY IN THE DEFINED JUDICIAL OFFICES SHALL BE FOR THE REMAINDER
7 OF THE UNEXPIRED TERM VACATED; TO REPEAL SECTION 23-15-849,
8 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE FILLING OF
9 VACANCIES IN THE OFFICE OF JUDGE OF THE SUPREME COURT OR COURT OF
10 APPEALS OR CIRCUIT JUDGE OR CHANCELLOR BY SPECIAL ELECTION IF THE
11 NEXT REGULAR ELECTION OCCURS MORE THAN NINE MONTHS AFTER THE
12 EXISTENCE OF THE VACANCY TO BE FILLED AND WHICH APPLIES TO THE
13 FILLING OF VACANCIES IN THE OFFICE OF JUDGE OF THE COUNTY COURT BY
14 APPLICATION OF SECTION 9-9-5, MISSISSIPPI CODE OF 1972; AND FOR
15 RELATED PURPOSES.

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

17 **SECTION 1.** Section 23-15-839, Mississippi Code of 1972, is
18 amended as follows:

19 23-15-839. (1) When a vacancy shall occur in any county or
20 county district office other than the office of county court
21 judge, the same shall be filled by appointment by the board of
22 supervisors of the county, by order entered upon its minutes,
23 where the vacancy occurs, or by appointment of the president of
24 the board of supervisors, by and with the consent of the majority
25 of the board of supervisors, if such vacancy occurs when said
26 board is not in session, and the clerk of the board shall certify
27 to the Secretary of State the fact of the appointment, and the
28 person so appointed shall be commissioned by the Governor; and if
29 the unexpired term be longer than six (6) months, such appointee
30 shall serve until a successor is elected as hereinafter provided,
31 unless the regular special election day on which the vacancy
32 should be filled occurs in a year in which an election would
33 normally be held for that office as provided by law, in which case



34 the person so appointed shall serve the unexpired portion of the
35 term. Such vacancies shall be filled for the unexpired term by
36 the qualified electors at the next regular special election day
37 occurring more than ninety (90) days after the occurrence of the
38 vacancy. The board of supervisors of the county shall, within ten
39 (10) days after the happening of the vacancy, make an order, in
40 writing, directed to the commissioners of election, commanding an
41 election to be held on the next regular special election day to
42 fill the vacancy. The election commissioners shall require each
43 candidate to qualify at least sixty (60) days before the date of
44 the election, and shall give a certificate of election to the
45 person elected, and shall return to the Secretary of State a copy
46 of the order of holding the election, showing the results thereof,
47 certified by the clerk of the board of supervisors. The person
48 elected shall be commissioned by the Governor.

49 (2) In any election ordered pursuant to this section where
50 only one (1) person shall have qualified with the commissioners of
51 election to be a candidate within the time provided by law, the
52 commissioners of election shall certify to the board of
53 supervisors that there is but one (1) candidate. Thereupon, the
54 board of supervisors shall dispense with the election and shall
55 appoint the candidate so certified to fill the unexpired term.
56 The clerk of the board shall certify to the Secretary of State the
57 candidate so appointed to serve in said office and that candidate
58 shall be commissioned by the Governor. In the event that no
59 person shall have qualified by 5:00 p.m. sixty (60) days prior to
60 the date of the election, the commissioners of election shall
61 certify that fact to the board of supervisors which shall dispense
62 with the election and fill the vacancy by appointment. The clerk
63 of the board of supervisors shall certify to the Secretary of
64 State the fact of the appointment, and the person so appointed
65 shall be commissioned by the Governor.



66 **SECTION 2.** Section 9-1-103, Mississippi Code of 1972, is
67 amended as follows:

68 9-1-103. Whenever a vacancy shall occur in any judicial
69 office by reason of death of an incumbent, resignation or
70 retirement of an incumbent, removal of an incumbent from office,
71 or, unless specific provision to fill the new judicial office has
72 been made in law, creation of a new judicial office in which there
73 has not heretofore been an incumbent, the Governor shall have the
74 authority to appoint a qualified person to fill such vacancy to
75 serve for the unexpired term * * *. Appointments for such
76 vacancies made by the Governor from and after the effective date
77 of Senate Bill No. 2289, 2002 Regular Session, shall be subject to
78 the advice and consent of the Senate. When a vacancy shall occur
79 for any of the reasons enumerated in this section, the clerk of
80 the court shall notify the Governor of such vacancy immediately.
81 The vacancy shall not be filled if the Governor fails to submit
82 the appointment to the Senate within twelve (12) months from the
83 date the vacancy occurs.

84 **SECTION 3.** Section 23-15-849, Mississippi Code of 1972,
85 which provides for the filling of vacancies in the office of Judge
86 of the Supreme Court or Court of Appeals or circuit judge or
87 chancellor by special election if the next regular election occurs
88 more than nine months after the existence of the vacancy to be
89 filled, and which applies to the filling of vacancies in the
90 office of judge of the county court by application of Section
91 9-9-5, Mississippi Code of 1972, is repealed.

92 **SECTION 4.** The Attorney General of the State of Mississippi
93 shall submit this act, immediately upon approval by the Governor,
94 or upon approval by the Legislature subsequent to a veto, to the
95 Attorney General of the United States or to the United States
96 District Court for the District of Columbia in accordance with the
97 provisions of the Voting Rights Act of 1965, as amended and
98 extended.



99 **SECTION 5.** This act shall take effect and be in force from
100 and after the date it is effectuated under Section 5 of the Voting
101 Rights Act of 1965, as amended and extended.

