

By: Representative Watson

To: Judiciary A;
Apportionment and Elections

HOUSE BILL NO. 1269

1 AN ACT TO AMEND SECTION 9-4-5, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY WHEN THE TERMS OF JUDGES OF THE COURT OF APPEALS BEGIN AND
3 END; TO BRING FORWARD SECTIONS 9-4-1, 9-4-3, 9-4-7, 9-4-9, 9-4-11,
4 9-4-13 AND 9-4-15, MISSISSIPPI CODE OF 1972, FOR PURPOSE OF
5 AMENDMENT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 9-4-5, Mississippi Code of 1972, is
8 amended as follows:

9 9-4-5. (1) The term of office of judges of the Court of
10 Appeals shall be eight (8) years. An election shall be held on
11 the first Tuesday after the first Monday in November 1994, to
12 elect the ten (10) judges of the Court of Appeals, two (2) from
13 each congressional district; provided, however, judges of the
14 Court of Appeals who are elected to take office after the first
15 Monday of January 2002, shall be elected from the Court of Appeals
16 Districts described in subsection (5) of this section. The judges
17 of the Court of Appeals shall begin service on the first Monday of
18 January 1995.

19 (2) (a) In order to provide that the offices of not more
20 than a majority of the judges of said court shall become vacant at
21 any one (1) time, the terms of office of six (6) of the judges
22 first to be elected shall expire in less than eight (8) years.
23 For the purpose of all elections of members of the court, each of
24 the ten (10) judges of the Court of Appeals shall be considered a
25 separate office. The two (2) offices in each of the five (5)
26 districts shall be designated Position Number 1 and Position
27 Number 2, and in qualifying for office as a candidate for any
28 office of judge of the Court of Appeals each candidate shall state



29 the position number of the office to which he aspires and the
30 election ballots shall so indicate.

31 (i) In Congressional District Number 1, the judge
32 of the Court of Appeals for Position Number 1 shall be that office
33 for which the term ends on the first Monday in January * * * 1999,
34 and the judge of the Court of Appeals for Position Number 2 shall
35 be that office for which the term ends on the first Monday in
36 January * * * 2003.

37 (ii) In Congressional District Number 2, the judge
38 of the Court of Appeals for Position Number 1 shall be that office
39 for which the term ends on the first Monday in January * * * 2003,
40 and the judge of the Court of Appeals for Position Number 2 shall
41 be that office for which the term ends on the first Monday in
42 January * * * 2001.

43 (iii) In Congressional District Number 3, the
44 judge of the Court of Appeals for Position Number 1 shall be that
45 office for which the term ends on the first Monday in
46 January * * * 2001, and the judge of the Court of Appeals for
47 Position Number 2 shall be that office for which the term ends on
48 the first Monday in January * * * 1999.

49 (iv) In Congressional District Number 4, the judge
50 of the Court of Appeals for Position Number 1 shall be that office
51 for which the term ends on the first Monday in January * * * 1999,
52 and the judge of the Court of Appeals for Position Number 2 shall
53 be that office for which the term ends on the first Monday in
54 January * * * 2003.

55 (v) In Congressional District Number 5, the judge
56 of the Court of Appeals for Position Number 1 shall be that office
57 for which the term ends on the first Monday in January * * * 2003,
58 and the judge of the Court of Appeals for Position Number 2 shall
59 be that office for which the term ends on the first Monday in
60 January * * * 2001.



61 (b) The laws regulating the general elections shall
62 apply to and govern the elections of judges of the Court of
63 Appeals except as otherwise provided in Sections 23-15-974 through
64 23-15-985.

65 (c) In the year prior to the expiration of the term of
66 an incumbent, and likewise each eighth year thereafter, an
67 election shall be held in the manner provided in this section in
68 the district from which the incumbent Court of Appeals judge was
69 elected at which there shall be elected a successor to the
70 incumbent, whose term of office shall thereafter begin on the
71 first Monday of January of the year in which the term of the
72 incumbent he succeeds expires.

73 (3) No person shall be eligible for the office of judge of
74 the Court of Appeals who has not attained the age of thirty (30)
75 years at the time of his election and who has not been a
76 practicing attorney and citizen of the state for five (5) years
77 immediately preceding such election.

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

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

84 **FIRST DISTRICT.** The First Court of Appeals District shall be
85 composed of the following counties and portions of counties:
86 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,
87 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,
88 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada
89 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;
90 in Montgomery County the precincts of North Winona, Lodi, Stewart,
91 Nations and Poplar Creek; in Panola County the precincts of East
92 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North
93 Springport, South Springport, Eureka, Williamson, East Batesville



94 4, West Batesville 4, Fern Hill, North Batesville A, East
95 Batesville 5 and West Batesville 5; and in Tallahatchie County the
96 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,
97 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,
98 Murphreesboro and Rosebloom.

99 **SECOND DISTRICT.** The Second Court of Appeals District shall
100 be composed of the following counties and portions of counties:
101 Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys,
102 Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower,
103 Tunica, Warren, Washington and Yazoo; in Attala County the
104 precincts of Northeast, Hesterville, Possomneck, North Central,
105 McAdams, Newport, Sallis and Southwest; that portion of Grenada
106 County not included in the First Court of Appeals District; in
107 Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41,
108 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga,
109 Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas,
110 St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the
111 precincts of Conway, West Carthage, Wiggins, Thomastown and
112 Ofahoma; in Madison County the precincts of Farmhaven, Canton
113 Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6,
114 Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora,
115 Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon,
116 Canton Precinct 1 and Canton Precinct 4; that portion of
117 Montgomery County not included in the First Court of Appeals
118 District; that portion of Panola County not included in the First
119 Court of Appeals District; and that portion of Tallahatchie County
120 not included in the First Court of Appeals District.

121 **THIRD DISTRICT.** The Third Court of Appeals District shall be
122 composed of the following counties and portions of counties:
123 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,
124 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that
125 portion of Attala County not included in the Second Court of
126 Appeals District; in Jones County the precincts of Northwest High



127 School, Shady Grove, Sharon, Erata, Glade, Myrick School,
128 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,
129 Antioch and Landrum; that portion of Leake County not included in
130 the Second Court of Appeals District; that portion of Madison
131 County not included in the Second Court of Appeals District; and
132 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,
133 Diamond, Chaparral, Matherville, Coit and Eucutta.

134 **FOURTH DISTRICT.** The Fourth Court of Appeals District shall
135 be composed of the following counties and portions of counties:
136 Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,
137 Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson;
138 that portion of Hinds County not included in the Second Court of
139 Appeals District; and that portion of Jones county not included in
140 the Third Court of Appeals District.

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

146 (b) The boundaries of the Court of Appeals Districts
147 described in paragraph (a) of this subsection shall be the
148 boundaries of the counties and precincts listed in paragraph (a)
149 of this subsection as such boundaries existed on October 1, 1990.

150 **SECTION 2.** Section 9-4-1, Mississippi Code of 1972, is
151 brought forward as follows:

152 9-4-1. (1) There is hereby established a court to be known
153 as the "Court of Appeals of the State of Mississippi," which shall
154 be a court of record.

155 (2) The Court of Appeals shall be comprised of ten (10)
156 appellate judges, two (2) from each Court of Appeals District,
157 selected in accordance with Section 9-4-5.

158 **SECTION 3.** Section 9-4-3, Mississippi Code of 1972, is
159 brought forward as follows:



160 9-4-3. (1) The Court of Appeals shall have the power to
161 determine or otherwise dispose of any appeal or other proceeding
162 assigned to it by the Supreme Court.

163 The jurisdiction of the Court of Appeals is limited to those
164 matters which have been assigned to it by the Supreme Court.

165 The Supreme Court shall prescribe rules for the assignment of
166 matters to the Court of Appeals. These rules may provide for the
167 selective assignment of individual cases and may provide for the
168 assignment of cases according to subject matter or other general
169 criteria. However, the Supreme Court shall retain appeals in
170 cases imposing the death penalty, or cases involving utility
171 rates, annexations, bond issues, election contests, or a statute
172 held unconstitutional by the lower court.

173 (2) Decisions of the Court of Appeals are final and are not
174 subject to review by the Supreme Court, except by writ of
175 certiorari. The Supreme Court may grant certiorari review only by
176 the affirmative vote of four (4) of its members. At any time
177 before final decision by the Court of Appeals, the Supreme Court
178 may, by order, transfer to the Supreme Court any case pending
179 before the Court of Appeals.

180 (3) The Court of Appeals shall have jurisdiction to issue
181 writs of habeas corpus, mandamus, quo warranto, certiorari,
182 prohibition or any other process when this may be necessary in any
183 case assigned to it by the Supreme Court.

184 (4) The Court of Appeals shall issue a decision in every
185 case heard before the Court of Appeals within two hundred seventy
186 (270) days after the final briefs have been filed with the court.

187 (5) The Supreme Court shall issue a decision in every case
188 within its original jurisdiction, including all direct and
189 post-conviction collateral relief appeals or applications in cases
190 imposing the death penalty, within two hundred seventy (270) days
191 after the final briefs have been filed with the court. The
192 Supreme Court shall issue a decision in every case received on



193 certiorari from the Court of Appeals within one hundred eighty
194 (180) days after the final briefs have been filed with the court.

195 **SECTION 4.** Section 9-4-7, Mississippi Code of 1972, is
196 brought forward as follows:

197 9-4-7. (1) The Court of Appeals shall be subject to the
198 administrative policies and procedures as may be established by
199 the Supreme Court, including docket control of the Court of
200 Appeals cases. Whenever feasible, and subject to approval of the
201 Supreme Court, the administrative structure of the Supreme Court
202 shall also support the Court of Appeals.

203 (2) The Clerk of the Supreme Court shall be the Clerk of the
204 Court of Appeals and appointment of employees by the Court of
205 Appeals shall be governed by personnel policies adopted and
206 approved by the Administrative Office of the Courts. Whenever
207 feasible and approved by the Supreme Court, employees of the
208 Supreme Court shall also serve the Court of Appeals. The records
209 of the Court of Appeals shall be kept by the Supreme Court Clerk
210 or a deputy of the clerk.

211 (3) The Chief Justice of the Supreme Court shall appoint a
212 Chief Judge of the Court of Appeals for a term of four (4) years,
213 and the person so named shall be eligible for reappointment,
214 subject to the discretion of the Chief Justice.

215 (4) The Chief Justice may assign one or more Court of
216 Appeals Judges to serve as lower court trial judges to provide
217 docket relief as he deems necessary.

218 **SECTION 5.** Section 9-4-9, Mississippi Code of 1972, is
219 brought forward as follows:

220 9-4-9. The Supreme Court shall prescribe rules for the
221 submission of cases to panels of the court and to the court en
222 banc, as well as all other rules of procedure for the Court of
223 Appeals. The Chief Judge of the Court of Appeals, insofar as
224 practicable, shall assign judges to panels in such a manner that
225 each judge shall sit a substantially equal number of times with



226 each other judge. The Chief Judge shall preside over any panel on
227 which he or she shall sit, and the Chief Judge shall appoint one
228 or more judges to preside, at the will and pleasure of the Chief
229 Judge, over any panel on which the Chief Judge is not a member of
230 a panel.

231 **SECTION 6.** Section 9-4-11, Mississippi Code of 1972, is
232 brought forward as follows:

233 9-4-11. The Court of Appeals shall be located in the City of
234 Jackson and shall have offices as convenient to the State Law
235 Library and the Supreme Court as can be arranged; but the court en
236 banc, or any panel thereof, may sit at such other locations within
237 the state as the Supreme Court may determine by rule.

238 **SECTION 7.** Section 9-4-13, Mississippi Code of 1972, is
239 brought forward as follows:

240 9-4-13. (1) The judges of the Court of Appeals shall
241 receive salaries as provided for in Section 25-3-35, shall be
242 reimbursed for mileage expenses incurred in performing their
243 duties at the rate authorized by law for public officials and
244 employees as provided for in Section 25-3-41, and shall receive an
245 expense allowance as provided for in Section 25-3-43.

246 (2) Staff attorneys, law clerks and all other employees of
247 the Court of Appeals shall be of the same grade classification as
248 Supreme Court employees performing the same or similar duties.

249 **SECTION 8.** Section 9-4-15, Mississippi Code of 1972, is
250 brought forward as follows:

251 9-4-15. General elections for the office of judge of the
252 Court of Appeals shall be held at the same times as general
253 elections for congressional offices.

254 **SECTION 9.** The Attorney General of the State of Mississippi
255 shall submit this act, immediately upon approval by the Governor,
256 or upon approval by the Legislature subsequent to a veto, to the
257 Attorney General of the United States or to the United States
258 District Court for the District of Columbia in accordance with the



259 provisions of the Voting Rights Act of 1965, as amended and
260 extended.

261 **SECTION 10.** This act shall take effect and be in force from
262 and after the date it is effectuated under Section 5 of the Voting
263 Rights Act of 1965, as amended and extended.

