

By: Senator(s) Robertson

To: Judiciary

SENATE BILL NO. 2731

1 AN ACT TO AMEND SECTION 23-15-991, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE FOR THE APPOINTMENT OF SUPREME COURT JUDGES AND FOR  
3 RETENTION ELECTIONS OF SUCH JUDGES; TO AMEND SECTION 9-4-5,  
4 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE APPOINTMENT OF JUDGES  
5 OF THE COURT OF APPEALS AND FOR THE RETENTION ELECTIONS OF SUCH  
6 JUDGES; TO AMEND SECTIONS 23-15-993, 23-15-995, 23-15-369,  
7 23-15-977, 23-15-607, 9-1-103 AND 23-15-849, MISSISSIPPI CODE OF  
8 1972, TO CONFORM THERETO; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 23-15-991, Mississippi Code of 1972, is  
11 amended as follows:

12 23-15-991. (1) The term of office of judges of the Supreme  
13 Court shall be eight (8) years. Concurrently with the regular  
14 election for representatives in Congress, held next preceding the  
15 expiration of the term of an incumbent, and likewise each eighth  
16 year thereafter, an election shall be held in the Supreme Court  
17 district from which the incumbent was appointed to submit his name  
18 to the eligible voters within his district as to whether he shall  
19 be retained in office. If a majority of those voting on the  
20 question vote to retain the incumbent, the incumbent shall begin a  
21 new term of office at the expiration of the current term. If a  
22 majority of those voting on the question vote against retaining  
23 him in office, the vacancy shall be filled as provided by Section  
24 144A, Mississippi Constitution of 1890, and as otherwise provided  
25 by law.

26 (2) From and after January 1, 2004, vacancies in the office  
27 of justice of the Supreme Court shall be filled by appointment of  
28 the Governor.

29 (3) Any Supreme Court justice holding office on the  
30 effective date of Senate Bill No. 2731, 2003 Regular Session,



31 shall, unless removed for cause, remain in office for the duration  
32 of his term. Not less than ninety (90) days prior to the holding  
33 of the general election next preceding the expiration of the term  
34 of office, a Supreme Court justice may file in the Office of  
35 Secretary of State a declaration of candidacy for election to  
36 succeed the position. If a declaration is not so filed by the  
37 justice, a vacancy shall exist upon the expiration of his term and  
38 shall be filled by appointment of the Governor. If such  
39 declaration is filed, the justice's name shall be submitted at  
40 said general election to the eligible voters within the district.  
41 The ballot shall read substantially as follows:

42 "Shall Judge (Here the name of the judge shall be  
43 inserted) of the (Here the title of the court and  
44 district shall be inserted) be retained in office?  
45 Yes \_\_\_\_\_, No \_\_\_\_\_."

46 If a majority of those voting on the question vote against  
47 retaining the incumbent in office, upon the expiration of the  
48 incumbent's term of office, a vacancy shall exist which shall be  
49 filled by appointment of the Governor; otherwise, the justice  
50 shall, unless removed for cause, remain in office for the term of  
51 such office, and at the expiration of each term shall be eligible  
52 for retention in office by election in the manner herein  
53 prescribed.

54 **SECTION 2.** Section 9-4-5, Mississippi Code of 1972, is  
55 amended as follows:

56 9-4-5. (1) The term of office of judges of the Court of  
57 Appeals shall be eight (8) years. \* \* \* Judges of the Court of  
58 Appeals who are appointed to take office after the first Monday of  
59 January 2004, shall be appointed by the Governor from the Court of  
60 Appeals Districts described in subsection (5) of this  
61 section. \* \* \*

62 (2) (a) \* \* \* Each of the ten (10) judges of the Court of  
63 Appeals shall be considered a separate office. The two (2)



64 offices in each of the five (5) districts shall be designated  
65 Position Number 1 and Position Number 2, and in filing for  
66 retention of office, \* \* \* each candidate shall state the position  
67 number of the office \* \* \* which he holds and the election ballots  
68 shall so indicate.

69 (i) In Congressional District Number 1, the judge  
70 of the Court of Appeals for Position Number 1 shall be that office  
71 for which the term ends January 1, 1999, and the judge of the  
72 Court of Appeals for Position Number 2 shall be that office for  
73 which the term ends January 1, 2003.

74 (ii) In Congressional District Number 2, the judge  
75 of the Court of Appeals for Position Number 1 shall be that office  
76 for which the term ends on January 1, 2003, and the judge of the  
77 Court of Appeals for Position Number 2 shall be that office for  
78 which the term ends January 1, 2001.

79 (iii) In Congressional District Number 3, the  
80 judge of the Court of Appeals for Position Number 1 shall be that  
81 office for which the term ends on January 1, 2001, and the judge  
82 of the Court of Appeals for Position Number 2 shall be that office  
83 for which the term ends January 1, 1999.

84 (iv) In Congressional District Number 4, the judge  
85 of the Court of Appeals for Position Number 1 shall be that office  
86 for which the term ends on January 1, 1999, and the judge of the  
87 Court of Appeals for Position Number 2 shall be that office for  
88 which the term ends January 1, 2003.

89 (v) In Congressional District Number 5, the judge  
90 of the Court of Appeals for Position Number 1 shall be that office  
91 for which the term ends on January 1, 2003, and the judge of the  
92 Court of Appeals for Position Number 2 shall be that office for  
93 which the term ends January 1, 2001.

94 (b) Any Court of Appeals judge holding office at the  
95 time that this section becomes applicable to his office, shall,  
96 unless removed for cause, remain in office for the duration of his



97 term. Not less than ninety (90) days prior to the holding of the  
98 general election next preceding the expiration of his term of  
99 office, an appeals court judge may file with the State Board of  
100 Election Commissioners a declaration of candidacy for election to  
101 succeed himself. If a declaration is not so filed by the judge, a  
102 vacancy shall exist upon the expiration of his term and shall be  
103 filled by appointment of the Governor. If such declaration is  
104 filed, the judge's name shall be submitted at said general  
105 election to the eligible voters within his district. The ballot  
106 shall read substantially as follows:

107 "Shall Judge (Here the name of the judge shall be  
108 inserted) of the (Here the title of the court and  
109 district shall be inserted) be retained in office?  
110 Yes \_\_\_\_\_, No \_\_\_\_\_."

111 If a majority of those voting on the question vote against  
112 retaining the judge in office, upon the expiration of the term of  
113 office, a vacancy shall exist which shall be filled by appointment  
114 of the Governor; otherwise, the judge shall, unless removed for  
115 cause, remain in office for the term of such office, and at the  
116 expiration of each term shall be eligible for retention in office  
117 by election in the manner herein prescribed.

118 (c) The laws regulating the general elections shall  
119 apply to and govern the retention elections of judges of the Court  
120 of Appeals except as otherwise provided in Sections 23-15-974  
121 through 23-15-985.

122 \* \* \*

123 (3) No person shall be eligible for the office of judge of  
124 the Court of Appeals who has not attained the age of thirty (30)  
125 years at the time of his appointment and who has not been a  
126 practicing attorney and citizen of the state for five (5) years  
127 immediately preceding such appointment.

128 (4) Any vacancy on the Court of Appeals shall be filled by  
129 appointment of the Governor for that portion of the unexpired term



130 prior to the election to fill the remainder of said term according  
131 to provisions of Section 23-15-849, Mississippi Code of 1972.

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

134 **FIRST DISTRICT.** The First Court of Appeals District shall be  
135 composed of the following counties and portions of counties:

136 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,  
137 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,  
138 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada  
139 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;  
140 in Montgomery County the precincts of North Winona, Lodi, Stewart,  
141 Nations and Poplar Creek; in Panola County the precincts of East  
142 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North  
143 Springport, South Springport, Eureka, Williamson, East Batesville  
144 4, West Batesville 4, Fern Hill, North Batesville A, East  
145 Batesville 5 and West Batesville 5; and in Tallahatchie County the  
146 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,  
147 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,  
148 Murphreesboro and Rosebloom.

149 **SECOND DISTRICT.** The Second Court of Appeals District shall  
150 be composed of the following counties and portions of counties:

151 Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys,  
152 Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower,  
153 Tunica, Warren, Washington and Yazoo; in Attala County the  
154 precincts of Northeast, Hesterville, Possomneck, North Central,  
155 McAdams, Newport, Sallis and Southwest; that portion of Grenada  
156 County not included in the First Court of Appeals District; in  
157 Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41,  
158 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga,  
159 Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas,  
160 St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the  
161 precincts of Conway, West Carthage, Wiggins, Thomastown and  
162 Ofahoma; in Madison County the precincts of Farmhaven, Canton



163 Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6,  
164 Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora,  
165 Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon,  
166 Canton Precinct 1 and Canton Precinct 4; that portion of  
167 Montgomery County not included in the First Court of Appeals  
168 District; that portion of Panola County not included in the First  
169 Court of Appeals District; and that portion of Tallahatchie County  
170 not included in the First Court of Appeals District.

171       **THIRD DISTRICT.** The Third Court of Appeals District shall be  
172 composed of the following counties and portions of counties:  
173 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,  
174 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that  
175 portion of Attala County not included in the Second Court of  
176 Appeals District; in Jones County the precincts of Northwest High  
177 School, Shady Grove, Sharon, Erata, Glade, Myrick School,  
178 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,  
179 Antioch and Landrum; that portion of Leake County not included in  
180 the Second Court of Appeals District; that portion of Madison  
181 County not included in the Second Court of Appeals District; and  
182 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,  
183 Diamond, Chaparral, Matherville, Coit and Eucutta.

184       **FOURTH DISTRICT.** The Fourth Court of Appeals District shall  
185 be composed of the following counties and portions of counties:  
186 Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,  
187 Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson;  
188 that portion of Hinds County not included in the Second Court of  
189 Appeals District; and that portion of Jones county not included in  
190 the Third Court of Appeals District.

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



196 (b) The boundaries of the Court of Appeals Districts  
197 described in paragraph (a) of this subsection shall be the  
198 boundaries of the counties and precincts listed in paragraph (a)  
199 of this subsection as such boundaries existed on October 1, 1990.

200 **SECTION 3.** Section 23-15-993, Mississippi Code of 1972, is  
201 amended as follows:

202 23-15-993. For the purpose of all elections, each of the  
203 nine (9) judgeships of the Supreme Court shall be considered a  
204 separate office. The three (3) offices in each of the three (3)  
205 Supreme Court districts shall be designated Position Number 1,  
206 Position Number 2 and Position Number 3, and \* \* \* each incumbent  
207 shall state the position number of the office the incumbent wishes  
208 to retain and the \* \* \* ballots shall so indicate. In Supreme  
209 Court District Number 1: Position Number 1 shall be that office  
210 for which the term ends in January 1966; Position Number 2 shall  
211 be that office for which the term ends in January 1965; and  
212 Position Number 3 shall be that office for which the term ends in  
213 January 1969. In District Number 2: Position Number 1 shall be  
214 that office for which the term ends in January 1972; Position  
215 Number 2 shall be that office for which the term ends in January  
216 1969; and Position Number 3 shall be for that office for which the  
217 term ends in January 1973. In District Number 3: Position Number  
218 1 shall be that office for which the term ends in January 1969;  
219 Position Number 2 shall be that office for which the term ends in  
220 January 1969; and Position Number 3 shall be that office for which  
221 the term ends in January 1965.

222 **SECTION 4.** Section 23-15-995, Mississippi Code of 1972, is  
223 amended as follows:

224 23-15-995. Except as may be otherwise provided by law, the  
225 general laws for the election of state officers shall apply to and  
226 govern the retention election of judges of the Supreme Court.

227 **SECTION 5.** Section 23-15-369, Mississippi Code of 1972, is  
228 amended as follows:



229           23-15-369. (1) (a) Whenever a constitutional amendment is  
230 submitted to the vote of the people, the substance of such  
231 amendment shall be printed in clear and unambiguous language on  
232 the ballot after the list of candidates, if any, followed by the  
233 word "YES" and also by the word "NO", and shall be styled in such  
234 a manner that a "YES" vote will indicate approval of the proposal  
235 and a "NO" vote will indicate rejection.

236           (b) The substance of the amendment shall be an  
237 explanatory statement not exceeding seventy-five (75) words in  
238 length of the chief purpose of the measure. Such statement shall  
239 be prepared by the Legislature and included in the concurrent  
240 resolution proposing the amendment to the Constitution. The  
241 statement shall avoid, whenever possible, the use of legal  
242 terminology or jargon and shall use instead, simple, ordinary,  
243 everyday language. The Secretary of State shall give each  
244 proposed constitutional amendment a designating number for  
245 convenient reference. This number designation shall appear on the  
246 ballot. Designating numbers shall be assigned in the order of  
247 filing or certification of the amendments. The Secretary of State  
248 shall furnish the designating number and the substance of each  
249 amendment to the circuit clerk of each county in which such  
250 amendment is to be voted on.

251           (c) The full text of each proposed constitutional  
252 amendment shall be published by the Secretary of State as provided  
253 for in Section 7-3-39, Mississippi Code of 1972, and shall be  
254 posted prominently in all polling places, with copies of said  
255 proposed amendment to be otherwise available at each polling  
256 place.

257           (2) Except as may be otherwise provided in subsection (1) of  
258 this section, whenever any public measure, question or matter that  
259 requires an affirmative or negative vote is submitted to a vote of  
260 the electors, the measure or matter shall be printed on the ballot  
261 and also the words "FOR" or "AGAINST" to be so arranged by the





262 proper officer so that the voter can intelligently vote his  
263 preference.

264 (3) Whenever any judge shall stand for retention election,  
265 the ballot shall be printed as required by Section 23-15-991.

266 **SECTION 6.** Section 23-15-977, Mississippi Code of 1972, is  
267 amended as follows:

268 23-15-977. (1) All candidates for judicial office as  
269 defined in Section 23-15-975 of this subarticle, other than those  
270 seeking retention in office at a retention election, shall file  
271 their intent to be a candidate with the proper officials not later  
272 than 5:00 p.m. on the first Friday after the first Monday in May  
273 prior to the general election for judicial office and shall pay to  
274 the proper officials the following amounts:

275 (a) Candidates for retention for positions for Supreme  
276 Court judge and Court of Appeals, the sum of Two Hundred Dollars  
277 (\$200.00).

278 (b) Candidates for circuit judge and chancellor, the  
279 sum of One Hundred Dollars (\$100.00).

280 (c) Candidates for county judge and family court judge,  
281 the sum of Fifteen Dollars (\$15.00).

282 (2) Candidates for judicial offices listed in paragraphs (a)  
283 and (b) of subsection (1) of this section shall file their intent  
284 to seek retention in office with, and pay the proper assessment  
285 made pursuant to subsection (1) of this section to, the State  
286 Board of Election Commissioners.

287 (3) Candidates for judicial offices listed in paragraph (b)  
288 of subsection (1) of this section shall file their intent to be a  
289 candidate with, and pay the proper assessment made pursuant to  
290 subsection (1) of this section to, the State Board of Election  
291 Commissioners.

292 (4) Candidates for judicial offices listed in paragraph (c)  
293 of subsection (1) of this section shall file their intent to be a  
294 candidate with, and pay the proper assessment made pursuant to



295 subsection (1) of this section to, the circuit clerk of the proper  
296 county. The circuit clerk shall notify the county commissioners  
297 of election of all persons who have filed their intent to be a  
298 candidate filed with, and paid the proper assessment to, such  
299 clerk. Such notification shall occur within two (2) business days  
300 and shall contain all necessary information.

301 **SECTION 7.** Section 23-15-607, Mississippi Code of 1972, is  
302 amended as follows:

303 23-15-607. (1) The commissioners of election shall, within  
304 ten (10) days after a retention election for judges of the Supreme  
305 Court or Court of Appeals, transmit to the Secretary of State, to  
306 be filed in his office, a statement of the whole number of votes  
307 given in their county \* \* \* for and against each retention  
308 candidate for the Office of Judge of the Supreme Court or Court of  
309 Appeals, and the Secretary of State shall immediately notify each  
310 member of the State Board of Election Commissioners in writing to  
311 assemble at his office on a day to be fixed by him, to be within  
312 ten (10) days after the receipt by him of such statement, and when  
313 assembled pursuant to such notice the State Board of Election  
314 Commissioners shall sum up the whole number of votes given for and  
315 against each candidate for judge of the Supreme Court or Court of  
316 Appeals according to the total number of votes in each county for  
317 each candidate as certified to the Secretary of State, ascertain  
318 the person or persons to be retained; and thereupon all persons  
319 chosen to such office at the election shall be commissioned by the  
320 Governor; but if it appears that any candidate for judge of the  
321 Supreme Court or Court of Appeals \* \* \* has an equal number of  
322 votes for retention and against retention, the election shall be  
323 forthwith decided \* \* \* by lots, fairly and publicly drawn under  
324 the direction of the State Board of Election Commissioners. Any  
325 Supreme Court position sought by an incumbent judge who loses the  
326 retention election by drawing of lots shall be filled as  
327 prescribed in Section 144A of the Mississippi Constitution, and



328 any Court of Appeals position sought by an incumbent appeals court  
329 judge who loses the retention election by drawing of lots shall be  
330 filled as prescribed in Section 9-4-5.

331 (2) The statements required by this section shall contain a  
332 certification, signed and dated by a majority of the commissioners  
333 of election, which shall read as follows:

334 "We, the undersigned commissioners of election, do  
335 hereby certify that this statement of the whole number of  
336 votes contain the official vote for the election reflected  
337 therein."

338 (3) The statements required by this section shall be  
339 transmitted to the Secretary of State on such forms and by such  
340 methods as may be required by rules and regulations promulgated by  
341 the Secretary of State.

342 **SECTION 8.** Section 9-1-103, Mississippi Code of 1972, is  
343 amended as follows:

344 9-1-103. Whenever a vacancy shall occur in any judicial  
345 office by reason of death of an incumbent, resignation or  
346 retirement of an incumbent, removal of an incumbent from office,  
347 or creation of a new judicial office in which there has not  
348 heretofore been an incumbent, the Governor shall have the  
349 authority to appoint a qualified person to fill such vacancy to  
350 serve for the unexpired term or until such vacancy is filled by  
351 election or appointment as provided in Section 23-15-849,  
352 Mississippi Code of 1972. When a vacancy shall occur for any of  
353 the reasons enumerated in this section, the clerk of the court  
354 shall notify the Governor of such vacancy immediately.

355 **SECTION 9.** Section 23-15-849, Mississippi Code of 1972, is  
356 amended as follows:

357 23-15-849. (1) Vacancies in the office of circuit judge or  
358 chancellor shall be filled for the unexpired term by the qualified  
359 electors at the next regular election for state officers or for  
360 representatives in Congress occurring more than nine (9) months



361 after the existence of the vacancy to be filled, and the term of  
362 office of the person elected to fill a vacancy shall commence on  
363 the first Monday in January following his election. Upon the  
364 occurring of such a vacancy, the Governor shall appoint a  
365 qualified person from the district in which the vacancy exists to  
366 hold the office and discharge the duties thereof until the vacancy  
367 shall be filled by election as provided in this subsection.

368 (2) \* \* \* Vacancies in the office of judge of the Supreme  
369 Court or Court of Appeals shall be filled for the unexpired term  
370 by appointment of the Governor, and at the expiration of the term,  
371 shall be eligible for retention in office by election in the  
372 manner prescribed by law. \* \* \*

373 \* \* \*

374 **SECTION 10.** The Attorney General of the State of Mississippi  
375 shall submit this act, immediately upon approval by the Governor,  
376 or upon approval by the Legislature subsequent to a veto, to the  
377 Attorney General of the United States or to the United States  
378 District Court for the District of Columbia in accordance with the  
379 provisions of the Voting Rights Act of 1965, as amended and  
380 extended.

381 **SECTION 11.** This act shall take effect and be in force  
382 either on the date it is effectuated under Section 5 of the Voting  
383 Rights Act of 1965, as amended and extended, or from and after  
384 January 1, 2004, whichever is later, provided that the amendments  
385 to the Mississippi Constitution of 1890 as proposed by Senate  
386 Concurrent Resolution No. 738, 2003 Regular Session, are certified  
387 by the Secretary of State as having been ratified by the people.

