

By: Representative Snowden

To: Judiciary A;  
Apportionment and Elections

## HOUSE BILL NO. 769

1 AN ACT TO AMEND SECTIONS 9-4-5, 23-15-975, 23-15-977 AND  
2 23-15-849, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUDGES OF THE  
3 COURT OF APPEALS SHALL BE APPOINTED; TO REPEAL SECTION 9-4-15,  
4 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE TIME FOR ELECTING  
5 JUDGES OF THE COURT OF APPEALS; 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. From and after the adoption of House Bill No. \_\_\_\_\_,  
19 2004 Regular Session, upon the expiration of current terms, judges  
20 of the Court of Appeals shall be appointed by the Governor with  
21 the advice and consent of the Senate.

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

29 districts shall be designated Position Number 1 and Position  
30 Number 2, and in qualifying for office as a candidate for any  
31 office of judge of the Court of Appeals each candidate shall state  
32 the position number of the office to which he aspires and the  
33 election ballots shall so indicate.

34 (i) In Congressional District Number 1, the judge  
35 of the Court of Appeals for Position Number 1 shall be that office  
36 for which the term ends January 1, 1999, and the judge of the  
37 Court of Appeals for Position Number 2 shall be that office for  
38 which the term ends January 1, 2003.

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

44 (iii) In Congressional District Number 3, the  
45 judge of the Court of Appeals for Position Number 1 shall be that  
46 office for which the term ends on January 1, 2001, and the judge  
47 of the Court of Appeals for Position Number 2 shall be that office  
48 for which the term ends January 1, 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 January 1, 1999, and the judge of the  
52 Court of Appeals for Position Number 2 shall be that office for  
53 which the term ends January 1, 2003.

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

59 (b) The laws regulating the general elections shall  
60 apply to and govern the elections of judges of the Court of

61 Appeals except as otherwise provided in Sections 23-15-974 through  
62 23-15-985.

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

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

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

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

82 **FIRST DISTRICT.** The First Court of Appeals District shall be  
83 composed of the following counties and portions of counties:  
84 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,  
85 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,  
86 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada  
87 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;  
88 in Montgomery County the precincts of North Winona, Lodi, Stewart,  
89 Nations and Poplar Creek; in Panola County the precincts of East  
90 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North  
91 Springport, South Springport, Eureka, Williamson, East Batesville  
92 4, West Batesville 4, Fern Hill, North Batesville A, East  
93 Batesville 5 and West Batesville 5; and in Tallahatchie County the

94 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,  
95 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,  
96 Murphreesboro and Rosebloom.

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

119       **THIRD DISTRICT.** The Third Court of Appeals District shall be  
120 composed of the following counties and portions of counties:  
121 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,  
122 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that  
123 portion of Attala County not included in the Second Court of  
124 Appeals District; in Jones County the precincts of Northwest High  
125 School, Shady Grove, Sharon, Erata, Glade, Myrick School,  
126 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,

127 Antioch and Landrum; that portion of Leake County not included in  
128 the Second Court of Appeals District; that portion of Madison  
129 County not included in the Second Court of Appeals District; and  
130 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,  
131 Diamond, Chaparral, Matherville, Coit and Eucutta.

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

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

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

148 **SECTION 2.** Section 23-15-975, Mississippi Code of 1972, is  
149 amended as follows:

150 23-15-975. As used in Sections 23-15-974 through 23-15-985  
151 of this subarticle, the term "judicial office" includes the office  
152 of justice of the Supreme Court, \* \* \* circuit judge, chancellor,  
153 county court judge and family court judge. All such justices and  
154 judges shall be full-time positions and such justices and judges  
155 shall not engage in the practice of law before any court,  
156 administrative agency or other judicial or quasi-judicial forum  
157 except as provided by law for finalizing pending cases after  
158 election to judicial office.

159           **SECTION 3.** Section 23-15-977, Mississippi Code of 1972, is  
160 amended as follows:

161           23-15-977. (1) All candidates for judicial office as  
162 defined in Section 23-15-975 of this subarticle shall file their  
163 intent to be a candidate with the proper officials not later than  
164 5:00 p.m. on the first Friday after the first Monday in May prior  
165 to the general election for judicial office and shall pay to the  
166 proper officials the following amounts:

167           (a) Candidates for Supreme Court judge \* \* \*, the sum  
168 of Two Hundred Dollars (\$200.00).

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

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

173           (2) Candidates for judicial offices listed in paragraphs (a)  
174 and (b) of subsection (1) of this section shall file their intent  
175 to be a candidate with, and pay the proper assessment made  
176 pursuant to subsection (1) of this section to, the State Board of  
177 Election Commissioners.

178           (3) Candidates for judicial offices listed in paragraph (c)  
179 of subsection (1) of this section shall file their intent to be a  
180 candidate with, and pay the proper assessment made pursuant to  
181 subsection (1) of this section to, the circuit clerk of the proper  
182 county. The circuit clerk shall notify the county commissioners  
183 of election of all persons who have filed their intent to be a  
184 candidate filed with, and paid the proper assessment to, such  
185 clerk. Such notification shall occur within two (2) business days  
186 and shall contain all necessary information.

187           **SECTION 4.** Section 23-15-849, Mississippi Code of 1972, is  
188 amended as follows:

189           23-15-849. (1) Vacancies in the office of circuit judge or  
190 chancellor shall be filled for the unexpired term by the qualified  
191 electors at the next regular election for state officers or for

192 representatives in Congress occurring more than nine (9) months  
193 after the existence of the vacancy to be filled, and the term of  
194 office of the person elected to fill a vacancy shall commence on  
195 the first Monday in January following his election. Upon the  
196 occurring of such a vacancy, the Governor shall appoint a  
197 qualified person from the district in which the vacancy exists to  
198 hold the office and discharge the duties thereof until the vacancy  
199 shall be filled by election as provided in this subsection.

200 (2) (a) If half or more than half of the term remains,  
201 vacancies in the office of judge of the Supreme Court \* \* \* shall  
202 be filled for the unexpired term by the qualified electors at the  
203 next regular election for state officers or for representatives in  
204 Congress occurring more than nine (9) months after the existence  
205 of the vacancy to be filled, and the term of office of the person  
206 elected to fill a vacancy shall commence on the first Monday in  
207 January following his election. If less than half of the term  
208 remains, vacancies in the office of judge of the Supreme  
209 Court \* \* \* shall be filled for the remaining unexpired term  
210 solely by appointment as provided in this subsection.

211 (b) Upon occurrence of a vacancy, the Governor shall  
212 appoint a qualified person from the district in which the vacancy  
213 exists to hold the office and discharge the duties thereof as  
214 follows:

215 (i) If less than half of the term remains, the  
216 appointee shall serve until expiration of the term;

217 (ii) If half or more than half of the term  
218 remains, the appointee shall serve until the vacancy shall be  
219 filled by election as provided in subsection (1) of this section  
220 for judges of the circuit and chancery courts. Elections to fill  
221 vacancies in the office of judge of the Supreme Court \* \* \* shall  
222 be held, conducted, returned and the persons elected commissioned  
223 in accordance with the law governing regular elections for judges  
224 of the Supreme Court \* \* \* insofar as they may be applicable.

225           (c) This subsection (2) shall apply to all  
226 gubernatorial appointees to the Supreme Court \* \* \* who have not  
227 stood for special election as of July 2, 2002, as if Laws, 2002,  
228 Chapter 586, were in full force and effect on the day of each of  
229 their appointments.

230           **SECTION 5.** Section 9-4-15, Mississippi Code of 1972, which  
231 provides for the time for electing judges of the Court of Appeals,  
232 is repealed.

233           **SECTION 6.** The Attorney General of the State of Mississippi  
234 shall submit this act, immediately upon approval by the Governor,  
235 or upon approval by the Legislature subsequent to a veto, to the  
236 Attorney General of the United States or to the United States  
237 District Court for the District of Columbia in accordance with the  
238 provisions of the Voting Rights Act of 1965, as amended and  
239 extended.

240           **SECTION 7.** This act shall take effect and be in force from  
241 and after the date it is effectuated under Section 5 of the Voting  
242 Rights Act of 1965, as amended and extended.