

By: Senator(s) Robertson

To: Judiciary, Division A

SENATE BILL NO. 2246

1 AN ACT TO PROVIDE THAT VACANCIES IN THE OFFICE OF JUDGE OF
 2 THE SUPREME COURT AND COURT OF APPEALS SHALL BE FILLED BY
 3 APPOINTMENT OF THE GOVERNOR, SUBJECT TO THE ADVICE AND CONSENT OF
 4 THE SENATE; TO CREATE NEW SECTION 9-3-4, MISSISSIPPI CODE OF 1972,
 5 TO PLACE THE PROVISIONS CONCERNING THE TERMS AND SERVICE OF JUDGES
 6 OF THE SUPREME COURT IN THE SUPREME COURT CHAPTER OF THE
 7 MISSISSIPPI CODE AND TO PROVIDE THAT VACANCIES ARE FILLED BY
 8 APPOINTMENT OF THE GOVERNOR; TO AMEND SECTION 9-1-103, MISSISSIPPI
 9 CODE OF 1972, TO CONFORM; TO AMEND SECTION 9-4-5, MISSISSIPPI CODE
 10 OF 1972, TO PROVIDE THAT VACANCIES IN THE OFFICE OF JUDGE OF THE
 11 COURT OF APPEALS ARE FILLED BY APPOINTMENT OF THE GOVERNOR; TO
 12 REPEAL SECTION 9-4-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
 13 THAT GENERAL ELECTIONS FOR THE OFFICE OF JUDGE OF THE COURT OF
 14 APPEALS SHALL BE HELD AT THE SAME TIMES AS GENERAL ELECTIONS FOR
 15 CONGRESSIONAL OFFICES; TO AMEND SECTION 23-15-197, MISSISSIPPI
 16 CODE OF 1972, TO CONFORM THE TIMES FOR HOLDING OF RETENTION
 17 ELECTIONS FOR APPELLATE JUDGES; TO AMEND SECTION 23-15-369,
 18 MISSISSIPPI CODE OF 1972, TO SPECIFY THE MANNER IN WHICH RETENTION
 19 BALLOTS SHALL BE PRINTED; TO AMEND SECTION 23-15-607, MISSISSIPPI
 20 CODE OF 1972, TO SPECIFY THE MANNER IN WHICH THE RESULTS OF A
 21 RETENTION ELECTION FOR AN APPELLATE COURT JUDGE IS TO BE
 22 CERTIFIED; TO AMEND SECTIONS 23-15-849, 23-15-973, 23-15-975 AND
 23 23-15-977, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION
 24 23-15-991, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE RETENTION
 25 ELECTION AND FORM OF BALLOT FOR RETENTION ELECTIONS IN ORDER FOR
 26 AN APPELLATE JUDGE TO SUCCEED HIMSELF; TO AMEND SECTIONS 23-15-993
 27 AND 23-15-995, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR
 28 RELATED PURPOSES.

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

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

32 9-3-4. (1) The term of office of judges of the Supreme
 33 Court shall be eight (8) years and shall begin on the first Monday
 34 of January of the year in which the prior term expires. Any judge
 35 of the Supreme Court holding office or elected thereto on January
 36 1, 2006, shall remain in office for the duration of his term
 37 unless he vacates the office or is removed for cause. From and
 38 after January 1, 2006, vacancies in the office of justice of the
 39 Supreme Court shall be filled by appointment of the Governor,
 40 subject to the advice and consent of the Senate.

41 (2) For the purpose of appointment and election, each of the
42 nine (9) judgeships of the Supreme Court shall be considered a
43 separate office. The three (3) offices in each of the three (3)
44 Supreme Court districts shall be designated Position Number 1,
45 Position Number 2 and Position Number 3, and in qualifying for
46 retention for any office of judge of the Supreme Court, each
47 candidate shall state the position number of the office he wishes
48 to retain and the ballots shall so indicate. In Supreme Court
49 District Number 1: Position Number 1 shall be that office for
50 which the term ends in January 1966; Position Number 2 shall be
51 that office for which the term ends in January 1965; and Position
52 Number 3 shall be that office for which the term ends in January
53 1969. In District Number 2: Position Number 1 shall be that
54 office for which the term ends in January 1972; Position Number 2
55 shall be that office for which the term ends in January 1969; and
56 Position Number 3 shall be for that office for which the term ends
57 in January 1973. In District Number 3: Position Number 1 shall
58 be that office for which the term ends in January 1969; Position
59 Number 2 shall be that office for which the term ends in January
60 1969; and Position Number 3 shall be that office for which the
61 term ends in January 1965.

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

64 9-1-103. (1) Whenever a vacancy shall occur in any judicial
65 office by reason of death of an incumbent, resignation or
66 retirement of an incumbent, removal of an incumbent from
67 office, * * * creation of a new judicial office in which there has
68 not heretofore been an incumbent and for which no election is
69 provided by statute, or failure of an incumbent to prevail in a
70 required retention election, the Governor shall have the authority
71 to appoint a qualified person as follows:

72 (a) For judicial offices filled by election, the
73 Governor shall appoint a qualified person to fill the vacancy to

74 serve for the unexpired term or until the vacancy is filled by
75 election as provided in Section 23-15-849, Mississippi Code of
76 1972.

77 (b) For judicial offices filled by appointment, the
78 Governor shall appoint a qualified person to fill the vacancy to
79 serve for the unexpired term.

80 (2) When a vacancy shall occur for any of the reasons
81 enumerated in this section, the clerk of the court shall notify
82 the Governor of the vacancy immediately.

83 **SECTION 3.** Section 9-4-5, Mississippi Code of 1972, is
84 amended as follows:

85 9-4-5. (1) (a) The term of office of judges of the Court
86 of Appeals shall be eight (8) years.

87 (b) An election shall be held on the first Tuesday
88 after the first Monday in November 1994, to elect the ten (10)
89 judges of the Court of Appeals, two (2) from each congressional
90 district; provided, however, judges of the Court of Appeals who
91 are elected to take office after the first Monday of January 2002,
92 shall be elected from the Court of Appeals Districts described in
93 subsection (5) of this section. The judges of the Court of
94 Appeals shall begin service on the first Monday of January 1995.

95 (c) * * * In order to provide that the offices of not
96 more than a majority of the judges of said court shall become
97 vacant at any one (1) time, the terms of office of six (6) of the
98 judges first to be elected shall expire in less than eight (8)
99 years. For the purpose of all elections of members of the court,
100 each of the ten (10) judges of the Court of Appeals shall be
101 considered a separate office. The two (2) offices in each of the
102 five (5) districts shall be designated Position Number 1 and
103 Position Number 2, and in qualifying for office as a candidate for
104 any office of judge of the Court of Appeals, each candidate shall
105 state the position number of the office to which he aspires and
106 the election ballots shall so indicate.

107 (d) (i) In the First Court of Appeals District, the
108 judge of the Court of Appeals for Position Number 1 shall be that
109 office for which the term ends in January of 1999, and the judge
110 of the Court of Appeals for Position Number 2 shall be that office
111 for which the term ends in January of 2003.

112 (ii) In the Second Court of Appeals District, the
113 judge of the Court of Appeals for Position Number 1 shall be that
114 office for which the term ends in January of 2003, and the judge
115 of the Court of Appeals for Position Number 2 shall be that office
116 for which the term ends in January of 2001.

117 (iii) In the Third Court of Appeals District, the
118 judge of the Court of Appeals for Position Number 1 shall be that
119 office for which the term ends in January of 2001, and the judge
120 of the Court of Appeals for Position Number 2 shall be that office
121 for which the term ends in January of 1999.

122 (iv) In the Fourth Court of Appeals District, the
123 judge of the Court of Appeals for Position Number 1 shall be that
124 office for which the term ends in January of 1999, and the judge
125 of the Court of Appeals for Position Number 2 shall be that office
126 for which the term ends in January of 2003.

127 (v) In the Fifth Court of Appeals District, the
128 judge of the Court of Appeals for Position Number 1 shall be that
129 office for which the term ends in January of 2003, and the judge
130 of the Court of Appeals for Position Number 2 shall be that office
131 for which the term ends in January of 2001.

132 (2) No person shall be eligible for the office of judge of
133 the Court of Appeals who has not attained the age of thirty (30)
134 years at the time of his election or appointment and who has not
135 been a practicing attorney and citizen of the state for five (5)
136 years immediately preceding such election or appointment.

137 (3) Until January 1, 2006:

138 (a) The laws regulating the general elections shall
139 apply to and govern the elections of judges of the Court of

140 Appeals except as otherwise provided in Sections 23-15-974 through
141 23-15-985.

142 (b) In the year prior to the expiration of the term of
143 an incumbent, and likewise each eighth year thereafter, an
144 election shall be held in the manner provided in this section in
145 the district from which the incumbent Court of Appeals judge was
146 elected at which there shall be elected a successor to the
147 incumbent, whose term of office shall thereafter begin on the
148 first Monday of January of the year in which the term of the
149 incumbent he succeeds expires.

150 (4) (a) Any vacancy on the Court of Appeals occurring prior
151 to January 1, 2006, shall be filled by appointment of the Governor
152 for that portion of the unexpired term prior to the election to
153 fill the remainder of said term according to provisions of Section
154 23-15-849, Mississippi Code of 1972.

155 (b) From and after January 1, 2006, any vacancy on the
156 Court of Appeals shall be filled by appointment of the Governor,
157 subject to the advice and consent of the Senate. If a vacancy
158 occurs before the expiration of a term, the appointment shall be
159 for the remainder of that term.

160 (c) A judge of the Court of Appeals holding office or
161 elected thereto on January 1, 2006, shall remain in office for the
162 remainder of his term, unless he vacates the office or is removed
163 for cause. If a judge does not stand for retention election as
164 provided by Section 23-15-991, the office held by that judge shall
165 be vacated upon expiration of term.

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

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

170 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,
171 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,
172 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada

173 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;
174 in Montgomery County the precincts of North Winona, Lodi, Stewart,
175 Nations and Poplar Creek; in Panola County the precincts of East
176 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North
177 Springport, South Springport, Eureka, Williamson, East Batesville
178 4, West Batesville 4, Fern Hill, North Batesville A, East
179 Batesville 5 and West Batesville 5; and in Tallahatchie County the
180 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,
181 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,
182 Murphreesboro and Rosebloom.

183 **SECOND DISTRICT.** The Second Court of Appeals District shall
184 be composed of the following counties and portions of counties:
185 Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys,
186 Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower,
187 Tunica, Warren, Washington and Yazoo; in Attala County the
188 precincts of Northeast, Hesterville, Possomneck, North Central,
189 McAdams, Newport, Sallis and Southwest; that portion of Grenada
190 County not included in the First Court of Appeals District; in
191 Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41,
192 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga,
193 Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas,
194 St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the
195 precincts of Conway, West Carthage, Wiggins, Thomastown and
196 Ofahoma; in Madison County the precincts of Farmhaven, Canton
197 Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6,
198 Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora,
199 Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon,
200 Canton Precinct 1 and Canton Precinct 4; that portion of
201 Montgomery County not included in the First Court of Appeals
202 District; that portion of Panola County not included in the First
203 Court of Appeals District; and that portion of Tallahatchie County
204 not included in the First Court of Appeals District.

205 **THIRD DISTRICT.** The Third Court of Appeals District shall be
206 composed of the following counties and portions of counties:
207 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,
208 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that
209 portion of Attala County not included in the Second Court of
210 Appeals District; in Jones County the precincts of Northwest High
211 School, Shady Grove, Sharon, Erata, Glade, Myrick School,
212 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,
213 Antioch and Landrum; that portion of Leake County not included in
214 the Second Court of Appeals District; that portion of Madison
215 County not included in the Second Court of Appeals District; and
216 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,
217 Diamond, Chaparral, Matherville, Coit and Eucutta.

218 **FOURTH DISTRICT.** The Fourth Court of Appeals District shall
219 be composed of the following counties and portions of counties:
220 Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,
221 Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson;
222 that portion of Hinds County not included in the Second Court of
223 Appeals District; and that portion of Jones county not included in
224 the Third Court of Appeals District.

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

230 (b) The boundaries of the Court of Appeals Districts
231 described in paragraph (a) of this subsection shall be the
232 boundaries of the counties and precincts listed in paragraph (a)
233 of this subsection as such boundaries existed on October 1, 1990.

234 **SECTION 4.** Section 9-4-15, Mississippi Code of 1972, which
235 provides that general elections for the office of judge of the
236 Court of Appeals shall be held at the same times as general
237 elections for congressional offices, is repealed.

238 **SECTION 5.** Section 23-15-197, Mississippi Code of 1972, is
239 amended as follows:

240 23-15-197. (1) Times for holding primary and general
241 elections for congressional offices shall be as prescribed in
242 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

243 (2) Times for holding retention elections for the office of
244 judge of the Supreme Court or judge of the Court of Appeals shall
245 be as prescribed in Section 23-15-991 and Sections 23-15-974
246 through 23-15-985.

247 (3) Times for holding elections for the office of circuit
248 court judge and the office of chancery court judge shall be as
249 prescribed in Sections 23-15-974 through 23-15-985, and Section
250 23-15-1015.

251 (4) Times for holding elections for the office of county
252 election commissioners shall be as prescribed in Section
253 23-15-213.

254 **SECTION 6.** Section 23-15-369, Mississippi Code of 1972, is
255 amended as follows:

256 23-15-369. (1) (a) Whenever a constitutional amendment is
257 submitted to the vote of the people, the substance of such
258 amendment shall be printed in clear and unambiguous language on
259 the ballot after the list of candidates, if any, followed by the
260 word "YES" and also by the word "NO", and shall be styled in such
261 a manner that a "YES" vote will indicate approval of the proposal
262 and a "NO" vote will indicate rejection.

263 (b) The substance of the amendment shall be an
264 explanatory statement not exceeding seventy-five (75) words in
265 length of the chief purpose of the measure. Such statement shall
266 be prepared by the Legislature and included in the concurrent
267 resolution proposing the amendment to the Constitution. The
268 statement shall avoid, whenever possible, the use of legal
269 terminology or jargon and shall use instead, simple, ordinary,
270 everyday language. The Secretary of State shall give each

271 proposed constitutional amendment a designating number for
272 convenient reference. This number designation shall appear on the
273 ballot. Designating numbers shall be assigned in the order of
274 filing or certification of the amendments. The Secretary of State
275 shall furnish the designating number and the substance of each
276 amendment to the circuit clerk of each county in which such
277 amendment is to be voted on.

278 (c) The full text of each proposed constitutional
279 amendment shall be published by the Secretary of State as provided
280 for in Section 7-3-39, Mississippi Code of 1972, and shall be
281 posted prominently in all polling places, with copies of said
282 proposed amendment to be otherwise available at each polling
283 place.

284 (2) Except as may be otherwise provided in subsection (1) of
285 this section, whenever any public measure, question or matter that
286 requires an affirmative or negative vote is submitted to a vote of
287 the electors, the measure or matter shall be printed on the ballot
288 and also the words "FOR" or "AGAINST" to be so arranged by the
289 proper officer so that the voter can intelligently vote his
290 preference.

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

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

295 23-15-607. (1) The commissioners of election shall, within
296 ten (10) days after a retention election for judges of the Supreme
297 Court or Court of Appeals, transmit to the Secretary of State, to
298 be filed in his office, a statement of the whole number of votes
299 given in their county, and the whole number of votes given in each
300 precinct in their county, for each candidate to retain the office
301 of judge of the Supreme Court or Court of Appeals, and the
302 Secretary of State shall immediately notify each member of the
303 State Board of Election Commissioners in writing to assemble at

304 his office on a day to be fixed by him, to be within ten (10) days
305 after the receipt by him of such statement, and when assembled
306 pursuant to such notice the State Board of Election Commissioners
307 shall sum up the whole number of votes given for each candidate
308 for retention of the office of judge of the Supreme Court or Court
309 of Appeals according to the total number of votes in each county
310 for or against each candidate as certified to the Secretary of
311 State, ascertain whether the person * * * is to be retained; and
312 thereupon all persons chosen to retain office at the election
313 shall be commissioned by the Governor; but if it appears that any
314 candidate for retention as judge of the Supreme Court or Court of
315 Appeals * * * has an equal number of votes for and against
316 retention, the election shall be forthwith decided * * * by lots,
317 fairly and publicly drawn under the direction of the State Board
318 of Election Commissioners. The position of a judge of the Supreme
319 Court or Court of Appeals who loses a retention election by the
320 drawing of lots shall be vacant upon expiration of term.

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

324

325 "We, the undersigned commissioners of election, do hereby
326 certify that this statement of the whole number of votes
327 contain the official vote for the election reflected
328 therein."

329 (3) The statements required by this section shall be
330 transmitted to the Secretary of State on such forms and by such
331 methods as may be required by rules and regulations promulgated by
332 the Secretary of State.

333 **SECTION 8.** Section 23-15-849, Mississippi Code of 1972, is
334 amended as follows:

335 23-15-849. (1) Vacancies in the office of circuit judge or
336 chancellor shall be filled for the unexpired term by the qualified

337 electors at the next regular election for state officers or for
338 representatives in Congress occurring more than nine (9) months
339 after the existence of the vacancy to be filled, and the term of
340 office of the person elected to fill a vacancy shall commence on
341 the first Monday in January following his election. Upon the
342 occurring of such a vacancy, the Governor shall appoint a
343 qualified person from the district in which the vacancy exists to
344 hold the office and discharge the duties thereof until the vacancy
345 shall be filled by election as provided in this subsection.

346 (2) * * * Upon occurrence of a vacancy in the office of
347 judge of the Supreme Court or Court of Appeals, the Governor shall
348 appoint a qualified person from the district in which the vacancy
349 exists to hold the office and discharge the duties thereof * * *
350 * * *

351 **SECTION 9.** Section 23-15-973, Mississippi Code of 1972, is
352 amended as follows:

353 23-15-973. It shall be the duty of the judges of the circuit
354 court to give a reasonable time and opportunity to * * *
355 candidates for retention of the office of judge of the Supreme
356 Court and * * * the Court of Appeals, and for candidates for
357 circuit judge and chancellor, to address the people during court
358 terms. In order to give further and every possible emphasis to
359 the fact that the said judicial offices are not political but are
360 to be held without favor and with absolute impartiality as to all
361 persons, and because of the jurisdiction conferred upon the courts
362 by this chapter, the judges thereof should be as far removed as
363 possible from any political affiliations or obligations. It shall
364 be unlawful for any candidate for any of the offices mentioned in
365 this section to align himself with any candidate or candidates for
366 any other office or with any political faction or any political
367 party at any time during any primary or general election campaign.
368 Likewise it shall be unlawful for any candidate for any other
369 office nominated or to be nominated at any primary election,

370 wherein any candidate for any of the judicial offices in this
371 section mentioned, is or are to be nominated, to align himself
372 with any one or more of the candidates for said offices or to take
373 any part whatever in any nomination for any one or more of said
374 judicial offices, except to cast his individual vote. Any
375 candidate for any office, whether nominated with or without
376 opposition, at any primary wherein a candidate for any one of the
377 judicial offices herein mentioned is to be nominated who shall
378 deliberately, knowingly and willfully violate the provisions of
379 this section shall forfeit his nomination, or if elected at the
380 following general election by virtue of said nomination, his
381 election shall be void. This section shall apply to candidates
382 for election to judicial office and to candidates standing for
383 retention election for judicial office.

384 **SECTION 10.** Section 23-15-975, Mississippi Code of 1972, is
385 amended as follows:

386 23-15-975.

387 * * *

388 As used in Sections 23-15-974 through 23-15-985 of this
389 subarticle, the term "judicial office" includes the office of
390 justice of the Supreme Court, judge of the Court of Appeals,
391 circuit judge, chancellor, and county court judge * * *. All such
392 justices and judges shall be full-time positions and such justices
393 and judges shall not engage in the practice of law before any
394 court, administrative agency or other judicial or quasi-judicial
395 forum except as provided by law for finalizing pending cases after
396 election to judicial office.

397 **SECTION 11.** Section 23-15-977, Mississippi Code of 1972, is
398 amended as follows:

399 23-15-977. (1) All candidates for judicial office as
400 defined in Section 23-15-975 of this subarticle shall file the
401 intent to be a candidate with the proper officials not later than
402 5:00 p.m. on the first Friday after the first Monday in May prior

403 to the general election for judicial office and shall pay to the
404 proper officials the following amounts:

405 (a) Candidates for retention in the office of Supreme
406 Court Justice and judge of the Court of Appeals, the sum of Two
407 Hundred Dollars (\$200.00).

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

410 (c) Candidates for county judge * * *, the sum of
411 Fifteen Dollars (\$15.00).

412 (2) Candidates for judicial offices listed in paragraphs (a)
413 and (b) of subsection (1) of this section shall file the intent to
414 stand for retention election or to be a candidate with, and pay
415 the proper assessment made pursuant to subsection (1) of this
416 section to, the State Board of Election Commissioners.

417 (3) Candidates for judicial offices listed in paragraph (c)
418 of subsection (1) of this section shall file the intent to be a
419 candidate with, and pay the proper assessment made pursuant to
420 subsection (1) of this section to, the circuit clerk of the proper
421 county. The circuit clerk shall notify the county commissioners
422 of election of all persons who have filed * * * the intent to be a
423 candidate * * * with, and paid the proper assessment to, such
424 clerk. Such notification shall occur within two (2) business days
425 and shall contain all necessary information.

426 **SECTION 12.** Section 23-15-991, Mississippi Code of 1972, is
427 amended as follows:

428 23-15-991. * * * (1) An election shall be held on the first
429 Tuesday after the first Monday in November immediately preceding
430 the expiration of the term of an incumbent in the Supreme Court
431 district or Court of Appeals district from which each incumbent
432 was selected, to submit his name to the eligible voters within his
433 district as to whether he shall be retained in office. If a
434 majority of those voting on the question vote to retain the
435 incumbent, the incumbent shall begin a new term of office at the

436 expiration of the current term. If a majority of those voting on
437 the question vote against retaining him in office, the vacancy
438 shall be filled as provided by law and the Mississippi
439 Constitution of 1890.

440 (2) Within the time frame prescribed by Section 23-15-977, a
441 judge of the Supreme Court or Court of Appeals may file in the
442 Office of Secretary of State a declaration of candidacy for
443 election to succeed himself in the position. If a declaration is
444 not so filed by the judge, a vacancy shall exist upon the
445 expiration of his term which shall be filled by appointment of the
446 Governor as provided in Section 9-3-4 for judges of the Supreme
447 Court and Section 9-4-5 for judges of the Court of Appeals. If a
448 declaration is filed, the judge's name shall be submitted at the
449 general election to the eligible voters within the district. The
450 ballot shall read substantially as follows:

451 "Shall Judge (Here the name of the judge shall be inserted)
452 of the (Here the title of the court, district and position shall
453 be inserted) be retained in office? Yes , No ." If
454 a majority of those voting on the question vote against retaining
455 the incumbent in office, upon the expiration of the incumbent's
456 term of office, a vacancy shall exist which shall be filled by
457 appointment of the Governor as provided in this section;
458 otherwise, the judge shall remain in office for the term of such
459 office, unless he vacates the office or is removed for cause. At
460 the expiration of each term, a judge of the Supreme Court or Court
461 of Appeals shall be eligible for retention in office by election
462 in the manner prescribed in this section.

463 **SECTION 13.** Section 23-15-993, Mississippi Code of 1972, is
464 amended as follows:

465 23-15-993. For the purpose of appointment and election, each
466 of the nine (9) judgeships of the Supreme Court and the ten (10)
467 judgeships of the Court of Appeals shall be considered a separate
468 office. * * *

469 **SECTION 14.** Section 23-15-995, Mississippi Code of 1972, is
470 amended as follows:

471 23-15-995. Except as may be otherwise provided by the
472 provisions of Sections 23-15-974 through 23-15-985, the general
473 laws for the election of state officers shall apply to and govern
474 the retention election of judges of the Supreme Court.

475 **SECTION 15.** The Attorney General of the State of Mississippi
476 shall submit this act, immediately upon approval by the Governor,
477 or upon approval by the Legislature subsequent to a veto, to the
478 Attorney General of the United States or to the United States
479 District Court for the District of Columbia in accordance with the
480 provisions of the Voting Rights Act of 1965, as amended and
481 extended.

482 **SECTION 16.** This act shall take effect and be in force from
483 and after January 1, 2006, provided that it is effectuated under
484 Section 5 of the Voting Rights Act of 1965, as amended and
485 extended, and further provided that the amendments to the
486 Mississippi Constitution of 1890 as proposed by Senate Concurrent
487 Resolution No. 506, 2004 Regular Session, are certified by the
488 Secretary of State as having been ratified by the people.