

By: Senator(s) Tollison

To: Judiciary, Division A

SENATE BILL NO. 2875

1 AN ACT TO AMEND SECTION 11-1-56, MISSISSIPPI CODE OF 1972, TO
2 CREATE CHANCERY AND CIRCUIT TRIAL COURT DISTRICTS TO ALLOW A
3 BETTER DISTRIBUTION OF CASELOADS AND BETTER USE OF RESOURCES; TO
4 GROUP THE JUDGES FROM THE 20 CHANCERY DISTRICTS AND 22 CIRCUIT
5 DISTRICTS INTO 9 POOLS OF JUDGES TO SERVE IN DEFINED CONTIGUOUS
6 DISTRICTS DESIGNATED AS TRIAL DISTRICTS; TO PROVIDE THAT THERE ARE
7 AT LEAST 4 AVAILABLE JUDGES SERVING EACH TRIAL DISTRICT; TO AMEND
8 SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO FACILITATE THE
9 ASSIGNMENT OF SPECIAL JUDGES TO ACCOMMODATE EXTRAORDINARY
10 CASELOADS IN PARTICULAR DISTRICTS; AND FOR RELATED PURPOSES.

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

12 SECTION 1. Section 11-1-56, Mississippi Code of 1972, is
13 amended as follows:

14 11-1-56.

15 * * *

16 (1) The chancery and circuit court districts of Mississippi
17 shall be grouped, for the purpose of assigning judicial duties,
18 into nine (9) chancery court trial districts and nine (9) circuit
19 court trial districts, as follows:

20 (a) Chancery court trial districts:

21 (i) Chancery Court Trial District One, composed of
22 Chancery Court Districts Three and Seven;

23 (ii) Chancery Court Trial District Two, composed
24 of Chancery Court Districts One and Eighteen;

25 (iii) Chancery Court Trial District Three,
26 composed of Chancery Court Districts Nine and Eleven;

27 (iv) Chancery Court Trial District Four, composed
28 of Chancery Court Districts Six and Fourteen;

29 (v) Chancery Court Trial District Five, composed
30 of Chancery Court Districts Five and Twenty;

31 (vi) Chancery Court Trial District Six, composed
32 of Chancery Court Districts Two, Twelve and Thirteen;

33 (vii) Chancery Court Trial District Seven,
34 composed of Chancery Court Districts Four, Fifteen and Seventeen;

35 (viii) Chancery Court Trial District Eight,
36 composed of Chancery Court Districts Ten and Nineteen;

37 (ix) Chancery Court Trial District Nine, composed
38 of Chancery Court Districts Eight and Sixteen;

39 (b) Circuit Court Trial Districts:

40 (i) Circuit Court Trial District One, composed of
41 Circuit Court Districts Eleven and Seventeen;

42 (ii) Circuit Court Trial District Two, composed of
43 Circuit Court Districts One and Three;

44 (iii) Circuit Court Trial District Three, composed
45 of Circuit Court Districts Four and Nine;

46 (iv) Circuit Court Trial District Four, composed
47 of Circuit Court Districts Five and Sixteen;

48 (v) Circuit Court Trial District Five, composed of
49 Circuit Court Districts Seven and Twenty;

50 (vi) Circuit Court Trial District Six, composed of
51 Circuit Court Districts Eight and Ten;

52 (vii) Circuit Court Trial District Seven, composed
53 of Circuit Court Districts Six, Fourteen and Twenty-two;

54 (viii) Circuit Court Trial District Eight,
55 composed of Circuit Court Districts Twelve, Thirteen, Fifteen and
56 Eighteen;

57 (ix) Circuit Court Trial District Nine, composed
58 of Circuit Court Districts Two and Three.

59 (2) The circuit court and chancery court trial districts
60 hereby created do not supersede the existing circuit and chancery
61 court districts, but are created solely to facilitate the
62 assignment of cases filed within the circuit and chancery court
63 districts composing each trial district. The judges of each trial

64 district shall have the full authority to try cases filed in all
65 of the circuit court districts composing the trial district which
66 contains the district or subdistrict from which they each are
67 elected. In no event shall the existence of these trial districts
68 alter the districts from which judges are elected or the manner of
69 their election.

70 (3) Cases filed in the chancery and circuit court districts
71 shall be assigned to the judges of the trial districts of which
72 the chancery and circuit court districts are constituent parts in
73 such a manner as to reasonably assure a fair and balanced
74 distribution of cases filed in each county among the judges of a
75 trial district and to assure that the assignments will be random,
76 that no discernable pattern of assignment exists, and that no
77 person shall know to whom the case will be assigned until it has
78 been assigned. In the event of the unwillingness or inability of
79 an assigned judge to hear a case, it may be reassigned to another
80 judge within the trial district. Any deviation from the
81 provisions of this section necessitated by the interest of
82 efficiency and economy shall be in accordance with rules
83 promulgated or approved by the Supreme Court.

84 **SECTION 2.** Section 9-1-105, Mississippi Code of 1972, is
85 amended as follows:

86 9-1-105. (1) Whenever any judicial officer is unwilling or
87 unable to hear a case or unable to hold or attend any of the
88 courts at the time and place required by law by reason of the
89 physical disability or sickness of such judicial officer, by
90 reason of the absence of such judicial officer from the state, by
91 reason of the disqualification of such judicial officer pursuant
92 to the provision of Section 165, Mississippi Constitution of 1890,
93 or any provision of the Code of Judicial Conduct, or for any other
94 reason, the Chief Justice of the Mississippi Supreme Court, with
95 the advice and consent of a majority of the justices of the

96 Mississippi Supreme Court, may appoint a person as a special judge
97 to hear the case or attend and hold a court.

98 (2) Upon a determination by the Chief Justice of the
99 Mississippi Supreme Court that an emergency exists concerning the
100 prompt and efficient disposition of cases in a circuit or chancery
101 court, or at the request of the Governor, the Chief Justice of the
102 Mississippi Supreme Court, with the advice and consent of a
103 majority of the justices of the Mississippi Supreme Court, shall
104 have the authority to appoint * * * special judges to serve on an
105 emergency basis in a circuit or chancery court. It shall be the
106 duty of any special judge so appointed to assist the court to
107 which he is assigned in the disposition of causes so pending in
108 such court.

109 (3) When a vacancy exists for any of the reasons enumerated
110 in Section 9-1-103, the vacancy has not been filled within seven
111 (7) days by an appointment by the Governor, and there is a pending
112 cause or are pending causes in the court where the vacancy exists
113 that in the interests of justice and in the orderly dispatch of
114 the court's business require the appointment of a special judge,
115 the Chief Justice of the Supreme Court, with the advice and
116 consent of a majority of the justices of the Mississippi Supreme
117 Court, may appoint a qualified person as a special judge to fill
118 the vacancy until the Governor makes his appointment and such
119 appointee has taken the oath of office.

120 (4) If the Chief Justice pursuant to this section shall make
121 an appointment within the authority vested in the Governor by
122 reason of Section 165, Mississippi Constitution of 1890, the
123 Governor may at his election appoint a person to so serve. In the
124 event that the Governor makes such an appointment, any appointment
125 made by the Chief Justice pursuant to this section shall be void
126 and of no further force or effect from the date of the Governor's
127 appointment.

128 (5) When a judicial officer is unwilling or unable to hear a
129 case or unable or unwilling to hold court for a period of time not
130 to exceed two (2) weeks, the trial judge or judges of the affected
131 district or county and other trial judges may agree among
132 themselves regarding the appointment of a person for such case or
133 such limited period of time. The trial judges shall submit a
134 notice to the Chief Justice of the Supreme Court informing him of
135 their appointment. If the Chief Justice does not appoint another
136 person to serve as special judge within seven (7) days after
137 receipt of such notice, the person designated in such order shall
138 be deemed appointed.

139 (6) A person appointed to serve as a special judge may be
140 any presently sitting or retired chancery, circuit or county court
141 judge, Court of Appeals judge or Supreme Court Justice, or any
142 other person possessing the qualifications of the judicial office
143 for which the appointment is made; provided, however, that a judge
144 or justice who was retired from service at the polls shall not be
145 eligible for appointment as a special judge in the district in
146 which he served prior to his defeat.

147 (7) Except as otherwise provided in subsection (2) of this
148 section, the need for an appointment pursuant to this section may
149 be certified to the Chief Justice of the Mississippi Supreme Court
150 by any attorney in good standing or other officer of the court.

151 (8) The order appointing a person as a special judge
152 pursuant to this section shall describe as specifically as
153 possible the duration of the appointment.

154 (9) A special judge appointed pursuant to this section shall
155 take the oath of office, if necessary, and shall, for the duration
156 of his appointment, enjoy the full power and authority of the
157 office to which he is appointed.

158 (10) Any presently sitting justice or judge appointed as a
159 special judge under this section shall receive no additional
160 compensation for his or her service as special judge. Any other

161 person appointed as a special judge hereunder shall, for the
162 period of his service, receive compensation from the state for
163 each day's service a sum equal to 1/260 of the current salary in
164 effect for the judicial office; provided, however, that no retired
165 chancery, circuit or county court judge, retired Court of Appeals
166 judge or any retired Supreme Court Justice appointed as a special
167 judge pursuant to this section may, during any fiscal year,
168 receive compensation in excess of twenty-five percent (25%) of the
169 current salary in effect for a chancery or circuit court judge.
170 Any person appointed as a special judge shall be reimbursed for
171 travel expenses incurred in the performance of the official duties
172 to which he may be appointed hereunder in the same manner as other
173 public officials and employees as provided by Section 25-3-41,
174 Mississippi Code of 1972.

175 (11) If any person appointed as such special judge is
176 receiving retirement benefits by virtue of the provisions of the
177 Public Employees' Retirement Law of 1952, appearing as Sections
178 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
179 shall not be reduced in any sum whatsoever because of such
180 service, nor shall any sum be deducted as contributions toward
181 retirement under said law.

182 (12) The Supreme Court shall have authority to prescribe
183 rules and regulations reasonably necessary to implement and give
184 effect to the provisions of this section.

185 (13) Nothing in this section shall abrogate the right of
186 attorneys engaged in a case to agree upon a member of the bar to
187 preside in a case pursuant to Section 165 of the Mississippi
188 Constitution of 1890.

189 (14) The Supreme Court shall prepare the necessary payroll
190 for special judges appointed pursuant to this section and shall
191 submit such payroll to the Department of Finance and
192 Administration.

193 (15) Special judges appointed pursuant to this section shall
194 direct requests for reimbursement for travel expenses authorized
195 pursuant to this section to the Supreme Court and the Supreme
196 Court shall submit such requests to the Department of Finance and
197 Administration. The Supreme Court shall have the power to adopt
198 rules and regulations regarding the administration of travel
199 expenses authorized pursuant to this section.

200 **SECTION 3.** The Attorney General of the State of Mississippi
201 shall submit this act, immediately upon approval by the Governor,
202 or upon approval by the Legislature subsequent to a veto, to the
203 Attorney General of the United States or to the United States
204 District Court for the District of Columbia in accordance with the
205 provisions of the Voting Rights Act of 1965, as amended and
206 extended.

207 **SECTION 4.** This act shall take effect and be in force from
208 and after the date it is effectuated under Section 5 of the Voting
209 Rights Act of 1965, as amended and extended, or July 1, 2004,
210 whichever occurs later.