

By: Representative Denny

To: Judiciary A;
Apportionment and Elections

HOUSE BILL NO. 288

1 AN ACT TO AMEND SECTIONS 9-4-5, 23-15-197, 23-15-849,
2 23-15-973, 23-15-975, 23-15-977, 23-15-991 AND 23-15-993,
3 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUDGES OF THE SUPREME
4 COURT AND COURT OF APPEALS SHALL BE APPOINTED WITH THE ADVICE AND
5 CONSENT OF THE SENATE AT THE END OF THE CURRENT TERMS AND EVERY
6 EIGHT YEARS THEREAFTER; TO PROVIDE AN ELECTION AT THE END OF A
7 TERM TO DETERMINE IF AN INCUMBENT JUDGE SHALL BE RETAINED OR
8 REMOVED AND A SUCCESSOR APPOINTED; TO REPEAL SECTION 23-15-995,
9 MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE APPLICABILITY OF
10 ELECTION LAWS TO THE ELECTION OF JUDGES OF THE SUPREME COURT; TO
11 REPEAL SECTION 9-4-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
12 FOR THE TIME FOR ELECTING JUDGES OF THE COURT OF APPEALS; AND FOR
13 RELATED PURPOSES.

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

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

17 9-4-5. (1) The term of office of judges of the Court of
18 Appeals shall be eight (8) years. An election shall be held on
19 the first Tuesday after the first Monday in November 1994, to
20 elect the ten (10) judges of the Court of Appeals, two (2) from
21 each congressional district; provided, however, judges of the
22 Court of Appeals who are elected to take office after the first
23 Monday of January 2002, shall be elected from the Court of Appeals
24 Districts described in subsection (5) of this section. The judges
25 of the Court of Appeals shall begin service on the first Monday of
26 January 1995. At the end of the current terms of the judges of
27 the Court of Appeals, the Governor shall appoint a successor with
28 the advice and consent of the Senate who shall serve for a term of
29 eight (8) years and successors shall be retained or appointed with
30 the advice and consent of the Senate from thereafter as provided
31 in this section.

32 (2) In the year prior to the expiration of the term of an
33 incumbent, and likewise each eighth year thereafter, an election
34 shall be held at the general election in the Court of Appeals
35 district from which the incumbent judge of the Court of Appeals
36 was elected or appointed in which the qualified electors shall
37 vote to retain or remove the judge. If a majority of the
38 qualified electors vote in favor of retaining a judge, the judge
39 shall serve for another term. If a majority of the qualified
40 electors vote in favor of removing a judge, the judge shall serve
41 until the end of the term and the Governor shall appoint a
42 successor to the incumbent, whose term of office shall thereafter
43 begin on the first Monday of January of the year in which the term
44 of the incumbent he succeeds expires.

45 (3) (a) In order to provide that the offices of not more
46 than a majority of the judges of said court shall become vacant at
47 any one (1) time, the terms of office of six (6) of the judges
48 first to be elected shall expire in less than eight (8) years.
49 For the purpose of all elections of members of the court, each of
50 the ten (10) judges of the Court of Appeals shall be considered a
51 separate office. The two (2) offices in each of the five (5)
52 districts shall be designated Position Number 1 and Position
53 Number 2, and in qualifying for office as a candidate for any
54 office of judge of the Court of Appeals each candidate shall state
55 the position number of the office to which he aspires and the
56 election ballots shall so indicate.

57 (i) In Congressional District Number 1, the judge
58 of the Court of Appeals for Position Number 1 shall be that office
59 for which the term ends January 1, 1999, and the judge of the
60 Court of Appeals for Position Number 2 shall be that office for
61 which the term ends January 1, 2003.

62 (ii) In Congressional District Number 2, the judge
63 of the Court of Appeals for Position Number 1 shall be that office
64 for which the term ends on January 1, 2003, and the judge of the

65 Court of Appeals for Position Number 2 shall be that office for
66 which the term ends January 1, 2001.

67 (iii) In Congressional District Number 3, the
68 judge of the Court of Appeals for Position Number 1 shall be that
69 office for which the term ends on January 1, 2001, and the judge
70 of the Court of Appeals for Position Number 2 shall be that office
71 for which the term ends January 1, 1999.

72 (iv) In Congressional District Number 4, the judge
73 of the Court of Appeals for Position Number 1 shall be that office
74 for which the term ends on January 1, 1999, and the judge of the
75 Court of Appeals for Position Number 2 shall be that office for
76 which the term ends January 1, 2003.

77 (v) In Congressional District Number 5, the judge
78 of the Court of Appeals for Position Number 1 shall be that office
79 for which the term ends on January 1, 2003, and the judge of the
80 Court of Appeals for Position Number 2 shall be that office for
81 which the term ends January 1, 2001.

82 (b) The laws regulating the general elections shall
83 apply to and govern the elections of judges of the Court of
84 Appeals except as otherwise provided in Sections 23-15-974 through
85 23-15-985.

86 (c) In the year prior to the expiration of the term of
87 an incumbent, and likewise each eighth year thereafter, an
88 election shall be held in the manner provided in this section in
89 the district from which the incumbent Court of Appeals judge was
90 elected at which there shall be elected a successor to the
91 incumbent, whose term of office shall thereafter begin on the
92 first Monday of January of the year in which the term of the
93 incumbent he succeeds expires.

94 (4) No person shall be eligible for the office of judge of
95 the Court of Appeals who has not attained the age of thirty (30)
96 years at the time of his election and who has not been a

97 practicing attorney and citizen of the state for five (5) years
98 immediately preceding such election.

99 (5) Any vacancy on the Court of Appeals shall be filled by
100 appointment of the Governor for that portion of the unexpired term
101 prior to the election to fill the remainder of said term according
102 to provisions of Section 23-15-849, Mississippi Code of 1972.

103 (6) (a) The State of Mississippi is hereby divided into
104 five (5) Court of Appeals Districts as follows:

105 **FIRST DISTRICT.** The First Court of Appeals District shall be
106 composed of the following counties and portions of counties:
107 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,
108 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,
109 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada
110 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;
111 in Montgomery County the precincts of North Winona, Lodi, Stewart,
112 Nations and Poplar Creek; in Panola County the precincts of East
113 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North
114 Springport, South Springport, Eureka, Williamson, East Batesville
115 4, West Batesville 4, Fern Hill, North Batesville A, East
116 Batesville 5 and West Batesville 5; and in Tallahatchie County the
117 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,
118 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,
119 Murphreesboro and Rosebloom.

120 **SECOND DISTRICT.** The Second Court of Appeals District shall
121 be composed of the following counties and portions of counties:
122 Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys,
123 Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower,
124 Tunica, Warren, Washington and Yazoo; in Attala County the
125 precincts of Northeast, Hesterville, Possomneck, North Central,
126 McAdams, Newport, Sallis and Southwest; that portion of Grenada
127 County not included in the First Court of Appeals District; in
128 Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41,
129 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga,

130 Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas,
131 St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the
132 precincts of Conway, West Carthage, Wiggins, Thomastown and
133 Ofahoma; in Madison County the precincts of Farmhaven, Canton
134 Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6,
135 Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora,
136 Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon,
137 Canton Precinct 1 and Canton Precinct 4; that portion of
138 Montgomery County not included in the First Court of Appeals
139 District; that portion of Panola County not included in the First
140 Court of Appeals District; and that portion of Tallahatchie County
141 not included in the First Court of Appeals District.

142 **THIRD DISTRICT.** The Third Court of Appeals District shall be
143 composed of the following counties and portions of counties:
144 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,
145 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that
146 portion of Attala County not included in the Second Court of
147 Appeals District; in Jones County the precincts of Northwest High
148 School, Shady Grove, Sharon, Erata, Glade, Myrick School,
149 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,
150 Antioch and Landrum; that portion of Leake County not included in
151 the Second Court of Appeals District; that portion of Madison
152 County not included in the Second Court of Appeals District; and
153 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,
154 Diamond, Chaparral, Matherville, Coit and Eucutta.

155 **FOURTH DISTRICT.** The Fourth Court of Appeals District shall
156 be composed of the following counties and portions of counties:
157 Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,
158 Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson;
159 that portion of Hinds County not included in the Second Court of
160 Appeals District; and that portion of Jones county not included in
161 the Third Court of Appeals District.

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

167 (b) The boundaries of the Court of Appeals Districts
168 described in paragraph (a) of this subsection shall be the
169 boundaries of the counties and precincts listed in paragraph (a)
170 of this subsection as such boundaries existed on October 1, 1990.

171 **SECTION 2.** Section 9-4-15, Mississippi Code of 1972, which
172 provides for the time for electing judges of the Court of Appeals,
173 is repealed.

174 **SECTION 3.** Section 23-15-197, Mississippi Code of 1972, is
175 amended as follows:

176 23-15-197. (1) Times for holding primary and general
177 elections for congressional offices shall be as prescribed in
178 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

179 * * *

180 (2) Times for holding elections for the office of circuit
181 court judge and the office of chancery court judge shall be as
182 prescribed in Sections 23-15-974 through 23-15-985, and Section
183 23-15-1015.

184 (3) Times for holding elections for the office of county
185 election commissioners shall be as prescribed in Section
186 23-15-213.

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

189 23-15-849. * * * 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 * * *

201 **SECTION 5.** Section 23-15-973, Mississippi Code of 1972, is
202 amended as follows:

203 23-15-973. It shall be the duty of the judges of the circuit
204 court to give a reasonable time and opportunity to the candidates
205 for the office of * * * circuit judge and chancellor to address
206 the people during court terms. In order to give further and every
207 possible emphasis to the fact that the said judicial offices are
208 not political but are to be held without favor and with absolute
209 impartiality as to all persons, and because of the jurisdiction
210 conferred upon the courts by this chapter, the judges thereof
211 should be as far removed as possible from any political
212 affiliations or obligations. It shall be unlawful for any
213 candidate for any of the offices mentioned in this section to
214 align himself with any candidate or candidates for any other
215 office or with any political faction or any political party at any
216 time during any primary or general election campaign. Likewise it
217 shall be unlawful for any candidate for any other office nominated
218 or to be nominated at any primary election, wherein any candidate
219 for any of the judicial offices in this section mentioned, is or
220 are to be nominated, to align himself with any one or more of the
221 candidates for said offices or to take any part whatever in any
222 nomination for any one or more of said judicial offices, except to
223 cast his individual vote. Any candidate for any office, whether
224 nominated with or without opposition, at any primary wherein a
225 candidate for any one of the judicial offices herein mentioned is
226 to be nominated who shall deliberately, knowingly and willfully
227 violate the provisions of this section shall forfeit his

228 nomination, or if elected at the following general election by
229 virtue of said nomination, his election shall be void.

230 **SECTION 6.** Section 23-15-975, Mississippi Code of 1972, is
231 amended as follows:

232 23-15-975. As used in Sections 23-15-974 through 23-15-985
233 of this subarticle, the term "judicial office" includes the office
234 of * * * circuit judge, chancellor, county court judge and family
235 court judge. All such * * * judges shall be full-time positions
236 and such * * * judges shall not engage in the practice of law
237 before any court, administrative agency or other judicial or
238 quasi-judicial forum except as provided by law for finalizing
239 pending cases after election to judicial office.

240 **SECTION 7.** Section 23-15-977, Mississippi Code of 1972, is
241 amended as follows:

242 23-15-977. (1) All candidates for judicial office as
243 defined in Section 23-15-975 of this subarticle shall file their
244 intent to be a candidate with the proper officials not later than
245 5:00 p.m. on the first Friday after the first Monday in May prior
246 to the general election for judicial office and shall pay to the
247 proper officials the following amounts:

248 * * *

249 (a) Candidates for circuit judge and chancellor, the
250 sum of One Hundred Dollars (\$100.00).

251 (b) Candidates for county judge and family court judge,
252 the sum of Fifteen Dollars (\$15.00).

253 (2) Candidates for judicial offices listed in paragraphs (a)
254 and (b) of subsection (1) of this section shall file their intent
255 to be a candidate with, and pay the proper assessment made
256 pursuant to subsection (1) of this section to, the State Board of
257 Election Commissioners.

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

261 subsection (1) of this section to, the circuit clerk of the proper
262 county. The circuit clerk shall notify the county commissioners
263 of election of all persons who have filed their intent to be a
264 candidate filed with, and paid the proper assessment to, such
265 clerk. Such notification shall occur within two (2) business days
266 and shall contain all necessary information.

267 **SECTION 8.** Section 23-15-991, Mississippi Code of 1972, is
268 amended as follows:

269 23-15-991. (1) The term of office of judges of the Supreme
270 Court shall be eight (8) years. Concurrently with the regular
271 election for representatives in Congress, held next preceding the
272 expiration of the term of an incumbent, and likewise each eighth
273 year thereafter, an election shall be held in the Supreme Court
274 district from which such incumbent was elected at which there
275 shall be elected a successor to the incumbent, whose term of
276 office shall thereafter begin on the first Monday of January of
277 the year in which the term of the incumbent he succeeds expires.
278 At the end of the current terms of the judges of the Supreme
279 Court, the Governor shall appoint a successor with the advice and
280 consent of the Senate who shall serve for a term of eight (8)
281 years and successors shall be retained or appointed with the
282 advice and consent of the Senate from thereafter as provided in
283 this section.

284 (2) In the year prior to the expiration of the term of an
285 incumbent, and likewise each eighth year thereafter, an election
286 shall be held at the general election in the Supreme Court
287 district from which the incumbent Supreme Court judge was elected
288 or appointed in which the qualified electors shall vote to retain
289 or remove the judge. If a majority of the qualified electors vote
290 in favor of retaining a judge, the judge shall serve for another
291 term. If a majority of the qualified electors vote in favor of
292 removing a judge, the judge shall serve until the end of the term
293 and the Governor shall appoint a successor to the incumbent, whose

294 term of office shall thereafter begin on the first Monday of
295 January of the year in which the term of the incumbent he succeeds
296 expires.

297 **SECTION 9.** Section 23-15-993, Mississippi Code of 1972, is
298 amended as follows:

299 23-15-993. For the purpose of all appointments, each of the
300 nine (9) judgeships of the Supreme Court shall be considered a
301 separate office. The three (3) offices in each of the three (3)
302 Supreme Court districts shall be designated Position Number 1,
303 Position Number 2 and Position Number 3 * * *. In Supreme Court
304 District Number 1: Position Number 1 shall be that office for
305 which the term ends in January 1966; Position Number 2 shall be
306 that office for which the term ends in January 1965; and Position
307 Number 3 shall be that office for which the term ends in January
308 1969. In District Number 2: Position Number 1 shall be that
309 office for which the term ends in January 1972; Position Number 2
310 shall be that office for which the term ends in January 1969; and
311 Position Number 3 shall be for that office for which the term ends
312 in January 1973. In District Number 3: Position Number 1 shall
313 be that office for which the term ends in January 1969; Position
314 Number 2 shall be that office for which the term ends in January
315 1969; and Position Number 3 shall be that office for which the
316 term ends in January 1965.

317 **SECTION 10.** Section 23-15-995, Mississippi Code of 1972,
318 which provides for the applicability of election laws to the
319 election of judges of the Supreme Court, is repealed.

320 **SECTION 11.** This act shall take effect and be in force from
321 and after the date of ratification by the electorate of House
322 Concurrent Resolution ____, 2005 Regular Session.