

By: Representative Snowden

To: Judiciary A;
Apportionment and Elections

HOUSE BILL NO. 847

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. 847,
19 2005 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 with, and paid the proper assessment to, such clerk.
185 Such notification shall occur within two (2) business days and
186 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.