

By: Senator(s) Ross

To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2339

1 AN ACT TO ENACT REDISTRICTING OF THE CHANCERY AND CIRCUIT
2 COURTS; TO AMEND SECTION 9-5-7, MISSISSIPPI CODE OF 1972, TO ADD A
3 CHANCELLOR AND ELIMINATE RUNNING IN THE HERD IN THE FIRST CHANCERY
4 COURT DISTRICT; TO AMEND SECTION 9-5-13, MISSISSIPPI CODE OF 1972,
5 TO ELIMINATE RUNNING IN THE HERD IN THE THIRD CHANCERY COURT
6 DISTRICT; TO AMEND SECTION 9-5-22, MISSISSIPPI CODE OF 1972, TO
7 ELIMINATE RUNNING IN THE HERD IN THE SIXTH CHANCERY COURT
8 DISTRICT; TO AMEND SECTION 9-5-25, MISSISSIPPI CODE OF 1972, TO
9 ADD A CHANCELLOR TO THE SEVENTH CHANCERY COURT DISTRICT; TO AMEND
10 SECTION 9-5-36, MISSISSIPPI CODE OF 1972, TO ADD A CHANCELLOR TO
11 THE TENTH CHANCERY COURT DISTRICT; TO AMEND SECTION 9-5-40,
12 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
13 TWELFTH CHANCERY COURT DISTRICT; TO AMEND SECTION 9-5-41,
14 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
15 THIRTEENTH CHANCERY COURT DISTRICT AND TO ADD A CHANCELLOR TO THAT
16 DISTRICT; TO AMEND SECTION 9-5-54, MISSISSIPPI CODE OF 1972, TO
17 ELIMINATE RUNNING IN THE HERD IN THE EIGHTEENTH CHANCERY COURT
18 DISTRICT; TO AMEND SECTION 9-7-7, MISSISSIPPI CODE OF 1972, TO
19 ELIMINATE RUNNING IN THE HERD IN THE FIRST CIRCUIT COURT DISTRICT;
20 TO AMEND SECTION 9-7-14, MISSISSIPPI CODE OF 1972, TO ELIMINATE
21 RUNNING IN THE HERD IN THE THIRD CIRCUIT COURT DISTRICT; TO AMEND
22 SECTION 9-7-20, MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN
23 THE HERD IN THE FIFTH CIRCUIT COURT DISTRICT; TO AMEND SECTION
24 9-7-32, MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD
25 IN THE TENTH CIRCUIT COURT DISTRICT; TO AMEND SECTION 9-7-39,
26 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
27 FOURTEENTH CIRCUIT COURT DISTRICT; TO AMEND SECTION 9-7-42,
28 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
29 FIFTEENTH CIRCUIT COURT DISTRICT; TO AMEND SECTION 9-7-44,
30 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
31 SIXTEENTH CIRCUIT COURT DISTRICT; TO AMEND SECTION 9-7-46,
32 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
33 SEVENTEENTH CIRCUIT COURT DISTRICT, SUBDISTRICT 17-2; TO AMEND
34 SECTION 9-7-54, MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN
35 THE HERD IN THE TWENTIETH CIRCUIT COURT DISTRICT; TO AMEND SECTION
36 9-1-105, MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORITY OF THE
37 CHIEF JUSTICE TO ASSIGN A SPECIAL JUDGE TO ASSIST A CHANCERY OR
38 CIRCUIT COURT WITH A BACKLOG OF CASES; TO REPEAL SECTIONS
39 23-15-982, 23-15-983 AND 23-15-984, MISSISSIPPI CODE OF 1972,
40 WHICH PROVIDE FOR THE CALCULATION OF VOTE IN MULTI-JUDGE DISTRICTS
41 WHEREIN CANDIDATES RUN "IN THE HERD" AND THE NUMBER OF VOTES THAT
42 MAY BE CAST BY EACH ELECTOR; AND FOR RELATED PURPOSES.

43 WHEREAS, it is the responsibility of the Legislature under
44 Section 152 of the Mississippi Constitution of 1890 to divide the
45 state into an appropriate number of circuit court districts and
46 chancery court districts; and

47 WHEREAS, the Legislature has thoroughly investigated the
48 state of the trial courts and trial court districts and has
49 considered the needs of the state according to all the criteria
50 imposed by the Constitution and by general law; NOW THEREFORE,

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

52 **SECTION 1.** Section 9-5-7, Mississippi Code of 1972, is
53 amended as follows:

54 9-5-7. (1) There shall be four (4) chancellors for the
55 First Chancery Court District.

56 (2) For purposes of appointment and election, the four (4)
57 chancellorships shall be separate and distinct and denominated for
58 purposes of appointment and election only as "Place One," "Place
59 Two," "Place Three" and "Place Four."

60 **SECTION 2.** Section 9-5-13, Mississippi Code of 1972, is
61 amended as follows:

62 9-5-13. (1) There shall be three (3) chancellors for the
63 Third Chancery Court District.

64 (2) (a) The chancellor of Subdistrict 3-1 shall be elected
65 from DeSoto County. The two (2) chancellors of Subdistrict 3-2
66 shall be elected from Grenada County, Montgomery County, Panola
67 County, Tate County and Yalobusha County.

68 (b) For purposes of appointment and election, the two
69 (2) chancellorships of Subdistrict 3-2 shall be separate and
70 distinct and denominated for purposes of appointment and election
71 only as "Place 3-2 One" and "Place 3-2 Two."

72 **SECTION 3.** Section 9-5-22, Mississippi Code of 1972, is
73 amended as follows:

74 9-5-22. (1) There shall be two (2) chancellors for the
75 Sixth Chancery Court District.

76 (2) For purposes of appointment and election, the two (2)
77 chancellorships shall be separate and distinct and denominated for
78 purposes of appointment and election only as "Place One" and
79 "Place Two."

80 **SECTION 4.** Section 9-5-25, Mississippi Code of 1972, is
81 amended as follows:

82 9-5-25. (1) There shall be three (3) chancellors for the
83 Seventh Chancery Court District. One (1) chancellor shall be
84 elected from each subdistrict and the third chancellor shall be
85 elected from the Seventh Chancery Court District at large.

86 (2) For purposes of appointment and election, the three (3)
87 chancellorships shall be separate and distinct and denominated for
88 purposes of appointment and election only as "Place One," "Place
89 Two" and "Place Three." "Place One" shall be that chancellor
90 elected from Subdistrict 7-1, "Place Two" shall be that chancellor
91 elected from Subdistrict 7-2, and "Place Three" shall be that
92 chancellor elected from the district at large.

93 **SECTION 5.** Section 9-5-36, Mississippi Code of 1972, is
94 amended as follows:

95 9-5-36. (1) There shall be four (4) chancellors for the
96 Tenth Chancery Court District.

97 (2) For purposes of appointment and election, the four (4)
98 chancellorships shall be separate and distinct and denominated for
99 purposes of appointment and election only as "Place One," "Place
100 Two," "Place Three" and "Place Four." * * * The chancellor to
101 fill Place One and Place Four shall be a resident of Forrest,
102 Lamar, Marion, Pearl River or Perry County. The chancellor to
103 fill Place Two shall be a resident of Lamar, Marion, Pearl River
104 or Perry County. The chancellor to fill Place Three shall be a
105 resident of Forrest County. Election of the four (4) offices of
106 chancellor shall be by election to be held in every county within
107 the Tenth Chancery Court District of Mississippi.

108 **SECTION 6.** Section 9-5-40, Mississippi Code of 1972, is
109 amended as follows:

110 9-5-40. (1) There shall be two (2) judges for the Twelfth
111 Chancery Court District.

112 (2) For purposes of appointment and election, the two (2)
113 chancellorships shall be separate and distinct and denominated for
114 purposes of appointment and election only as "Place One" and
115 "Place Two."

116 **SECTION 7.** Section 9-5-41, Mississippi Code of 1972, is
117 amended as follows:

118 9-5-41. (1) The Thirteenth Chancery Court District shall be
119 comprised of the following counties:

- 120 (a) Covington County;
- 121 (b) Jefferson Davis County;
- 122 (c) Lawrence County;
- 123 (d) Simpson County; and
- 124 (e) Smith County.

125 (2) There shall be two (2) chancellors for the Thirteenth
126 Chancery Court District. For purposes of appointment and
127 election, the two (2) chancellorships shall be separate and
128 distinct and denominated for purposes of appointment and election
129 only as "Place One" and "Place Two."

130 **SECTION 8.** Section 9-5-54, Mississippi Code of 1972, is
131 amended as follows:

132 9-5-54. (1) There shall be two (2) chancellors for the
133 Eighteenth Chancery Court District.

134 (2) For purposes of appointment and election, the two (2)
135 chancellorships shall be separate and distinct and denominated for
136 purposes of appointment and election only as "Place One" and
137 "Place Two."

138 **SECTION 9.** Section 9-7-7, Mississippi Code of 1972, is
139 amended as follows:

140 9-7-7. (1) There shall be three (3) judges for the First
141 Circuit Court District.

142 (2) For purposes of appointment and election, the three (3)
143 judgeships shall be separate and distinct and denominated for

144 purposes of appointment and election only as "Place One," "Place
145 Two" and "Place Three."

146 **SECTION 10.** Section 9-7-14, Mississippi Code of 1972, is
147 amended as follows:

148 9-7-14. (1) There shall be two (2) circuit judges for the
149 Third Circuit Court District.

150 (2) For purposes of appointment and election, the two (2)
151 judgeships shall be separate and distinct and denominated for
152 purposes of appointment and election only as "Place One" and
153 "Place Two."

154 **SECTION 11.** Section 9-7-20, Mississippi Code of 1972, is
155 amended as follows:

156 9-7-20. (1) There shall be two (2) judges for the Fifth
157 Circuit Court District.

158 (2) For purposes of appointment and election, the two (2)
159 judgeships shall be separate and distinct and denominated for
160 purposes of appointment and election only as "Place One" and
161 "Place Two."

162 **SECTION 12.** Section 9-7-32, Mississippi Code of 1972, is
163 amended as follows:

164 9-7-32. (1) There shall be two (2) judges for the Tenth
165 Circuit Court District.

166 (2) For purposes of appointment and election, the two (2)
167 judgeships shall be separate and distinct and denominated for
168 purposes of appointment and election only as "Place One" and
169 "Place Two."

170 **SECTION 13.** Section 9-7-39, Mississippi Code of 1972, is
171 amended as follows:

172 9-7-39. (1) The Fourteenth Circuit Court District shall be
173 comprised of the following counties:

- 174 (a) Lincoln County;
175 (b) Pike County; and
176 (c) Walthall County.

177 (2) (a) There shall be two (2) judges for the Fourteenth
178 Circuit Court District.

179 (b) For purposes of appointment and election, the two
180 (2) judgeships shall be separate and distinct and denominated for
181 purposes of appointment and election only as "Place One" and
182 "Place Two."

183 **SECTION 14.** Section 9-7-42, Mississippi Code of 1972, is
184 amended as follows:

185 9-7-42. (1) There shall be two (2) judges for the Fifteenth
186 Circuit Court District.

187 (2) For purposes of appointment and election, the two (2)
188 judgeships shall be separate and distinct and denominated for
189 purposes of appointment and election only as "Place One" and
190 "Place Two."

191 **SECTION 15.** Section 9-7-44, Mississippi Code of 1972, is
192 amended as follows:

193 9-7-44. (1) There shall be two (2) judges for the Sixteenth
194 Circuit Court District.

195 (2) For purposes of appointment and election, the two (2)
196 judgeships shall be separate and distinct and denominated for
197 purposes of appointment and election only as "Place One" and
198 "Place Two."

199 **SECTION 16.** Section 9-7-46, Mississippi Code of 1972, is
200 amended as follows:

201 9-7-46. (1) There shall be three (3) circuit judges for the
202 Seventeenth Circuit Court District.

203 (2) For the purpose of appointment and election, the three
204 (3) judgeships shall be separate and distinct, and one (1) judge
205 shall be elected from Subdistrict 17-1 and two (2) judges shall be
206 elected from Subdistrict 17-2. For purposes of appointment and
207 election, the two (2) judgeships in Subdistrict 17-2 shall be
208 separate and distinct and denominated for purposes of appointment
209 and election only as "Place 17-2 One" and "Place 17-2 Two."

210 **SECTION 17.** Section 9-7-54, Mississippi Code of 1972, is
211 amended as follows:

212 9-7-54. (1) There shall be two (2) judges for the Twentieth
213 Circuit Court District.

214 (2) For purposes of appointment and election, the two (2)
215 judgeships shall be separate and distinct and denominated for
216 purposes of appointment and election only as "Place One" and
217 "Place Two."

218 **SECTION 18.** Section 9-1-105, Mississippi Code of 1972, is
219 amended as follows:

220 9-1-105. (1) Whenever any judicial officer is unwilling or
221 unable to hear a case or unable to hold or attend any of the
222 courts at the time and place required by law by reason of the
223 physical disability or sickness of such judicial officer, by
224 reason of the absence of such judicial officer from the state, by
225 reason of the disqualification of such judicial officer pursuant
226 to the provision of Section 165, Mississippi Constitution of 1890,
227 or any provision of the Code of Judicial Conduct, or for any other
228 reason, the Chief Justice of the Mississippi Supreme Court, with
229 the advice and consent of a majority of the justices of the
230 Mississippi Supreme Court, may appoint a person as a special judge
231 to hear the case or attend and hold a court.

232 (2) Upon the request of the Chief Judge of the Court of
233 Appeals or the senior judge of a chancery or circuit court
234 district, the Chief Justice of the Mississippi Supreme Court, with
235 the advice and consent of a majority of the justices of the
236 Mississippi Supreme Court, shall have the authority to appoint a
237 special judge to serve on a temporary basis in a circuit or
238 chancery court in the event of an emergency or overcrowded docket.
239 It shall be the duty of any special judge so appointed to assist
240 the court to which he is assigned in the disposition of causes so
241 pending in such court for whatever period of time is designated by
242 the Chief Justice.

243 (3) When a vacancy exists for any of the reasons enumerated
244 in Section 9-1-103, the vacancy has not been filled within seven
245 (7) days by an appointment by the Governor, and there is a pending
246 cause or are pending causes in the court where the vacancy exists
247 that in the interests of justice and in the orderly dispatch of
248 the court's business require the appointment of a special judge,
249 the Chief Justice of the Supreme Court, with the advice and
250 consent of a majority of the justices of the Mississippi Supreme
251 Court, may appoint a qualified person as a special judge to fill
252 the vacancy until the Governor makes his appointment and such
253 appointee has taken the oath of office.

254 (4) If the Chief Justice pursuant to this section shall make
255 an appointment within the authority vested in the Governor by
256 reason of Section 165, Mississippi Constitution of 1890, the
257 Governor may at his election appoint a person to so serve. In the
258 event that the Governor makes such an appointment, any appointment
259 made by the Chief Justice pursuant to this section shall be void
260 and of no further force or effect from the date of the Governor's
261 appointment.

262 (5) When a judicial officer is unwilling or unable to hear a
263 case or unable or unwilling to hold court for a period of time not
264 to exceed two (2) weeks, the trial judge or judges of the affected
265 district or county and other trial judges may agree among
266 themselves regarding the appointment of a person for such case or
267 such limited period of time. The trial judges shall submit a
268 notice to the Chief Justice of the Supreme Court informing him of
269 their appointment. If the Chief Justice does not appoint another
270 person to serve as special judge within seven (7) days after
271 receipt of such notice, the person designated in such order shall
272 be deemed appointed.

273 (6) A person appointed to serve as a special judge may be
274 any currently sitting or retired chancery, circuit or county court
275 judge, Court of Appeals judge or Supreme Court Justice, or any

276 other person possessing the qualifications of the judicial office
277 for which the appointment is made; provided, however, that a judge
278 or justice who was retired from service at the polls shall not be
279 eligible for appointment as a special judge in the district in
280 which he served prior to his defeat.

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

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

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

292 (10) Any currently sitting justice or judge appointed as a
293 special judge under this section shall receive no additional
294 compensation for his or her service as special judge. Any other
295 person appointed as a special judge hereunder shall, for the
296 period of his service, receive compensation from the state for
297 each day's service a sum equal to 1/260 of the current salary in
298 effect for the judicial office; provided, however, that no retired
299 chancery, circuit or county court judge, retired Court of Appeals
300 judge or any retired Supreme Court Justice appointed as a special
301 judge pursuant to this section may, during any fiscal year,
302 receive compensation in excess of twenty-five percent (25%) of the
303 current salary in effect for a chancery or circuit court judge.
304 Any person appointed as a special judge shall be reimbursed for
305 travel expenses incurred in the performance of the official duties
306 to which he may be appointed hereunder in the same manner as other
307 public officials and employees as provided by Section 25-3-41,
308 Mississippi Code of 1972.

309 (11) If any person appointed as such special judge is
310 receiving retirement benefits by virtue of the provisions of the
311 Public Employees' Retirement Law of 1952, appearing as Sections
312 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
313 shall not be reduced in any sum whatsoever because of such
314 service, nor shall any sum be deducted as contributions toward
315 retirement under said law.

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

319 (13) Nothing in this section shall abrogate the right of
320 attorneys engaged in a case to agree upon a member of the bar to
321 preside in a case pursuant to Section 165 of the Mississippi
322 Constitution of 1890.

323 (14) The Supreme Court shall prepare the necessary payroll
324 for special judges appointed pursuant to this section and shall
325 submit such payroll to the Department of Finance and
326 Administration.

327 (15) Special judges appointed pursuant to this section shall
328 direct requests for reimbursement for travel expenses authorized
329 pursuant to this section to the Supreme Court and the Supreme
330 Court shall submit such requests to the Department of Finance and
331 Administration. The Supreme Court shall have the power to adopt
332 rules and regulations regarding the administration of travel
333 expenses authorized pursuant to this section.

334 **SECTION 19.** Sections 23-15-982, 23-15-983 and 23-15-984,
335 Mississippi Code of 1972, which provide for the calculation of the
336 vote in multijudge districts in which candidates run "in the herd"
337 and the number of votes that may be cast by each elector, are
338 repealed.

339 **SECTION 20.** The Attorney General of the State of Mississippi
340 shall submit this act, immediately upon approval by the Governor,
341 or upon approval by the Legislature subsequent to a veto, to the

342 Attorney General of the United States or to the United States
343 District Court for the District of Columbia in accordance with the
344 provisions of the Voting Rights Act of 1965, as amended and
345 extended.

346 **SECTION 21.** This act shall take effect and be in force from
347 and after January 1, 2007, provided it is effectuated under
348 Section 5 of the Voting Rights Act of 1965, as amended and
349 extended; the candidates for any new judgeships or chancellorships
350 created under this act shall be entitled to run for those offices
351 in the November 2006 judicial elections.