

By: Senator(s) Ross

To: Judiciary, Division A

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 shall be a resident of Forrest, Lamar, Marion,
102 Pearl River or Perry County. The chancellor to fill Place Two
103 shall be a resident of Lamar, Marion, Pearl River or Perry County.
104 The chancellor to fill Place Three shall be a resident of Forrest
105 County. The chancellor to fill Place Four shall be a resident of
106 any county in the Tenth Chancery Court District. Election of the
107 four (4) offices of chancellor shall be by election to be held in
108 every county within the Tenth Chancery Court District of
109 Mississippi.

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

112 9-5-40. (1) There shall be two (2) judges for the Twelfth
113 Chancery Court District.

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

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

120 9-5-41. (1) The Thirteenth Chancery Court District shall be
121 comprised of the following counties:

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

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

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

134 9-5-54. (1) There shall be two (2) chancellors for the
135 Eighteenth Chancery Court District.

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

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

142 9-7-7. (1) There shall be three (3) judges for the First
143 Circuit Court District.

144 (2) For purposes of appointment and election, the three (3)
145 judgeships shall be separate and distinct and denominated for
146 purposes of appointment and election only as "Place One," "Place
147 Two" and "Place Three."

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

150 9-7-14. (1) There shall be two (2) circuit judges for the
151 Third Circuit Court District.

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

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

158 9-7-20. (1) There shall be two (2) judges for the Fifth
159 Circuit Court District.

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

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

166 9-7-32. (1) There shall be two (2) judges for the Tenth
167 Circuit Court District.

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

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

174 9-7-39. (1) The Fourteenth Circuit Court District shall be
175 comprised of the following counties:

176 (a) Lincoln County;

177 (b) Pike County; and

178 (c) Walthall County.

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

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

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

187 9-7-42. (1) There shall be two (2) judges for the Fifteenth
188 Circuit Court District.

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

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

195 9-7-44. (1) There shall be two (2) judges for the Sixteenth
196 Circuit Court District.

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

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

203 9-7-46. (1) There shall be three (3) circuit judges for the
204 Seventeenth Circuit Court District.

205 (2) For the purpose of appointment and election, the three
206 (3) judgeships shall be separate and distinct, and one (1) judge
207 shall be elected from Subdistrict 17-1 and two (2) judges shall be
208 elected from Subdistrict 17-2. For purposes of appointment and
209 election, the two (2) judgeships in Subdistrict 17-2 shall be

210 separate and distinct and denominated for purposes of appointment
211 and election only as "Place 17-2 One" and "Place 17-2 Two."

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

214 9-7-54. (1) There shall be two (2) judges for the Twentieth
215 Circuit Court District.

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

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

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

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

243 pending in such court for whatever period of time is designated by
244 the Chief Justice.

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

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

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

275 (6) A person appointed to serve as a special judge may be
276 any currently sitting or retired chancery, circuit or county court
277 judge, Court of Appeals judge or Supreme Court Justice, or any
278 other person possessing the qualifications of the judicial office
279 for which the appointment is made; provided, however, that a judge
280 or justice who was retired from service at the polls shall not be
281 eligible for appointment as a special judge in the district in
282 which he served prior to his defeat.

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

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

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

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

308 to which he may be appointed hereunder in the same manner as other
309 public officials and employees as provided by Section 25-3-41,
310 Mississippi Code of 1972.

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

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

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

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

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

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

341 **SECTION 20.** The Attorney General of the State of Mississippi
342 shall submit this act, immediately upon approval by the Governor,
343 or upon approval by the Legislature subsequent to a veto, to the
344 Attorney General of the United States or to the United States
345 District Court for the District of Columbia in accordance with the
346 provisions of the Voting Rights Act of 1965, as amended and
347 extended.

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