

By: Senator(s) Ross

To: Judiciary, Division A

SENATE BILL NO. 2339
(As Sent to Governor)

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 FOR THE
10 TERM OF OFFICE COMMENCING IN 2011 AND TO PROHIBIT APPOINTMENT OF
11 MASTERS AFTER THAT DATE; TO AMEND SECTION 9-5-36, MISSISSIPPI CODE
12 OF 1972, TO ADD A CHANCELLOR TO THE TENTH CHANCERY COURT DISTRICT;
13 TO AMEND SECTION 9-5-40, MISSISSIPPI CODE OF 1972, TO ELIMINATE
14 RUNNING IN THE HERD IN THE TWELFTH CHANCERY COURT DISTRICT; TO
15 AMEND SECTION 9-5-41, MISSISSIPPI CODE OF 1972, TO ELIMINATE
16 RUNNING IN THE HERD IN THE THIRTEENTH CHANCERY COURT DISTRICT AND
17 TO ADD A CHANCELLOR TO THAT DISTRICT; TO AMEND SECTION 9-5-54,
18 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
19 EIGHTEENTH CHANCERY COURT DISTRICT; TO AMEND SECTION 9-7-7,
20 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
21 FIRST CIRCUIT COURT DISTRICT AND TO ADD A JUDGE; TO AMEND SECTION
22 9-7-14, MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD
23 IN THE THIRD CIRCUIT COURT DISTRICT AND TO ADD A JUDGE; TO AMEND
24 SECTION 9-7-20, MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN
25 THE HERD IN THE FIFTH CIRCUIT COURT DISTRICT; TO AMEND SECTION
26 9-7-32, MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD
27 IN THE TENTH CIRCUIT COURT DISTRICT; TO AMEND SECTION 9-7-39,
28 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
29 FOURTEENTH CIRCUIT COURT DISTRICT; TO AMEND SECTION 9-7-42,
30 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
31 FIFTEENTH CIRCUIT COURT DISTRICT; TO AMEND SECTION 9-7-44,
32 MISSISSIPPI CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE
33 SIXTEENTH CIRCUIT COURT DISTRICT AND TO ADD A JUDGE FOR THE TERM
34 OF OFFICE COMMENCING IN 2011; TO AMEND SECTION 9-7-46, MISSISSIPPI
35 CODE OF 1972, TO ELIMINATE RUNNING IN THE HERD IN THE SEVENTEENTH
36 CIRCUIT COURT DISTRICT AND TO ADD A JUDGE FOR THE TERM OF OFFICE
37 COMMENCING IN 2011; TO AMEND SECTION 9-7-54, MISSISSIPPI CODE OF
38 1972, TO ELIMINATE RUNNING IN THE HERD IN THE TWENTIETH CIRCUIT
39 COURT DISTRICT; TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF
40 1972, TO CLARIFY THE AUTHORITY OF THE CHIEF JUSTICE TO ASSIGN A
41 SPECIAL JUDGE TO ASSIST A CHANCERY OR CIRCUIT COURT WITH A BACKLOG
42 OF CASES; TO CLARIFY THAT CANDIDATES MAY QUALIFY AND RUN FOR NEW
43 JUDICIAL POSITIONS IN THE IMMEDIATELY PRECEDING REGULAR JUDICIAL
44 ELECTION; TO REPEAL SECTIONS 23-15-982, 23-15-983 AND 23-15-984,
45 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE CALCULATION OF
46 VOTE IN MULTIJUDGE DISTRICTS WHEREIN CANDIDATES RUN "IN THE HERD"
47 AND THE NUMBER OF VOTES THAT MAY BE CAST BY EACH ELECTOR; AND FOR
48 RELATED PURPOSES.

49 WHEREAS, it is the responsibility of the Legislature under
50 Section 152 of the Mississippi Constitution of 1890 to divide the

51 state into an appropriate number of circuit court districts and
52 chancery court districts; and

53 WHEREAS, the Legislature has thoroughly investigated the
54 state of the trial courts and trial court districts and has
55 considered the needs of the state according to all the criteria
56 imposed by the Constitution and by general law; NOW THEREFORE,

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

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

60 9-5-7. (1) There shall be four (4) chancellors for the
61 First Chancery Court District.

62 (2) For purposes of appointment and election, the four (4)
63 chancellorships shall be separate and distinct and denominated for
64 purposes of appointment and election only as "Place One," "Place
65 Two," "Place Three" and "Place Four." The chancellor to fill
66 Place One shall be a resident of Alcorn, Prentiss or Tishomingo
67 County. The chancellors to fill Place Two and Place Three shall
68 be a resident of Itawamba, Lee, Monroe, Pontotoc or Union County.
69 The chancellor to fill Place Four shall be a resident of any
70 county in the district. Election of the four (4) offices of
71 chancellor shall be by election to be held in every county within
72 the First Chancery Court District of Mississippi.

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

75 9-5-13. (1) There shall be three (3) chancellors for the
76 Third Chancery Court District.

77 (2) (a) The chancellor of Subdistrict 3-1 shall be elected
78 from DeSoto County. The two (2) chancellors of Subdistrict 3-2
79 shall be elected from Grenada County, Montgomery County, Panola
80 County, Tate County and Yalobusha County.

81 (b) For purposes of appointment and election, the three
82 (3) chancellorships shall be separate and distinct. The
83 chancellorship in Subdistrict 3-1 shall be denominated only as

84 "Place One," and the chancellorships in Subdistrict 3-2 shall be
85 denominated only as "Place Two" and "Place Three."

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

88 9-5-22. (1) There shall be two (2) chancellors for the
89 Sixth Chancery Court District.

90 (2) For purposes of appointment and election, the two (2)
91 chancellorships shall be separate and distinct and denominated for
92 purposes of appointment and election only as "Place One" and
93 "Place Two."

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

96 **[Until January 1, 2011, this section shall read as follows:]**

97 9-5-25. There shall be two (2) chancellors for the Seventh
98 Chancery Court District. One (1) chancellor shall be elected from
99 each subdistrict.

100 **[From and after January 1, 2011, this section shall read as**
101 **follows:]**

102 9-5-25. (1) There shall be three (3) chancellors for the
103 Seventh Chancery Court District. The three (3) chancellorships
104 shall be separate and distinct. One (1) chancellor shall be
105 elected from * * * Subdistrict 7-1 and shall be denominated for
106 purposes of appointment and election only as "Place One," and two
107 (2) chancellors shall be elected from Subdistrict 7-2 and shall be
108 denominated for purposes of appointment and election only as
109 "Place Two" and "Place Three."

110 (2) Chancellors in the Seventh Chancery Court District shall
111 not have the power to name a special master or family master.

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

114 9-5-36. (1) There shall be four (4) chancellors for the
115 Tenth Chancery Court District.

116 (2) For purposes of appointment and election, the four (4)
117 chancellorships shall be separate and distinct and denominated for
118 purposes of appointment and election only as "Place One," "Place
119 Two," "Place Three" and "Place Four." * * * The chancellor to
120 fill Place One and Place Four shall be a resident of any county in
121 the district. The chancellor to fill Place Two shall be a
122 resident of Lamar, Marion, Pearl River or Perry County. The
123 chancellor to fill Place Three shall be a resident of Forrest
124 County. Election of the four (4) offices of chancellor shall be
125 by election to be held in every county within the Tenth Chancery
126 Court District of Mississippi.

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

129 9-5-40. (1) There shall be two (2) judges for the Twelfth
130 Chancery Court District.

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

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

137 9-5-41. (1) The Thirteenth Chancery Court District shall be
138 comprised of the following counties:

- 139 (a) Covington County;
- 140 (b) Jefferson Davis County;
- 141 (c) Lawrence County;
- 142 (d) Simpson County; and
- 143 (e) Smith County.

144 (2) There shall be two (2) chancellors for the Thirteenth
145 Chancery Court District. For purposes of appointment and
146 election, the two (2) chancellorships shall be separate and
147 distinct and denominated for purposes of appointment and election
148 only as "Place One" and "Place Two."

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

151 9-5-54. (1) There shall be two (2) chancellors for the
152 Eighteenth Chancery Court District.

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

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

159 9-7-7. (1) There shall be four (4) judges for the First
160 Circuit Court District.

161 (2) For purposes of appointment and election, the four (4)
162 judgeships shall be separate and distinct and denominated for
163 purposes of appointment and election only as "Place One," "Place
164 Two," "Place Three" and "Place Four." The judge to fill Place One
165 shall be a resident of Alcorn, Prentiss or Tishomingo County. The
166 judges to fill Place Two and Place Three shall be a resident of
167 Itawamba, Lee, Monroe or Pontotoc County. The judge to fill Place
168 Four shall be a resident of any county in the district. Election
169 of the four (4) offices of judge shall be by election to be held
170 in every county within the First Circuit Court District.

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

173 9-7-14. (1) There shall be three (3) circuit judges for the
174 Third Circuit Court District.

175 (2) For purposes of appointment and election, the three (3)
176 judgeships shall be separate and distinct and denominated for
177 purposes of appointment and election only as "Place One," "Place
178 Two" and "Place Three." The judge to fill "Place One" shall be a
179 resident of Calhoun, Chickasaw, Lafayette or Union Counties. The
180 judge to fill "Place Two" shall be a resident of Benton, Marshall

181 or Tippah County. The judge to fill "Place Three" shall be a
182 resident of any county in the district.

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

185 9-7-20. (1) There shall be two (2) judges for the Fifth
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 12.** Section 9-7-32, Mississippi Code of 1972, is
192 amended as follows:

193 9-7-32. (1) There shall be two (2) judges for the Tenth
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 13.** Section 9-7-39, Mississippi Code of 1972, is
200 amended as follows:

201 9-7-39. (1) The Fourteenth Circuit Court District shall be
202 comprised of the following counties:

- 203 (a) Lincoln County;
204 (b) Pike County; and
205 (c) Walthall County.

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

208 (b) For purposes of appointment and election, the two
209 (2) judgeships shall be separate and distinct and denominated for
210 purposes of appointment and election only as "Place One" and
211 "Place Two."

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

214 9-7-42. (1) There shall be two (2) judges for the Fifteenth
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 15.** Section 9-7-44, Mississippi Code of 1972, is
221 amended as follows:

222 **[Until January 1, 2011, this section shall read as follows:]**

223 9-7-44. (1) There shall be two (2) judges for the Sixteenth
224 Circuit Court District.

225 (2) For purposes of appointment and election, the two (2)
226 judgeships shall be separate and distinct and denominated for
227 purposes of appointment and election only as "Place One" and
228 "Place Two."

229 **[From and after January 1, 2011, this section shall read as**
230 **follows:]**

231 9-7-44. (1) There shall be three (3) judges for the
232 Sixteenth Circuit Court District.

233 (2) For purposes of appointment and election, the three (3)
234 judgeships shall be separate and distinct and denominated for
235 purposes of appointment and election only as "Place One," "Place
236 Two" and "Place Three." The judge to fill Place One shall be a
237 resident of Lowndes County. The judge to fill Place Two shall be
238 a resident of Oktibbeha County. The judge to fill Place Three
239 shall be a resident of either Clay or Noxubee County. Election of
240 the three (3) offices of judge shall be by election to be held in
241 every county within the Sixteenth Circuit Court District.

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

244 **[Until January 1, 2011, this section shall read as follows:]**

245 9-7-46. (1) There shall be three (3) circuit judges for the
246 Seventeenth Circuit Court District.

247 (2) For the purpose of appointment and election, the three
248 (3) judgeships shall be separate and distinct, and one (1) judge
249 shall be elected from Subdistrict 17-1 and two (2) judges shall be
250 elected from Subdistrict 17-2. For purposes of appointment and
251 election, the three (3) judgeships shall be separate and distinct.
252 The two (2) judgeships in Subdistrict 17-2 shall be denominated as
253 "Place One" and "Place Two," and the judgeship in Subdistrict 17-1
254 shall be denominated as "Place Three."

255 **[From and after January 1, 2011, this section shall read as**
256 **follows:]**

257 9-7-46. (1) There shall be four (4) circuit judges for the
258 Seventeenth Circuit Court District.

259 (2) For the purpose of appointment and election, the four
260 (4) judgeships shall be separate and distinct, and one (1) judge
261 shall be elected from Subdistrict 17-1, two (2) judges shall be
262 elected from Subdistrict 17-2, and one (1) judge shall be elected
263 from every county in the district. The two (2) judgeships in
264 Subdistrict 17-2 shall be denominated as "Place One" and "Place
265 Two," the judgeship in Subdistrict 17-1 shall be denominated as
266 "Place Three," and the at-large judgeship shall be denominated as
267 "Place Four."

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

270 9-7-54. (1) There shall be two (2) judges for the Twentieth
271 Circuit Court District.

272 (2) For purposes of appointment and election, the two (2)
273 judgeships shall be separate and distinct and denominated for
274 purposes of appointment and election only as "Place One" and
275 "Place Two."

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

278 9-1-105. (1) Whenever any judicial officer is unwilling or
279 unable to hear a case or unable to hold or attend any of the

280 courts at the time and place required by law by reason of the
281 physical disability or sickness of such judicial officer, by
282 reason of the absence of such judicial officer from the state, by
283 reason of the disqualification of such judicial officer pursuant
284 to the provision of Section 165, Mississippi Constitution of 1890,
285 or any provision of the Code of Judicial Conduct, or for any other
286 reason, the Chief Justice of the Mississippi Supreme Court, with
287 the advice and consent of a majority of the justices of the
288 Mississippi Supreme Court, may appoint a person as a special judge
289 to hear the case or attend and hold a court.

290 (2) Upon the request of the Chief Judge of the Court of
291 Appeals or the senior judge of a chancery or circuit court
292 district, or upon his own motion, the Chief Justice of the
293 Mississippi Supreme Court, with the advice and consent of a
294 majority of the justices of the Mississippi Supreme Court, shall
295 have the authority to appoint a special judge to serve on a
296 temporary basis in a circuit or chancery court in the event of an
297 emergency or overcrowded docket. It shall be the duty of any
298 special judge so appointed to assist the court to which he is
299 assigned in the disposition of causes so pending in such court for
300 whatever period of time is designated by the Chief Justice.

301 (3) When a vacancy exists for any of the reasons enumerated
302 in Section 9-1-103, the vacancy has not been filled within seven
303 (7) days by an appointment by the Governor, and there is a pending
304 cause or are pending causes in the court where the vacancy exists
305 that in the interests of justice and in the orderly dispatch of
306 the court's business require the appointment of a special judge,
307 the Chief Justice of the Supreme Court, with the advice and
308 consent of a majority of the justices of the Mississippi Supreme
309 Court, may appoint a qualified person as a special judge to fill
310 the vacancy until the Governor makes his appointment and such
311 appointee has taken the oath of office.

312 (4) If the Chief Justice pursuant to this section shall make
313 an appointment within the authority vested in the Governor by
314 reason of Section 165, Mississippi Constitution of 1890, the
315 Governor may at his election appoint a person to so serve. In the
316 event that the Governor makes such an appointment, any appointment
317 made by the Chief Justice pursuant to this section shall be void
318 and of no further force or effect from the date of the Governor's
319 appointment.

320 (5) When a judicial officer is unwilling or unable to hear a
321 case or unable or unwilling to hold court for a period of time not
322 to exceed two (2) weeks, the trial judge or judges of the affected
323 district or county and other trial judges may agree among
324 themselves regarding the appointment of a person for such case or
325 such limited period of time. The trial judges shall submit a
326 notice to the Chief Justice of the Supreme Court informing him of
327 their appointment. If the Chief Justice does not appoint another
328 person to serve as special judge within seven (7) days after
329 receipt of such notice, the person designated in such order shall
330 be deemed appointed.

331 (6) A person appointed to serve as a special judge may be
332 any currently sitting or retired chancery, circuit or county court
333 judge, Court of Appeals judge or Supreme Court Justice, or any
334 other person possessing the qualifications of the judicial office
335 for which the appointment is made; provided, however, that a judge
336 or justice who was retired from service at the polls shall not be
337 eligible for appointment as a special judge in the district in
338 which he served prior to his defeat.

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

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

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

350 (10) Any currently sitting justice or judge appointed as a
351 special judge under this section shall receive no additional
352 compensation for his or her service as special judge. Any other
353 person appointed as a special judge hereunder shall, for the
354 period of his service, receive compensation from the state for
355 each day's service a sum equal to 1/260 of the current salary in
356 effect for the judicial office; provided, however, that no retired
357 chancery, circuit or county court judge, retired Court of Appeals
358 judge or any retired Supreme Court Justice appointed as a special
359 judge pursuant to this section may, during any fiscal year,
360 receive compensation in excess of twenty-five percent (25%) of the
361 current salary in effect for a chancery or circuit court judge.
362 Any person appointed as a special judge shall be reimbursed for
363 travel expenses incurred in the performance of the official duties
364 to which he may be appointed hereunder in the same manner as other
365 public officials and employees as provided by Section 25-3-41,
366 Mississippi Code of 1972.

367 (11) If any person appointed as such special judge is
368 receiving retirement benefits by virtue of the provisions of the
369 Public Employees' Retirement Law of 1952, appearing as Sections
370 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
371 shall not be reduced in any sum whatsoever because of such
372 service, nor shall any sum be deducted as contributions toward
373 retirement under said law.

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

377 (13) Nothing in this section shall abrogate the right of
378 attorneys engaged in a case to agree upon a member of the bar to
379 preside in a case pursuant to Section 165 of the Mississippi
380 Constitution of 1890.

381 (14) The Supreme Court shall prepare the necessary payroll
382 for special judges appointed pursuant to this section and shall
383 submit such payroll to the Department of Finance and
384 Administration.

385 (15) Special judges appointed pursuant to this section shall
386 direct requests for reimbursement for travel expenses authorized
387 pursuant to this section to the Supreme Court and the Supreme
388 Court shall submit such requests to the Department of Finance and
389 Administration. The Supreme Court shall have the power to adopt
390 rules and regulations regarding the administration of travel
391 expenses authorized pursuant to this section.

392 **SECTION 19.** The candidates for any new judgeships or
393 chancellorships created under this act shall be entitled to run
394 for those offices in the judicial election prior to the
395 commencement of the initial term of the new judgeship or
396 chancellorship.

397 **SECTION 20.** Sections 23-15-982, 23-15-983 and 23-15-984,
398 Mississippi Code of 1972, which provide for the calculation of the
399 vote in multijudge districts in which candidates run "in the herd"
400 and the number of votes that may be cast by each elector, are
401 repealed.

402 **SECTION 21.** The Attorney General of the State of Mississippi
403 shall submit this act, immediately upon approval by the Governor,
404 or upon approval by the Legislature subsequent to a veto, to the
405 Attorney General of the United States or to the United States
406 District Court for the District of Columbia in accordance with the

407 provisions of the Voting Rights Act of 1965, as amended and
408 extended.

409 **SECTION 22.** This act shall take effect and be in force from
410 and after January 1, 2007, provided it is effectuated under
411 Section 5 of the Voting Rights Act of 1965, as amended and
412 extended.