

By: Senator(s) Ross, Harden, White

To: Judiciary, Division A;
Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2632

1 AN ACT TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE GOVERNOR TO PETITION THE SUPREME COURT TO ASSIGN A
3 SPECIAL JUDGE TO SERVE IN A TRIAL COURT ON A TEMPORARY BASIS TO
4 RELIEVE A BACKLOG AND TO PETITION FOR SUCH AN ASSIGNMENT TO THE
5 FIRST JUDICIAL DISTRICT OF THE CIRCUIT COURT OF HINDS COUNTY; AND
6 FOR RELATED PURPOSES.

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

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

10 * * *

11 9-1-105. (1) Whenever any judicial officer is unwilling or
12 unable to hear a case or unable to hold or attend any of the
13 courts at the time and place required by law by reason of the
14 physical disability or sickness of such judicial officer, by
15 reason of the absence of such judicial officer from the state, by
16 reason of the disqualification of such judicial officer pursuant
17 to the provision of Section 165, Mississippi Constitution of 1890,
18 or any provision of the Code of Judicial Conduct, or for any other
19 reason, the Chief Justice of the Mississippi Supreme Court, with
20 the advice and consent of a majority of the justices of the
21 Mississippi Supreme Court, may appoint a person as a special judge
22 to hear the case or attend and hold a court.

23 (2) Upon the request of the Chief Judge of the Court of
24 Appeals, the senior judge of a chancery or circuit court district,
25 the petition of the Governor, or upon his own motion, the Chief
26 Justice of the Mississippi Supreme Court, with the advice and
27 consent of a majority of the justices of the Mississippi Supreme
28 Court, shall have the authority to appoint a special judge to
29 serve on a temporary basis in a circuit or chancery court in the

30 event of an emergency or overcrowded docket. It shall be the duty
31 of any special judge so appointed to assist the court to which he
32 is assigned in the disposition of causes so pending in such court
33 for whatever period of time is designated by the Chief Justice.

34 (3) In addition to the authority set forth in subsection
35 (2), the Governor may petition the Chief Justice of the
36 Mississippi Supreme Court to appoint a full-time special judge to
37 the First Judicial District of the Circuit Court of Hinds County
38 to handle criminal cases only. Upon such request, the Chief
39 Justice of the Supreme Court shall appoint a special judge with
40 the advice and consent of a majority of the justices of the
41 Mississippi Supreme Court. Any special judge so appointed shall
42 have full authority to handle all phases of criminal cases,
43 including pretrial, trial and posttrial matters in order to assist
44 the court in the disposition of cases. The purpose of this
45 subsection is to assist the courts of Hinds County in reducing the
46 backlog of criminal cases, and it is the intent of the Legislature
47 that such a special judge be utilized to the greatest extent
48 possible through, if necessary, the reassignment of pending cases
49 when such will not materially prejudice the parties, and the
50 assignment of new cases. Any such judge shall serve for whatever
51 period of time is designated by the Chief Justice. This
52 subsection shall stand repealed from and after July 1, 2008.

53 (4) When a vacancy exists for any of the reasons enumerated
54 in Section 9-1-103, the vacancy has not been filled within seven
55 (7) days by an appointment by the Governor, and there is a pending
56 cause or are pending causes in the court where the vacancy exists
57 that in the interests of justice and in the orderly dispatch of
58 the court's business require the appointment of a special judge,
59 the Chief Justice of the Supreme Court, with the advice and
60 consent of a majority of the justices of the Mississippi Supreme
61 Court, may appoint a qualified person as a special judge to fill

62 the vacancy until the Governor makes his appointment and such
63 appointee has taken the oath of office.

64 (5) If the Chief Justice pursuant to this section shall make
65 an appointment within the authority vested in the Governor by
66 reason of Section 165, Mississippi Constitution of 1890, the
67 Governor may at his election appoint a person to so serve. In the
68 event that the Governor makes such an appointment, any appointment
69 made by the Chief Justice pursuant to this section shall be void
70 and of no further force or effect from the date of the Governor's
71 appointment.

72 (6) When a judicial officer is unwilling or unable to hear a
73 case or unable or unwilling to hold court for a period of time not
74 to exceed two (2) weeks, the trial judge or judges of the affected
75 district or county and other trial judges may agree among
76 themselves regarding the appointment of a person for such case or
77 such limited period of time. The trial judges shall submit a
78 notice to the Chief Justice of the Supreme Court informing him of
79 their appointment. If the Chief Justice does not appoint another
80 person to serve as special judge within seven (7) days after
81 receipt of such notice, the person designated in such order shall
82 be deemed appointed.

83 (7) A person appointed to serve as a special judge may be
84 any currently sitting or retired chancery, circuit or county court
85 judge, Court of Appeals judge or Supreme Court Justice, or any
86 other person possessing the qualifications of the judicial office
87 for which the appointment is made; provided, however, that a judge
88 or justice who was retired from service at the polls shall not be
89 eligible for appointment as a special judge in the district in
90 which he served prior to his defeat.

91 (8) Except as otherwise provided in subsection (2) of this
92 section, the need for an appointment pursuant to this section may
93 be certified to the Chief Justice of the Mississippi Supreme Court
94 by any attorney in good standing or other officer of the court.

95 (9) The order appointing a person as a special judge
96 pursuant to this section shall describe as specifically as
97 possible the duration of the appointment.

98 (10) A special judge appointed pursuant to this section
99 shall take the oath of office, if necessary, and shall, for the
100 duration of his appointment, enjoy the full power and authority of
101 the office to which he is appointed.

102 (11) Any currently sitting justice or judge appointed as a
103 special judge under this section shall receive no additional
104 compensation for his or her service as special judge. Any other
105 person appointed as a special judge hereunder shall, for the
106 period of his service, receive compensation from the state for
107 each day's service a sum equal to 1/260 of the current salary in
108 effect for the judicial office; provided, however, that no retired
109 chancery, circuit or county court judge, retired Court of Appeals
110 judge or any retired Supreme Court Justice appointed as a special
111 judge pursuant to this section may, during any fiscal year,
112 receive compensation in excess of twenty-five percent (25%) of the
113 current salary in effect for a chancery or circuit court judge.
114 Any person appointed as a special judge shall be reimbursed for
115 travel expenses incurred in the performance of the official duties
116 to which he may be appointed hereunder in the same manner as other
117 public officials and employees as provided by Section 25-3-41,
118 Mississippi Code of 1972.

119 (12) If any person appointed as such special judge is
120 receiving retirement benefits by virtue of the provisions of the
121 Public Employees' Retirement Law of 1952, appearing as Sections
122 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
123 shall not be reduced in any sum whatsoever because of such
124 service, nor shall any sum be deducted as contributions toward
125 retirement under said law.

126 (13) The Supreme Court shall have authority to prescribe
127 rules and regulations reasonably necessary to implement and give
128 effect to the provisions of this section.

129 (14) Nothing in this section shall abrogate the right of
130 attorneys engaged in a case to agree upon a member of the bar to
131 preside in a case pursuant to Section 165 of the Mississippi
132 Constitution of 1890.

133 (15) The Supreme Court shall prepare the necessary payroll
134 for special judges appointed pursuant to this section and shall
135 submit such payroll to the Department of Finance and
136 Administration.

137 (16) Special judges appointed pursuant to this section shall
138 direct requests for reimbursement for travel expenses authorized
139 pursuant to this section to the Supreme Court and the Supreme
140 Court shall submit such requests to the Department of Finance and
141 Administration. The Supreme Court shall have the power to adopt
142 rules and regulations regarding the administration of travel
143 expenses authorized pursuant to this section.

144 **SECTION 2.** This act shall take effect and be in force from
145 and after its passage.