

By: Senator(s) Ross, Harden, White

To: Judiciary, Division A;  
Appropriations

SENATE BILL NO. 2632  
(As Passed the Senate)

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53 stand repealed from and after July 1, 2008.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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