

By: Senator(s) Tollison, Dearing, Doxey,
Jackson (15th), King, Posey

To: Judiciary, Division A

SENATE BILL NO. 2964

1 AN ACT TO CREATE THE MISSISSIPPI ADVISORY COMMITTEE ON
2 JUDICIAL NOMINATIONS TO MAKE RECOMMENDATIONS TO THE GOVERNOR TO
3 FILL JUDICIAL VACANCIES; TO PROVIDE FOR THE APPOINTMENT OF MEMBERS
4 OF THE COMMITTEE; TO PROVIDE FOR OFFICERS OF THE COMMITTEE; TO
5 PROVIDE FOR SUBCOMMITTEES; TO SPECIFY THE POWERS AND DUTIES OF THE
6 COMMITTEE AND ITS SUBCOMMITTEES; TO PRESCRIBE STANDARDS FOR
7 NOMINEES; TO AMEND SECTION 25-41-3, MISSISSIPPI CODE OF 1972, TO
8 EXEMPT THE MISSISSIPPI ADVISORY COMMITTEE ON JUDICIAL NOMINATIONS
9 AND ITS SUBCOMMITTEES FROM THE DEFINITION OF PUBLIC BODY; TO
10 PROVIDE THAT VACANCIES IN THE OFFICE OF JUDGE OF THE SUPREME COURT
11 AND COURT OF APPEALS SHALL BE FILLED BY APPOINTMENT OF THE
12 GOVERNOR; TO CREATE NEW SECTION 9-3-4, MISSISSIPPI CODE OF 1972,
13 TO PLACE THE PROVISIONS CONCERNING THE TERMS AND SERVICE OF JUDGES
14 OF THE SUPREME COURT IN THE SUPREME COURT CHAPTER OF THE
15 MISSISSIPPI CODE AND TO PROVIDE THAT VACANCIES ARE FILLED BY
16 APPOINTMENT OF THE GOVERNOR; TO AMEND SECTION 9-1-103, MISSISSIPPI
17 CODE OF 1972, TO CONFORM; TO AMEND SECTION 9-4-5, MISSISSIPPI CODE
18 OF 1972, TO PROVIDE THAT VACANCIES IN THE OFFICE OF JUDGE OF THE
19 COURT OF APPEALS ARE FILLED BY APPOINTMENT OF THE GOVERNOR; TO
20 REPEAL SECTION 9-4-15, MISSISSIPPI CODE OF 1972, WHICH PROVIDES
21 THAT GENERAL ELECTIONS FOR THE OFFICE OF JUDGE OF THE COURT OF
22 APPEALS SHALL BE HELD AT THE SAME TIME AS GENERAL ELECTIONS FOR
23 CONGRESSIONAL OFFICES; TO AMEND SECTION 23-15-197, MISSISSIPPI
24 CODE OF 1972, TO CONFORM THE TIMES FOR HOLDING OF RETENTION
25 ELECTIONS FOR APPELLATE JUDGES; TO AMEND SECTION 23-15-369,
26 MISSISSIPPI CODE OF 1972, TO SPECIFY THE MANNER IN WHICH RETENTION
27 BALLOTS SHALL BE PRINTED; TO AMEND SECTION 23-15-607, MISSISSIPPI
28 CODE OF 1972, TO SPECIFY THE MANNER IN WHICH THE RESULTS OF A
29 RETENTION ELECTION FOR AN APPELLATE COURT JUDGE IS TO BE
30 CERTIFIED; TO AMEND SECTIONS 23-15-849, 23-15-973, 23-15-975 AND
31 23-15-977, MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION
32 23-15-991, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE RETENTION
33 ELECTION AND FORM OF BALLOT FOR RETENTION ELECTIONS IN ORDER FOR
34 AN APPELLATE JUDGE TO SUCCEED HIMSELF; TO AMEND SECTIONS 23-15-993
35 AND 23-15-995, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR
36 RELATED PURPOSES.

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

38 **SECTION 1.** There is hereby created the Mississippi Advisory
39 Committee on Judicial Nominations. The committee shall receive
40 applications from and nominate persons who are qualified and
41 eligible to fill vacancies in the Mississippi Supreme Court, the
42 Court of Appeals and in the various chancery, circuit and county
43 courts.

44 **SECTION 2.** (1) The committee shall consist of nineteen (19)
45 members who shall be appointed in the following manner:

46 (a) The Governor shall make the following appointments:

47 (i) One (1) member who is not an attorney and one
48 (1) member who is a member of the Mississippi Trial Lawyers
49 Association who are residents of the First Supreme Court District;

50 (ii) One (1) member who is a member of The
51 Mississippi Bar and one (1) member who is a member of the Magnolia
52 Bar Association who are residents of the Second Supreme Court
53 District;

54 (iii) One (1) member who is a member of The
55 Mississippi Bar and one (1) member who is a member of the
56 Mississippi Prosecutor's Association who are residents of the
57 Third Supreme Court District;

58 (b) The Lieutenant Governor shall make the following
59 appointments:

60 (i) One (1) member who is not an attorney and one
61 (1) member who is a member of the Mississippi Trial Lawyers
62 Association who are residents of the Second Supreme Court
63 District;

64 (ii) One (1) member who is a member of The
65 Mississippi Bar and one (1) member who is a member of the Magnolia
66 Bar Association who are residents of the Third Supreme Court
67 District;

68 (iii) One (1) member who is a member of The
69 Mississippi Bar and one (1) member who is a member of the
70 Mississippi Prosecutor's Association who are residents of the
71 First Supreme Court District;

72 (c) The Speaker of the House shall make the following
73 appointments:

74 (i) One (1) member who is not an attorney and one
75 (1) member who is a member of the Mississippi Trial Lawyers
76 Association who are residents of the Third Supreme Court District;

77 (ii) One (1) member who is a member of The
78 Mississippi Bar and one (1) member who is a member of the Magnolia
79 Bar Association who are residents of the First Supreme Court
80 District;

81 (iii) One (1) member who is a member of The
82 Mississippi Bar and one (1) member who is a member of the
83 Mississippi Prosecutor's Association who are residents of the
84 Second Supreme Court District.

85 The appointing authorities shall endeavor to create and to
86 maintain a nominating committee whose membership is not limited to
87 a particular race, gender or interest group. The Governor shall
88 appoint one (1) of the members as chairperson. Appointment as
89 chairperson shall be for a period of one (1) year, and, except for
90 the initial appointment, each person appointed chairperson shall
91 have served on the committee for at least one (1) year. During
92 the period of time when a member is serving as chairperson, the
93 Governor shall appoint one (1) additional committee member who
94 shall be a resident of the chairperson's State Supreme Court
95 district and who will serve only during the tenure of such
96 chairperson.

97 (2) At the initial meeting of the committee, the members
98 shall set their terms' expiration so that the terms of members
99 shall be as follows:

100 (a) Two (2) members from each State Supreme Court
101 district shall serve for two (2) years each;

102 (b) Two (2) members from each State Supreme Court
103 district shall serve for one (1) year each; and

104 (c) Two (2) members from each State Supreme Court
105 district shall serve for three (3) years each. Thereafter, all
106 appointments shall be for terms of three (3) years each. An
107 appointment to fill any vacancy due to the death, resignation or
108 disability of a member shall be for the unexpired term only. No
109 member shall be eligible for reappointment to the committee for a

110 period of one (1) year after the date on which his or her term
111 ends.

112 (3) No member of the Mississippi Advisory Committee on
113 Judicial Nominations shall be eligible for appointment to judicial
114 office during the member's service on the committee or for a
115 period of one (1) year after the date on which the member's term
116 on the committee ends.

117 **SECTION 3.** The Governor shall designate a secretary to the
118 committee who may or may not be a member of the committee and who
119 shall be responsible for maintaining the records of the committee.

120 **SECTION 4.** Each group of six (6) committee members who are
121 residents of the same State Supreme Court district shall
122 constitute a subcommittee of the committee and shall be designated
123 with the number of the Supreme Court district in which they
124 reside. The Chairperson of the Mississippi Advisory Committee on
125 Judicial Nominations shall appoint the chairperson of each such
126 subcommittee from the subcommittee members who are practicing
127 attorneys.

128 **SECTION 5.** (1) Whenever a vacancy occurs in a chancery,
129 circuit or county judgeship, the chair of the committee, upon
130 knowledge of a vacancy or notice from the Governor, shall call a
131 meeting of the Mississippi Advisory Committee on Judicial
132 Nominations subcommittee in whose State Supreme Court district the
133 vacancy occurs. The subcommittee shall meet to seek, receive and
134 review applications and other information concerning the
135 qualifications and eligibility of proposed nominees for the vacant
136 judgeship. A vacancy shall be deemed to have occurred upon actual
137 vacancy of the officer when the Governor has been notified that
138 the term of office of a judge has been terminated by resignation
139 or otherwise at a specified future date.

140 The subcommittee shall notify The Mississippi Bar, the county
141 or local bar association within the appropriate judicial
142 jurisdiction where the vacancy exists, and any other professional

143 or citizens' organizations deemed appropriate by the subcommittee;
144 and, in the notification, the subcommittee shall relate the
145 existence of the vacancy and solicit nominations therefor. The
146 subcommittee may receive nominations from any interested citizens
147 and groups.

148 (2) Not less than thirty (30) days after the initial meeting
149 of the subcommittee as provided in subsection (1) of this section
150 or immediately at the call of the Governor, whichever comes first,
151 the full Mississippi Advisory Committee on Judicial Nominations
152 shall meet, evaluate subcommittee recommendations and select, by a
153 majority vote of its entire membership, prospective nominees whom
154 it finds fully qualified for judicial office. From among those
155 found fully qualified, the committee shall designate three (3)
156 nominees for each judicial vacancy; however, if the jurisdiction
157 in which the vacancy exists has fewer than forty (40) actively
158 practicing attorneys as shown by the most recent judicial records
159 of The Mississippi Bar, then the committee may designate fewer
160 than three (3) nominees.

161 **SECTION 6.** Whenever a vacancy occurs on the State Supreme
162 Court or the Court of Appeals, the procedure shall be generally as
163 provided in Section 5 of this act except that the full committee,
164 rather than a subcommittee, shall seek, receive and review
165 proposed nominees, and five (5) nominees shall be designated for
166 each vacancy.

167 **SECTION 7.** No prospective nominee shall be found "fully
168 qualified" for judicial office by a subcommittee or the committee
169 as a whole unless found to have the following qualifications:

170 (a) It must affirmatively appear that the prospective
171 nominee possesses all of the qualifications established by law for
172 the judicial office involved; and

173 (b) It must affirmatively appear that the prospective
174 nominee possesses the personal qualities and attributes of
175 character and experience, judicial temperament, professional

176 competence and other personal characteristics essential to the
177 judgeship involved and necessary to fully qualify a person to
178 serve the public as a judicial officer; and that the person, if
179 nominated and appointed, will fairly administer justice without
180 respect to any person's race, color, sex, religion or national
181 origin, will administer justice equally to the poor and the rich,
182 and will faithfully and impartially discharge and perform all
183 duties incumbent upon the judicial office according to the best of
184 the applicant's ability and understanding, in accordance with the
185 Constitution, laws and treaties of the United States and the
186 Constitution and laws of the State of Mississippi.

187 **SECTION 8.** Not less than ten (10) days after the meeting
188 authorized in Section 5(2) and Section 6 of this act, the
189 Mississippi Advisory Committee on Judicial Nominations shall
190 transmit to the Governor, in alphabetical sequence, those nominees
191 it is designating to fill a particular judicial vacancy. If
192 approval of all nominees is rejected by the Governor or if any
193 nominees shall notify the Governor of their unwillingness or
194 inability to accept appointment, the Governor may request the
195 committee to designate additional nominees. No permanent
196 appointment shall be made until the Governor receives the
197 nominations of the Committee or before the expiration of sixty
198 (60) days, whichever occurs first.

199 **SECTION 9.** (1) With the approval of the Governor, the
200 Mississippi Advisory Committee on Judicial Nominations may adopt
201 operating rules, forms and notices it deems necessary and that are
202 not inconsistent with the provisions of this act.

203 (2) All applications and information received from or
204 concerning nominees and all proceedings of the committee or a
205 subcommittee thereof shall be confidential and not subject to the
206 Mississippi Open Records Act.

207 **SECTION 10.** Nothing in this act shall be construed as an
208 impairment or delegation of the constitutional and statutory

209 duties or prerogatives of the Governor with respect to the filling
210 of judicial vacancies by appointment. The right to reject any or
211 all of the nominees recommended pursuant to this act is reserved
212 to the Governor.

213 **SECTION 11.** Section 25-41-3, Mississippi Code of 1972, is
214 amended as follows:

215 25-41-3. For purposes of this chapter, the following words
216 shall have the meaning ascribed herein, to wit:

217 (a) "Public body" means any executive or administrative
218 board, commission, authority, council, department, agency, bureau
219 or any other policy making entity, or committee thereof, of the
220 State of Mississippi, or any political subdivision or municipal
221 corporation of the state, whether such entity be created by
222 statute or executive order, which is supported wholly or in part
223 by public funds or expends public funds, and any standing, interim
224 or special committee of the Mississippi Legislature. There shall
225 be exempted from the provisions of this chapter:

226 (i) The judiciary, including all jury
227 deliberations;

228 (ii) Public and private hospital staffs, public
229 and private hospital boards and committees thereof;

230 (iii) Law enforcement officials;

231 (iv) The military;

232 (v) The State Probation and Parole Board;

233 (vi) The Workers' Compensation Commission;

234 (vii) The Mississippi Advisory Committee on
235 Judicial Nominations and its subcommittees;

236 (viii) Legislative subcommittees and legislative
237 conference committees;

238 (ix) The arbitration council established in
239 Section 69-3-19;

240 (x) License revocation, suspension and
241 disciplinary proceedings held by the Mississippi State Board of
242 Dental Examiners; and

243 (xi) Hearings and meetings of the State Tax
244 Commission and the hearing officers and the board of review of the
245 State Tax Commission as provided in Section 27-77-15.

246 (b) "Meeting" means an assemblage of members of a
247 public body at which official acts may be taken upon a matter over
248 which the public body has supervision, control, jurisdiction or
249 advisory power; "meeting" also means any such assemblage through
250 the use of video or teleconference devices.

251 **SECTION 12.** The following shall be codified as Section
252 9-3-4, Mississippi Code of 1972:

253 9-3-4. (1) The term of office of judges of the Supreme
254 Court shall be eight (8) years and shall begin on the first Monday
255 of January of the year in which the prior term expires. Any judge
256 of the Supreme Court holding office or elected thereto on January
257 1, 2007, shall remain in office for the duration of his term
258 unless he vacates the office or is removed for cause. Vacancies
259 in the Office of Justice of the Supreme Court shall be filled by
260 appointment of the Governor.

261 (2) For the purpose of appointment and election, each of the
262 nine (9) judgeships of the Supreme Court shall be considered a
263 separate office. The three (3) offices in each of the three (3)
264 Supreme Court districts shall be designated Position Number 1,
265 Position Number 2 and Position Number 3, and in qualifying for
266 retention for any Office of Justice of the Supreme Court, each
267 candidate shall state the position number of the office he wishes
268 to retain and the ballots shall so indicate. In Supreme Court
269 District Number 1: Position Number 1 shall be that office for
270 which the term ends in January 1966; Position Number 2 shall be
271 that office for which the term ends in January 1965; and Position
272 Number 3 shall be that office for which the term ends in January

273 1969. In District Number 2: Position Number 1 shall be that
274 office for which the term ends in January 1972; Position Number 2
275 shall be that office for which the term ends in January 1969; and
276 Position Number 3 shall be for that office for which the term ends
277 in January 1973. In District Number 3: Position Number 1 shall
278 be that office for which the term ends in January 1969; Position
279 Number 2 shall be that office for which the term ends in January
280 1969; and Position Number 3 shall be that office for which the
281 term ends in January 1965.

282 **SECTION 13.** Section 9-1-103, Mississippi Code of 1972, is
283 amended as follows:

284 9-1-103. (1) Whenever a vacancy shall occur in any judicial
285 office by reason of death of an incumbent, resignation or
286 retirement of an incumbent, removal of an incumbent from
287 office, * * * creation of a new judicial office in which there has
288 not heretofore been an incumbent and for which no election is
289 provided by statute, or failure of an incumbent to prevail in a
290 required retention election, the Governor shall have the authority
291 to appoint a qualified person as follows:

292 (a) For judicial offices filled by election, the
293 Governor shall appoint a qualified person to fill the vacancy to
294 serve for the unexpired term or until the vacancy is filled by
295 election as provided in Section 23-15-849, Mississippi Code of
296 1972.

297 (b) For judicial offices filled by appointment, the
298 Governor shall appoint a qualified person to fill the vacancy to
299 serve for the unexpired term.

300 (2) When a vacancy shall occur for any of the reasons
301 enumerated in this section, the clerk of the court shall notify
302 the Governor of the vacancy immediately.

303 **SECTION 14.** Section 9-4-5, Mississippi Code of 1972, is
304 amended as follows:

305 9-4-5. (1) (a) The term of office of judges of the Court
306 of Appeals shall be eight (8) years.

307 (b) An election shall be held on the first Tuesday
308 after the first Monday in November 1994, to elect the ten (10)
309 judges of the Court of Appeals, two (2) from each congressional
310 district; provided, however, judges of the Court of Appeals who
311 are elected to take office after the first Monday of January 2002,
312 shall be elected from the Court of Appeals Districts described in
313 subsection (5) of this section. The judges of the Court of
314 Appeals shall begin service on the first Monday of January 1995.

315 (c) * * * In order to provide that the offices of not
316 more than a majority of the judges of said court shall become
317 vacant at any one (1) time, the terms of office of six (6) of the
318 judges first to be elected shall expire in less than eight (8)
319 years. For the purpose of all elections of members of the court,
320 each of the ten (10) judges of the Court of Appeals shall be
321 considered a separate office. The two (2) offices in each of the
322 five (5) districts shall be designated Position Number 1 and
323 Position Number 2, and in qualifying for office as a candidate for
324 or retention of any office of judge of the Court of Appeals, each
325 candidate shall state the position number of the office to which
326 he aspires and the election ballots shall so indicate.

327 (d) (i) In the First Court of Appeals District, the
328 judge of the Court of Appeals for Position Number 1 shall be that
329 office for which the term ends in January of 1999, and the judge
330 of the Court of Appeals for Position Number 2 shall be that office
331 for which the term ends in January of 2003.

332 (ii) In the Second Court of Appeals District, the
333 judge of the Court of Appeals for Position Number 1 shall be that
334 office for which the term ends in January of 2003, and the judge
335 of the Court of Appeals for Position Number 2 shall be that office
336 for which the term ends in January of 2001.

337 (iii) In the Third Court of Appeals District, the
338 judge of the Court of Appeals for Position Number 1 shall be that
339 office for which the term ends in January of 2001, and the judge
340 of the Court of Appeals for Position Number 2 shall be that office
341 for which the term ends in January of 1999.

342 (iv) In the Fourth Court of Appeals District, the
343 judge of the Court of Appeals for Position Number 1 shall be that
344 office for which the term ends in January of 1999, and the judge
345 of the Court of Appeals for Position Number 2 shall be that office
346 for which the term ends in January of 2003.

347 (v) In the Fifth Court of Appeals District, the
348 judge of the Court of Appeals for Position Number 1 shall be that
349 office for which the term ends in January of 2003, and the judge
350 of the Court of Appeals for Position Number 2 shall be that office
351 for which the term ends in January of 2001.

352 (2) No person shall be eligible for the office of judge of
353 the Court of Appeals who has not attained the age of thirty (30)
354 years at the time of his election or appointment and who has not
355 been a practicing attorney and citizen of the state for five (5)
356 years immediately preceding such election or appointment.

357 (3) Until January 1, 2008:

358 (a) The laws regulating the general elections shall
359 apply to and govern the elections of judges of the Court of
360 Appeals except as otherwise provided in Sections 23-15-974 through
361 23-15-985.

362 (b) In the year prior to the expiration of the term of
363 an incumbent, and likewise each eighth year thereafter, an
364 election shall be held in the manner provided in this section in
365 the district from which the incumbent Court of Appeals judge was
366 elected at which there shall be elected a successor to the
367 incumbent, whose term of office shall thereafter begin on the
368 first Monday of January of the year in which the term of the
369 incumbent he succeeds expires.

370 (4) (a) Any vacancy on the Court of Appeals occurring prior
371 to January 1, 2008, shall be filled by appointment of the Governor
372 for that portion of the unexpired term prior to the election to
373 fill the remainder of said term according to provisions of Section
374 23-15-849, Mississippi Code of 1972.

375 (b) From and after January 1, 2008, any vacancy on the
376 Court of Appeals shall be filled by appointment of the Governor.
377 If a vacancy occurs before the expiration of a term, the
378 appointment shall be for the remainder of that term.

379 (c) A judge of the Court of Appeals holding office or
380 elected thereto on January 1, 2008, shall remain in office for the
381 remainder of his term, unless he vacates the office or is removed
382 for cause. If a judge does not stand for retention election as
383 provided by Section 23-15-991, the office held by that judge shall
384 be vacated upon expiration of term.

385 (5) (a) The State of Mississippi is hereby divided into
386 five (5) Court of Appeals Districts as follows:

387 **FIRST DISTRICT.** The First Court of Appeals District shall be
388 composed of the following counties and portions of counties:
389 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,
390 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,
391 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada
392 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;
393 in Montgomery County the precincts of North Winona, Lodi, Stewart,
394 Nations and Poplar Creek; in Panola County the precincts of East
395 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North
396 Springport, South Springport, Eureka, Williamson, East Batesville
397 4, West Batesville 4, Fern Hill, North Batesville A, East
398 Batesville 5 and West Batesville 5; and in Tallahatchie County the
399 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,
400 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,
401 Murphreesboro and Rosebloom.

402 **SECOND DISTRICT.** The Second Court of Appeals District shall
403 be composed of the following counties and portions of counties:
404 Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys,
405 Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower,
406 Tunica, Warren, Washington and Yazoo; in Attala County the
407 precincts of Northeast, Hesterville, Possomneck, North Central,
408 McAdams, Newport, Sallis and Southwest; that portion of Grenada
409 County not included in the First Court of Appeals District; in
410 Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41,
411 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga,
412 Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas,
413 St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the
414 precincts of Conway, West Carthage, Wiggins, Thomastown and
415 Ofahoma; in Madison County the precincts of Farmhaven, Canton
416 Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6,
417 Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora,
418 Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon,
419 Canton Precinct 1 and Canton Precinct 4; that portion of
420 Montgomery County not included in the First Court of Appeals
421 District; that portion of Panola County not included in the First
422 Court of Appeals District; and that portion of Tallahatchie County
423 not included in the First Court of Appeals District.

424 **THIRD DISTRICT.** The Third Court of Appeals District shall be
425 composed of the following counties and portions of counties:
426 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,
427 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that
428 portion of Attala County not included in the Second Court of
429 Appeals District; in Jones County the precincts of Northwest High
430 School, Shady Grove, Sharon, Erata, Glade, Myrick School,
431 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,
432 Antioch and Landrum; that portion of Leake County not included in
433 the Second Court of Appeals District; that portion of Madison
434 County not included in the Second Court of Appeals District; and

435 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,
436 Diamond, Chaparral, Matherville, Coit and Eucutta.

437 **FOURTH DISTRICT.** The Fourth Court of Appeals District shall
438 be composed of the following counties and portions of counties:
439 Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,
440 Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson;
441 that portion of Hinds County not included in the Second Court of
442 Appeals District; and that portion of Jones county not included in
443 the Third Court of Appeals District.

444 **FIFTH DISTRICT.** The Fifth Court of Appeals District shall be
445 composed of the following counties and portions of counties:
446 Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Pearl
447 River, Perry and Stone; and that portion of Wayne County not
448 included in the Third Court of Appeals District.

449 (b) The boundaries of the Court of Appeals Districts
450 described in paragraph (a) of this subsection shall be the
451 boundaries of the counties and precincts listed in paragraph (a)
452 of this subsection as such boundaries existed on October 1, 1990.

453 **SECTION 15.** Section 9-4-15, Mississippi Code of 1972, which
454 provides that general elections for the office of judge of the
455 Court of Appeals shall be held at the same times as general
456 elections for congressional offices, is repealed.

457 **SECTION 16.** Section 23-15-197, Mississippi Code of 1972, is
458 amended as follows:

459 23-15-197. (1) Times for holding primary and general
460 elections for congressional offices shall be as prescribed in
461 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

462 (2) Times for holding retention elections for the office of
463 judge of the Supreme Court or judge of the Court of Appeals shall
464 be as prescribed in Section 23-15-991 and Sections 23-15-974
465 through 23-15-985.

466 (3) Times for holding elections for the office of circuit
467 court judge and the office of chancery court judge shall be as

468 prescribed in Sections 23-15-974 through 23-15-985, and Section
469 23-15-1015.

470 (4) Times for holding elections for the office of county
471 election commissioners shall be as prescribed in Section
472 23-15-213.

473 **SECTION 17.** Section 23-15-369, Mississippi Code of 1972, is
474 amended as follows:

475 23-15-369. (1) (a) Whenever a constitutional amendment is
476 submitted to the vote of the people, the substance of such
477 amendment shall be printed in clear and unambiguous language on
478 the ballot after the list of candidates, if any, followed by the
479 word "YES" and also by the word "NO", and shall be styled in such
480 a manner that a "YES" vote will indicate approval of the proposal
481 and a "NO" vote will indicate rejection.

482 (b) The substance of the amendment shall be an
483 explanatory statement not exceeding seventy-five (75) words in
484 length of the chief purpose of the measure. Such statement shall
485 be prepared by the Legislature and included in the concurrent
486 resolution proposing the amendment to the Constitution. The
487 statement shall avoid, whenever possible, the use of legal
488 terminology or jargon and shall use instead, simple, ordinary,
489 everyday language. The Secretary of State shall give each
490 proposed constitutional amendment a designating number for
491 convenient reference. This number designation shall appear on the
492 ballot. Designating numbers shall be assigned in the order of
493 filing or certification of the amendments. The Secretary of State
494 shall furnish the designating number and the substance of each
495 amendment to the circuit clerk of each county in which such
496 amendment is to be voted on.

497 (c) The full text of each proposed constitutional
498 amendment shall be published by the Secretary of State as provided
499 for in Section 7-3-39, Mississippi Code of 1972, and shall be
500 posted prominently in all polling places, with copies of said

501 proposed amendment to be otherwise available at each polling
502 place.

503 (2) Except as may be otherwise provided in subsection (1) of
504 this section, whenever any public measure, question or matter that
505 requires an affirmative or negative vote is submitted to a vote of
506 the electors, the measure or matter shall be printed on the ballot
507 and also the words "FOR" or "AGAINST" to be so arranged by the
508 proper officer so that the voter can intelligently vote his
509 preference.

510 (3) Whenever any judge shall stand for retention election,
511 the ballot shall be printed as required by Section 23-15-991.

512 **SECTION 18.** Section 23-15-607, Mississippi Code of 1972, is
513 amended as follows:

514 23-15-607. (1) The commissioners of election shall, within
515 ten (10) days after a retention election for judges of the Supreme
516 Court or Court of Appeals, transmit to the Secretary of State, to
517 be filed in his office, a statement of the whole number of votes
518 given in their county, and the whole number of votes given in each
519 precinct in their county, for each candidate to retain the office
520 of judge of the Supreme Court or Court of Appeals, and the
521 Secretary of State shall immediately notify each member of the
522 State Board of Election Commissioners in writing to assemble at
523 his office on a day to be fixed by him, to be within ten (10) days
524 after the receipt by him of such statement, and when assembled
525 pursuant to such notice the State Board of Election Commissioners
526 shall sum up the whole number of votes given for each candidate
527 for retention of the office of judge of the Supreme Court or Court
528 of Appeals according to the total number of votes in each county
529 for or against each candidate as certified to the Secretary of
530 State, ascertain whether the person * * * is to be retained; and
531 thereupon all persons chosen to retain office at the election
532 shall be commissioned by the Governor; but if it appears that any
533 candidate for retention as judge of the Supreme Court or Court of

534 Appeals * * * has an equal number of votes for and against
535 retention, the election shall be forthwith decided * * * by lots,
536 fairly and publicly drawn under the direction of the State Board
537 of Election Commissioners. The position of a judge of the Supreme
538 Court or Court of Appeals who loses a retention election by the
539 drawing of lots shall be vacant upon expiration of term.

540 (2) The statements required by this section shall contain a
541 certification, signed and dated by a majority of the commissioners
542 of election, which shall read as follows:

543 "We, the undersigned commissioners of election, do hereby
544 certify that this statement of the whole number of votes
545 contain the official vote for the election reflected
546 therein."

547 (3) The statements required by this section shall be
548 transmitted to the Secretary of State on such forms and by such
549 methods as may be required by rules and regulations promulgated by
550 the Secretary of State.

551 **SECTION 19.** Section 23-15-849, Mississippi Code of 1972, is
552 amended as follows:

553 23-15-849. (1) Vacancies in the office of circuit judge or
554 chancellor shall be filled for the unexpired term by the qualified
555 electors at the next regular election for state officers or for
556 representatives in Congress occurring more than nine (9) months
557 after the existence of the vacancy to be filled, and the term of
558 office of the person elected to fill a vacancy shall commence on
559 the first Monday in January following his election. Upon the
560 occurring of such a vacancy, the Governor shall appoint a
561 qualified person from the district in which the vacancy exists to
562 hold the office and discharge the duties thereof until the vacancy
563 shall be filled by election as provided in this subsection.

564 (2) * * * Upon occurrence of a vacancy in the office of
565 judge of the Supreme Court or Court of Appeals, the Governor shall

566 appoint a qualified person from the district in which the vacancy
567 exists to hold the office and discharge the duties thereof * * *.

568 * * *

569 **SECTION 20.** Section 23-15-973, Mississippi Code of 1972, is
570 amended as follows:

571 23-15-973. It shall be the duty of the judges of the circuit
572 court to give a reasonable time and opportunity to * * *
573 candidates for retention of the office of judge of the Supreme
574 Court and * * * the Court of Appeals, and for candidates for
575 circuit judge and chancellor, to address the people during court
576 terms. In order to give further and every possible emphasis to
577 the fact that the said judicial offices are not political but are
578 to be held without favor and with absolute impartiality as to all
579 persons, and because of the jurisdiction conferred upon the courts
580 by this chapter, the judges thereof should be as far removed as
581 possible from any political affiliations or obligations. It shall
582 be unlawful for any candidate for any of the offices mentioned in
583 this section to align himself with any candidate or candidates for
584 any other office or with any political faction or any political
585 party at any time during any primary or general election campaign.
586 Likewise it shall be unlawful for any candidate for any other
587 office nominated or to be nominated at any primary election,
588 wherein any candidate for any of the judicial offices in this
589 section mentioned, is or are to be nominated, to align himself
590 with any one or more of the candidates for said offices or to take
591 any part whatever in any nomination for any one or more of said
592 judicial offices, except to cast his individual vote. Any
593 candidate for any office, whether nominated with or without
594 opposition, at any primary wherein a candidate for any one of the
595 judicial offices herein mentioned is to be nominated who shall
596 deliberately, knowingly and willfully violate the provisions of
597 this section shall forfeit his nomination, or if elected at the
598 following general election by virtue of said nomination, his

599 election shall be void. This section shall apply to candidates
600 for election to judicial office and to candidates standing for
601 retention election for judicial office.

602 **SECTION 21.** Section 23-15-975, Mississippi Code of 1972, is
603 amended as follows:

604 23-15-975. As used in Sections 23-15-974 through 23-15-985
605 of this subarticle, the term "judicial office" includes the office
606 of justice of the Supreme Court, judge of the Court of Appeals,
607 circuit judge, chancellor, and county court judge * * *. All such
608 justices and judges shall be full-time positions and such justices
609 and judges shall not engage in the practice of law before any
610 court, administrative agency or other judicial or quasi-judicial
611 forum except as provided by law for finalizing pending cases after
612 election to judicial office.

613 **SECTION 22.** Section 23-15-977, Mississippi Code of 1972, is
614 amended as follows:

615 23-15-977. (1) All candidates for judicial office as
616 defined in Section 23-15-975 of this subarticle shall file the
617 intent to be a candidate with the proper officials not later than
618 5:00 p.m. on the first Friday after the first Monday in May prior
619 to the general election for judicial office and shall pay to the
620 proper officials the following amounts:

621 (a) Candidates for retention in the office of Supreme
622 Court Justice and judge of the Court of Appeals, the sum of Two
623 Hundred Dollars (\$200.00).

624 (b) Candidates for circuit judge and chancellor, the
625 sum of One Hundred Dollars (\$100.00).

626 (c) Candidates for county judge * * *, the sum of
627 Fifteen Dollars (\$15.00).

628 (2) Candidates for judicial offices listed in paragraphs (a)
629 and (b) of subsection (1) of this section shall file the intent to
630 stand for retention election or to be a candidate with, and pay

631 the proper assessment made pursuant to subsection (1) of this
632 section to, the State Board of Election Commissioners.

633 (3) Candidates for judicial offices listed in paragraph (c)
634 of subsection (1) of this section shall file the intent to be a
635 candidate with, and pay the proper assessment made pursuant to
636 subsection (1) of this section to, the circuit clerk of the proper
637 county. The circuit clerk shall notify the county commissioners
638 of election of all persons who have filed the intent to be a
639 candidate with, and paid the proper assessment to, such clerk.
640 Such notification shall occur within two (2) business days and
641 shall contain all necessary information.

642 **SECTION 23.** Section 23-15-991, Mississippi Code of 1972, is
643 amended as follows:

644 23-15-991. * * * (1) An election shall be held on the first
645 Tuesday after the first Monday in November immediately preceding
646 the expiration of the term of an incumbent in the Supreme Court
647 district or Court of Appeals district from which each incumbent
648 was selected, to submit his name to the eligible voters within his
649 district as to whether he shall be retained in office. If a
650 majority of those voting on the question vote to retain the
651 incumbent, the incumbent shall begin a new term of office at the
652 expiration of the current term. If a majority of those voting on
653 the question vote against retaining him in office, the vacancy
654 shall be filled as provided by law and the Mississippi
655 Constitution of 1890.

656 (2) Within the time frame prescribed by Section 23-15-977, a
657 judge of the Supreme Court or Court of Appeals may file in the
658 Office of Secretary of State a declaration of candidacy for
659 election to succeed himself in the position. If a declaration is
660 not so filed by the judge, a vacancy shall exist upon the
661 expiration of his term which shall be filled by appointment of the
662 Governor as provided in Section 9-3-4 for judges of the Supreme
663 Court and Section 9-4-5 for judges of the Court of Appeals. If a

664 declaration is filed, the judge's name shall be submitted at the
665 general election to the eligible voters within the district. The
666 ballot shall read substantially as follows:

667 "Shall Judge _____ (here the name of the judge shall
668 be inserted) of the _____ (here the title of the court,
669 district and position shall be inserted) be retained in office?
670 Yes _____ No _____"

671 If a majority of those voting on the question vote against
672 retaining the incumbent in office, upon the expiration of the
673 incumbent's term of office, a vacancy shall exist which shall be
674 filled by appointment of the Governor as provided in this section;
675 otherwise, the judge shall remain in office for the term of such
676 office, unless he vacates the office or is removed for cause. At
677 the expiration of each term, a judge of the Supreme Court or Court
678 of Appeals shall be eligible for retention in office by election
679 in the manner prescribed in this section.

680 **SECTION 24.** Section 23-15-993, Mississippi Code of 1972, is
681 amended as follows:

682 23-15-993. For the purpose of appointment and election, each
683 of the nine (9) judgeships of the Supreme Court and the ten (10)
684 judgeships of the Court of Appeals shall be considered a separate
685 office. * * *

686 **SECTION 25.** Section 23-15-995, Mississippi Code of 1972, is
687 amended as follows:

688 23-15-995. Except as may be otherwise provided by the
689 provisions of Sections 23-15-974 through 23-15-985, the general
690 laws for the election of state officers shall apply to and govern
691 the retention election of judges of the Supreme Court.

692 **SECTION 26.** The Attorney General of the State of Mississippi
693 shall submit this act, immediately upon approval by the Governor,
694 or upon approval by the Legislature subsequent to a veto, to the
695 Attorney General of the United States or to the United States
696 District Court for the District of Columbia in accordance with the

697 provisions of the Voting Rights Act of 1965, as amended and
698 extended.

699 **SECTION 27.** This act shall take effect and be in force from
700 and after January 1, 2008, provided that it is effectuated under
701 Section 5 of the Voting Rights Act of 1965, as amended and
702 extended, and further provided that the amendments to the
703 Mississippi Constitution of 1890 as proposed by Senate Concurrent
704 Resolution No. 549, 2007 Regular Session, are certified by the
705 Secretary of State as having been ratified by the people.