

By: Senator(s) Fillingane

To: Judiciary, Division A

SENATE BILL NO. 2044

1 AN ACT TO AMEND SECTION 9-1-105, MISSISSIPPI CODE OF 1972, TO
 2 EXPAND THE AUTHORITY OF THE CHIEF JUSTICE TO APPOINT SPECIAL
 3 JUDGES TO SERVE IN COUNTY COURTS TO ADDRESS OVERCROWDED COUNTY
 4 COURT DOCKETS AND TO CLARIFY THE DISCRETION OF THE CHIEF JUSTICE
 5 TO DETERMINE THE TYPE OF CASELOAD TO BE HANDLED BY A SPECIAL
 6 JUDGE; AND 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 9-1-105. (1) Whenever any judicial officer is unwilling or
 11 unable to hear a case or unable to hold or attend any of the
 12 courts at the time and place required by law by reason of the
 13 physical disability or sickness of such judicial officer, by
 14 reason of the absence of such judicial officer from the state, by
 15 reason of the disqualification of such judicial officer pursuant
 16 to the provision of Section 165, Mississippi Constitution of 1890,
 17 or any provision of the Code of Judicial Conduct, or for any other
 18 reason, the Chief Justice of the Mississippi Supreme Court, with
 19 the advice and consent of a majority of the justices of the



20 Mississippi Supreme Court, may appoint a person as a special judge
21 to hear the case or attend and hold a court.

22 (2) Upon the request of the Chief Judge of the Court of
23 Appeals * * *, the senior judge of a chancery or circuit court
24 district, the senior judge of a county court, or upon his own
25 motion, the Chief Justice of the Mississippi Supreme Court, with
26 the advice and consent of a majority of the justices of the
27 Mississippi Supreme Court, shall have the authority to appoint a
28 special judge to serve on a temporary basis in a circuit * * *,
29 chancery or county court in the event of an emergency or
30 overcrowded docket. It shall be the duty of any special judge so
31 appointed to assist the court to which he is assigned in the
32 disposition of causes so pending in such court for whatever period
33 of time is designated by the Chief Justice. The Chief Justice, in
34 his discretion, may appoint the special judge to hear particular
35 cases, a particular type of case, or a particular portion of the
36 court's docket.

37 (3) When a vacancy exists for any of the reasons enumerated
38 in Section 9-1-103, the vacancy has not been filled within seven
39 (7) days by an appointment by the Governor, and there is a pending
40 cause or are pending causes in the court where the vacancy exists
41 that in the interests of justice and in the orderly dispatch of
42 the court's business require the appointment of a special judge,
43 the Chief Justice of the Supreme Court, with the advice and
44 consent of a majority of the justices of the Mississippi Supreme



45 Court, may appoint a qualified person as a special judge to fill
46 the vacancy until the Governor makes his appointment and such
47 appointee has taken the oath of office.

48 (4) If the Chief Justice pursuant to this section shall make
49 an appointment within the authority vested in the Governor by
50 reason of Section 165, Mississippi Constitution of 1890, the
51 Governor may at his election appoint a person to so serve. In the
52 event that the Governor makes such an appointment, any appointment
53 made by the Chief Justice pursuant to this section shall be void
54 and of no further force or effect from the date of the Governor's
55 appointment.

56 (5) When a judicial officer is unwilling or unable to hear a
57 case or unable or unwilling to hold court for a period of time not
58 to exceed two (2) weeks, the trial judge or judges of the affected
59 district or county and other trial judges may agree among
60 themselves regarding the appointment of a person for such case or
61 such limited period of time. The trial judges shall submit a
62 notice to the Chief Justice of the Supreme Court informing him of
63 their appointment. If the Chief Justice does not appoint another
64 person to serve as special judge within seven (7) days after
65 receipt of such notice, the person designated in such order shall
66 be deemed appointed.

67 (6) A person appointed to serve as a special judge may be
68 any currently sitting or retired chancery, circuit or county court
69 judge, Court of Appeals judge or Supreme Court Justice, or any



70 other person possessing the qualifications of the judicial office
71 for which the appointment is made; * * * however, * * * a judge or
72 justice who was retired from service at the polls shall not be
73 eligible for appointment as a special judge in the district in
74 which he served prior to his defeat.

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

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

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

86 (10) Any currently sitting justice or judge appointed as a
87 special judge under this section shall receive no additional
88 compensation for his or her service as special judge. Any other
89 person appointed as a special judge hereunder shall, for the
90 period of his service, receive compensation from the state for
91 each day's service a sum equal to 1/260ths of the current salary
92 in effect for the judicial office; * * * however, * * * no retired
93 chancery, circuit or county court judge, retired Court of Appeals
94 judge or any retired Supreme Court Justice appointed as a special



95 judge pursuant to this section may, during any fiscal year,
96 receive compensation in excess of fifty percent (50%) of the
97 current salary in effect for a chancery or circuit court judge.
98 Any person appointed as a special judge shall be reimbursed for
99 travel expenses incurred in the performance of the official duties
100 to which he may be appointed hereunder in the same manner as other
101 public officials and employees as provided by Section 25-3-41,
102 Mississippi Code of 1972.

103 (11) If any person appointed as such special judge is
104 receiving retirement benefits by virtue of the provisions of the
105 Public Employees' Retirement Law of 1952, appearing as Sections
106 25-11-1 through 25-11-139, Mississippi Code of 1972, such benefits
107 shall not be reduced in any sum whatsoever because of such
108 service, nor shall any sum be deducted as contributions toward
109 retirement under said law.

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

113 (13) Nothing in this section shall abrogate the right of
114 attorneys engaged in a case to agree upon a member of the bar to
115 preside in a case pursuant to Section 165 of the Mississippi
116 Constitution of 1890.

117 (14) The Supreme Court shall prepare the necessary payroll
118 for special judges appointed pursuant to this section and shall



119 submit such payroll to the Department of Finance and
120 Administration.

121 (15) Special judges appointed pursuant to this section shall
122 direct requests for reimbursement for travel expenses authorized
123 pursuant to this section to the Supreme Court and the Supreme
124 Court shall submit such requests to the Department of Finance and
125 Administration. The Supreme Court shall have the power to adopt
126 rules and regulations regarding the administration of travel
127 expenses authorized pursuant to this section.

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

