

By: Senator(s) Ross

To: Judiciary; Elections

## SENATE BILL NO. 2035

1 AN ACT TO PROVIDE THAT THE GOVERNOR SHALL FILL ANY VACANCY IN  
2 AN OFFICE OF THE SUPREME COURT OR THE COURT OF APPEALS BY  
3 APPOINTMENT; TO AMEND SECTIONS 23-15-973, 23-15-991 AND 23-15-993,  
4 MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THIS ACT; TO REPEAL  
5 SECTION 23-15-995, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT  
6 THE GENERAL ELECTION LAWS SHALL APPLY TO GOVERN THE ELECTION OF  
7 JUDGES OF THE SUPREME COURT; TO AMEND SECTIONS 23-15-975,  
8 23-15-977 AND 9-4-5, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO  
9 THIS ACT; TO REPEAL SECTION 9-4-15, MISSISSIPPI CODE OF 1972,  
10 WHICH PROVIDES THAT ELECTION FOR THE OFFICE OF JUDGE OF THE COURT  
11 OF APPEALS SHALL BE HELD AT THE SAME TIMES AS GENERAL ELECTIONS  
12 FOR CONGRESSIONAL OFFICES; TO AMEND SECTION 23-15-197, MISSISSIPPI  
13 CODE OF 1972, IN CONFORMITY TO THIS ACT; TO REPEAL SECTION  
14 25-15-607, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE  
15 DETERMINATION OF THE ELECTION OF JUDGES OF THE SUPREME COURT AND  
16 COURT OF APPEALS; TO AMEND SECTION 23-15-849, MISSISSIPPI CODE OF  
17 1972, IN CONFORMITY TO THIS ACT; AND FOR RELATED PURPOSES.

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

19 SECTION 1. Section 23-15-973, Mississippi Code of 1972, is  
20 amended as follows:

21 23-15-973. It shall be the duty of the judges of the circuit  
22 court to give a reasonable time and opportunity to the candidates  
23 for the offices of \* \* \* circuit judge and chancellor to address  
24 the people during court terms. In order to give further and every  
25 possible emphasis to the fact that the said judicial offices are  
26 not political but are to be held without favor and with absolute  
27 impartiality as to all persons, and because of the jurisdiction  
28 conferred upon the courts by this chapter, the judges thereof  
29 should be as far removed as possible from any political  
30 affiliations or obligations. It shall be unlawful for any  
31 candidate for any of the offices mentioned in this section to  
32 align himself with any candidate or candidates for any other  
33 office or with any political faction or any political party at any

time during any primary or general election campaign. Likewise it shall be unlawful for any candidate for any other office nominated or to be nominated at any primary election, wherein any candidate for any of the judicial offices in this section mentioned, is or are to be nominated, to align himself with any one or more of the candidates for said offices or to take any part whatever in any nomination for any one or more of said judicial offices, except to cast his individual vote. Any candidate for any office, whether nominated with or without opposition, at any primary wherein a candidate for any one of the judicial offices herein mentioned is to be nominated who shall deliberately, knowingly and willfully violate the provisions of this section shall forfeit his nomination, or if elected at the following general election by virtue of said nomination, his election shall be void.

SECTION 2. Section 23-15-991, Mississippi Code of 1972, is amended as follows:

23-15-991. The term of office of judges of the Supreme Court shall be as provided in the Constitution and \* \* \* shall \* \* \* begin on the first Monday of January of the year in which the term of the incumbent \* \* \* expires.

SECTION 3. Section 23-15-993, Mississippi Code of 1972, is amended as follows:

23-15-993. For the purpose of appointment, each of the nine (9) judgeships of the Supreme Court shall be considered a separate office. The three (3) offices in each of the three (3) Supreme Court districts shall be designated Position Number 1, Position Number 2 and Position Number 3 \* \* \*. In Supreme Court District Number 1: Position Number 1 shall be that office for which the term ends in January 1966; Position Number 2 shall be that office for which the term ends in January 1965; and Position Number 3 shall be that office for which the term ends in January 1969. In District Number 2: Position Number 1 shall be that office for which the term ends in January 1972; Position Number 2 shall be that office for which the term ends in January 1969; and Position Number 3 shall be for that office for which the term ends in January 1973. In District Number 3: Position Number 1 shall be that office for which the term ends in January 1969; Position

Number 2 shall be that office for which the term ends in January 1969; and Position Number 3 shall be that office for which the term ends in January 1965.

SECTION 4. Section 23-15-995, Mississippi Code of 1972, which provides that the general election laws shall apply to govern the election of judges of the Supreme Court, is repealed.

SECTION 5. Section 23-15-975, Mississippi Code of 1972, is amended as follows:

23-15-975. As used in Sections 23-15-974 through 23-15-985 of this subarticle, the term "judicial office" includes the office of \* \* \* circuit judge, chancellor, county court judge and family court judge. All such \* \* \* judges shall be full-time positions and such \* \* \* judges shall not engage in the practice of law before any court, administrative agency or other judicial or quasi-judicial forum except as provided by law for finalizing pending cases after election to judicial office.

SECTION 6. Section 23-15-977, Mississippi Code of 1972, is amended as follows:

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

\* \* \*

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

(b) Candidates for county judge and family court judge, the sum of Fifteen Dollars (\$15.00).

(2) Candidates for judicial offices listed in paragraph

(a) \* \* \* of subsection (1) of this section shall file their intent to be a candidate with, and pay the proper assessment made pursuant to subsection (1) of this section to, the State Board of

Election Commissioners.

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

SECTION 7. Section 9-4-5, Mississippi Code of 1972, is amended as follows:

9-4-5. (1) The term of office of judges of the Court of Appeals shall be eight (8) years. An election shall be held on the first Tuesday after the first Monday in November 1994, to elect the ten (10) judges of the Court of Appeals, two (2) from each congressional district. The judges of the Court of Appeals shall begin service on the first Monday of January 1995.

(2) (a) In order to provide that the offices of not more than a majority of the judges of said court shall become vacant at any one time, the terms of office of six (6) of the judges first to be elected shall expire in less than eight (8) years. For the purpose of all elections of members of the court, each of the ten (10) judges of the Court of Appeals shall be considered a separate office. The two (2) offices in each of the five (5) congressional districts shall be designated Position Number 1 and Position Number 2 \* \* \*.

(i) In Congressional District Number 1, the judge of the Court of Appeals for Position Number 1 shall be that office for which the term ends January 1, 1999, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 2003.

(ii) In Congressional District Number 2, the judge

of the Court of Appeals for Position Number 1 shall be that office for which the term ends on January 1, 2003, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 2001.

(iii) In Congressional District Number 3, the judge of the Court of Appeals for Position Number 1 shall be that office for which the term ends on January 1, 2001, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 1999.

(iv) In Congressional District Number 4, the judge of the Court of Appeals for Position Number 1 shall be that office for which the term ends on January 1, 1999, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 2003.

(v) In Congressional District Number 5, the judge of the Court of Appeals for Position Number 1 shall be that office for which the term ends on January 1, 2003, and the judge of the Court of Appeals for Position Number 2 shall be that office for which the term ends January 1, 2001.

(b) Until January 1, 2000, the laws regulating the general elections shall apply to and govern the elections of judges of the Court of Appeals except as otherwise provided in Sections 23-15-974 through 23-15-985. Upon the expiration of any term of office, a vacancy shall exist which shall be filled by appointment as provided in this section.

(c) From and after January 1, 2000, the Governor shall fill vacancies in the office of judge of the Court of Appeals by appointment, subject to the advice and consent of the Senate. The appointee's term of office shall thereafter begin on the first Monday of January of the year in which the term of the incumbent \* \* \* expires, unless the vacancy arises prior to expiration of term, in which case the appointee shall serve from the time of appointment until the expiration of that term.

170           (d) Any Court of Appeals judge holding office, or  
171 elected thereto, on or after the effective date of Senate Bill No.  
172 2035, 1999 Regular Session, shall, unless removed for cause,  
173 remain in office for the term to which he was elected or  
174 appointed.

175           (3) No person shall be eligible for the office of judge of  
176 the Court of Appeals who has not attained the age of thirty (30)  
177 years at the time of his appointment and who has not been a  
178 practicing attorney and citizen of the state for five (5) years  
179 immediately preceding his appointment.

180       \* \* \*

181           SECTION 8. Section 9-4-15, Mississippi Code of 1972, which  
182 provides that general elections for the office of judge of the  
183 Court of Appeals shall be held at the same times as general  
184 elections for congressional offices, is repealed.

185           SECTION 9. Section 23-15-197, Mississippi Code of 1972, is  
186 amended as follows:

187           23-15-197. (1) Times for holding primary and general  
188 elections for congressional offices shall be as prescribed in  
189 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

190       \* \* \*

191           (2) Times for holding elections for the office of circuit  
192 court judge and the office of chancery court judge shall be as  
193 prescribed in Sections 23-15-974 through 23-15-985, and Section  
194 23-15-1015.

195           (3) Times for holding elections for the office of county  
196 election commissioners shall be as prescribed in Section  
197 23-15-213.

198           SECTION 10. Section 23-15-607, Mississippi Code of 1972,  
199 which provides for the determination of the election of judges of  
200 the Supreme Court and Court of Appeals, is repealed.

201           SECTION 11. Section 23-15-849, Mississippi Code of 1972, is  
202 amended as follows:

203           23-15-849. \* \* \* Vacancies in the office of \* \* \* circuit  
204 judge or chancellor shall be filled for the unexpired term by the  
205 qualified electors at the next regular election for state officers  
206 or for representatives in Congress occurring more than nine (9)  
207 months after the existence of the vacancy to be filled, and the  
208 term of office of the person elected to fill a vacancy shall  
209 commence on the first Monday in January following his election.  
210 Upon the occurring of such a vacancy, the Governor shall appoint a  
211 qualified person from the district in which the vacancy exists to  
212 hold the office and discharge the duties thereof until the vacancy  
213 shall be filled by election as hereinabove provided.

214       \* \* \*

215           SECTION 12. The Attorney General of the State of Mississippi  
216 is hereby directed to submit this act, immediately upon approval  
217 by the Governor, or upon approval by the Legislature subsequent to  
218 a veto, to the Attorney General of the United States or to the  
219 United States District Court for the District of Columbia in  
220 accordance with the provisions of the Voting Rights Act of 1965,  
221 as amended and extended.

222           SECTION 13. This act shall take effect and be in force  
223 either on the date it is effectuated under Section 5 of the Voting  
224 Rights Act of 1965, as amended and extended, or from and after  
225 January 1, 2000, whichever is later, provided that the amendments  
226 to the Mississippi Constitution of 1890 as proposed by Senate  
227 Concurrent Resolution No. 509, 1999 Regular Session, are certified  
228 by the Secretary of State as having been ratified by the people.