

By: Chaney

To: Judiciary

SENATE BILL NO. 2911

1 AN ACT TO AMEND SECTION 21-31-23, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE PERIOD OF TIME WITHIN WHICH A SUSPENSION OF CIVIL  
3 SERVANTS MUST BE CONFIRMED; AND FOR RELATED PURPOSES.

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

5 SECTION 1. Section 21-31-23, Mississippi Code of 1972, is  
6 amended as follows:[CSQ1]

7 21-31-23. No person in the classified civil service who  
8 shall have been permanently appointed or inducted into civil  
9 service under the provisions of Sections 21-31-1 through 21-31-27,  
10 except for such persons as may be employed to fill a vacancy  
11 caused by the absence of a fireman or policeman while in service  
12 as a member of the Armed Forces of the United States, shall be  
13 removed, suspended, demoted or discharged, or any combination  
14 thereof, except for cause, and only upon the written accusation of  
15 the appointing power or any citizen or taxpayer, a written  
16 statement of which accusation, in general terms, shall be served  
17 upon the accused, and a duplicate filed with the commission. The  
18 chiefs of the fire and/or police department may suspend a member  
19 pending the confirmation of the suspension by the regular  
20 appointing power, which shall be within ten (10) days.

21 In the absence of extraordinary circumstances or situations,  
22 before any such employee may be removed or discharged, he shall be  
23 given written notice of the intended termination, which notice  
24 shall state the reasons for termination and inform the employee  
25 that he has the right to respond in writing to the reasons given  
26 for termination within a reasonable time and respond orally before

27 the official charged with the responsibility of making the  
28 termination decision. Such official may, in his discretion,  
29 provide for a pretermination hearing and examination of witnesses,  
30 and if a hearing is to be held, the notice to the employee shall  
31 also set the time and place of such hearing. A duplicate of such  
32 notice shall be filed with the commission. After the employee has  
33 responded or has failed to respond within a reasonable time, the  
34 official charged with the responsibility of making the termination  
35 decision shall determine the appropriate disciplinary action, and  
36 shall notify the employee of his decision in writing at the  
37 earliest practicable date.

38 Where there are extraordinary circumstances or situations  
39 which require the immediate discharge or removal of an employee,  
40 such employee may be terminated without a pretermination hearing  
41 as required by this section, but such employee shall be given  
42 written notice of the specific reasons for termination within  
43 twenty-four (24) hours after the termination, and shall be given  
44 an opportunity for a hearing similar to the pretermination hearing  
45 provided in this section within twenty (20) days after the date of  
46 termination. For the purposes of this section, extraordinary  
47 situations or circumstances include, but are not limited to,  
48 circumstances where retention of the employee would result in  
49 damage to municipal property, would be detrimental to the interest  
50 of municipal government or would result in injury to the employee,  
51 to a fellow employee or to the general public.

52 Any person so removed, suspended, demoted, discharged or  
53 combination thereof may, within ten (10) days from the time of  
54 such disciplinary action, file with the commission a written  
55 demand for an investigation, whereupon the commission shall  
56 conduct such investigation. The investigation shall be confined  
57 to the determination of the question of whether such disciplinary  
58 action was or was not made for political or religious reasons and  
59 was or was not made in good faith for cause. After such  
60 investigation the commission may, if in its estimation the  
61 evidence is conclusive, affirm the disciplinary action, or if it  
62 shall find that the disciplinary action was made for political or  
63 religious reasons, or was not made in good faith for cause, shall

64 order the immediate reinstatement or reemployment of such person  
65 in the office, place, position, or employment from which such  
66 person was removed, suspended, demoted, discharged or combination  
67 thereof, which reinstatement shall, if the commission so provides  
68 in its discretion, be retroactive, and entitle such person to pay  
69 or compensation from the time of such disciplinary action. The  
70 commission upon such investigation may, in lieu of affirming the  
71 disciplinary action, modify the order of removal, suspension,  
72 demotion, discharge or combination thereof by directing a  
73 suspension, without pay, for a given period and subsequent  
74 restoration of duty, or by directing a demotion in classification,  
75 grade or pay, or by any combination thereof. The findings of the  
76 commission shall be certified in writing to the appointing power,  
77 and shall be forthwith enforced by such officer.

78 All investigations made by the commission pursuant to the  
79 provisions of this section shall be by public hearing, after  
80 reasonable written notice to the accused of the time and place of  
81 such hearing, at which hearing the accused shall be afforded an  
82 opportunity of appearing in person and by counsel, and presenting  
83 his defense. The findings of the commission shall be conclusive  
84 and binding unless either the accused or the municipality shall,  
85 within thirty (30) days from the date of the entry of such  
86 judgment or order on the minutes of the commission and  
87 notification to the accused and the municipality, appeal to the  
88 circuit court of the county within which the municipality is  
89 located. Any appeal of the judgment or order of the commission  
90 shall not act as a supersedeas of such judgment or order, but the  
91 judgment or order shall remain in effect pending a final  
92 determination of the matter on appeal. Such appeal shall be taken  
93 by serving the commission and the appellee, within thirty (30)  
94 days after the entry of such judgment or order, a written notice  
95 of appeal, stating the grounds thereof, and demanding that a  
96 certified transcript of the record and of all papers on file in

97 the office of the commission affecting or relating to such  
98 judgment or order, be filed by the commission with such court.  
99 The commission shall, within thirty (30) days after the filing of  
100 such notice, make, certify and file such transcript with such  
101 court. The said circuit court shall thereupon proceed to hear and  
102 determine such appeal. However, such hearing shall be confined to  
103 the determination of whether the judgment or order of removal,  
104 discharge, demotion, suspension or combination thereof made by the  
105 commission, was or was not made in good faith for cause, and no  
106 appeal to such court shall be taken except upon such ground or  
107 grounds.

108 SECTION 2. This act shall take effect and be in force from  
109 and after its passage.