

By: Senator(s) Ross

To: Judiciary; Elections

SENATE BILL NO. 2426

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 CREATE SECTION 9-3-4, MISSISSIPPI CODE OF 1972, TO  
 4 SET THE TERM AND EXPIRATION OF OFFICES OF SUPREME COURT JUSTICES;  
 5 TO AMEND SECTIONS 23-15-973, 23-15-975, 23-15-977, 9-4-5,  
 6 23-15-197 AND 23-15-849, MISSISSIPPI CODE OF 1972, IN CONFORMITY  
 7 TO THIS ACT; TO REPEAL SECTION 9-4-15, MISSISSIPPI CODE OF 1972,  
 8 WHICH PROVIDES THAT ELECTION FOR THE OFFICE OF JUDGE OF THE COURT  
 9 OF APPEALS SHALL BE HELD AT THE SAME TIME AS GENERAL ELECTIONS FOR  
 10 CONGRESSIONAL OFFICES; TO REPEAL SECTION 23-15-607, MISSISSIPPI  
 11 CODE OF 1972, WHICH PROVIDES FOR THE DETERMINATION OF THE ELECTION  
 12 OF JUDGES OF THE SUPREME COURT AND COURT OF APPEALS; TO REPEAL  
 13 SECTION 23-15-991, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THAT  
 14 THE TERM OF OFFICE OF JUSTICES OF THE SUPREME COURT SHALL BE 8  
 15 YEARS; TO REPEAL SECTION 23-15-993, MISSISSIPPI CODE OF 1972,  
 16 WHICH SETS THE TERMS OF OFFICE FOR JUSTICES OF THE SUPREME COURT;  
 17 TO REPEAL SECTION 23-15-995, MISSISSIPPI CODE OF 1972, WHICH  
 18 PROVIDES THAT THE GENERAL ELECTION LAWS SHALL APPLY TO GOVERN THE  
 19 ELECTION OF JUDGES OF THE SUPREME COURT; AND FOR RELATED PURPOSES.

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

21 SECTION 1. The following shall be codified as Section 9-3-4,  
 22 Mississippi Code of 1972:

23 9-3-4. The term of office of judges of the Supreme Court  
 24 shall be as provided in the Constitution of 1890 and shall begin  
 25 on the first Monday of January of the year in which the term of  
 26 the incumbent expires. Each of the nine (9) judgeships of the  
 27 Supreme Court shall be considered a separate office. The three  
 28 (3) offices in each of the three (3) Supreme Court districts shall  
 29 be designated Position Number 1, Position Number 2 and Position  
 30 Number 3. In Supreme Court District Number 1: Position Number 1  
 31 shall be that office for which the term ends in January 1966;  
 32 Position Number 2 shall be that office for which the term ends in  
 33 January 1965; and Position Number 3 shall be that office for which  
 34 the term ends in January 1969. In District Number 2: Position

35 Number 1 shall be that office for which the term ends in January  
36 1972; Position Number 2 shall be that office for which the term  
37 ends in January 1969; and Position Number 3 shall be that office  
38 for which the term ends in January 1973. In District Number 3:  
39 Position Number 1 shall be that office for which the term ends in  
40 January 1969; Position Number 2 shall be that office for which the  
41 term ends in January 1969; and Position Number 3 shall be that  
42 office for which the term ends in January 1965.

43 SECTION 2. Section 23-15-973, Mississippi Code of 1972, is  
44 amended as follows:

45 23-15-973. It shall be the duty of the judges of the circuit  
46 court to give a reasonable time and opportunity to the candidates  
47 for the office of \* \* \* circuit judge and chancellor to address  
48 the people during court terms. In order to give further and every  
49 possible emphasis to the fact that the said judicial offices are  
50 not political but are to be held without favor and with absolute  
51 impartiality as to all persons, and because of the jurisdiction  
52 conferred upon the courts by this chapter, the judges thereof  
53 should be as far removed as possible from any political  
54 affiliations or obligations. It shall be unlawful for any  
55 candidate for any of the offices mentioned in this section to  
56 align himself with any candidate or candidates for any other  
57 office or with any political faction or any political party at any  
58 time during any primary or general election campaign. Likewise it  
59 shall be unlawful for any candidate for any other office nominated  
60 or to be nominated at any primary election, wherein any candidate  
61 for any of the judicial offices in this section mentioned, is or  
62 are to be nominated, to align himself with any one or more of the  
63 candidates for said offices or to take any part whatever in any  
64 nomination for any one or more of said judicial offices, except to  
65 cast his individual vote. Any candidate for any office, whether  
66 nominated with or without opposition, at any primary wherein a  
67 candidate for any one of the judicial offices herein mentioned is

68 to be nominated who shall deliberately, knowingly and willfully  
69 violate the provisions of this section shall forfeit his  
70 nomination, or if elected at the following general election by  
71 virtue of said nomination, his election shall be void.

72 SECTION 3. Section 23-15-975, Mississippi Code of 1972, is  
73 amended as follows:

74 23-15-975. As used in Sections 23-15-974 through 23-15-985  
75 of this subarticle, the term "judicial office" includes the office  
76 of \* \* \* circuit judge, chancellor, county court judge and family  
77 court judge. All such \* \* \* judges shall be full-time positions  
78 and such \* \* \* judges shall not engage in the practice of law  
79 before any court, administrative agency or other judicial or  
80 quasi-judicial forum except as provided by law for finalizing  
81 pending cases after election to judicial office.

82 SECTION 4. Section 23-15-977, Mississippi Code of 1972, is  
83 amended as follows:

84 23-15-977. (1) All candidates for judicial office as  
85 defined in Section 23-15-975 of this subarticle shall file the  
86 intent to be a candidate with the proper officials not later than  
87 5:00 p.m. on the first Friday after the first Monday in May prior  
88 to the general election for judicial office and shall pay to the  
89 proper officials the following amounts:

90 \* \* \*

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

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

95 (2) Candidates for judicial offices listed in paragraph

96 (a) \* \* \* of subsection (1) of this section shall file the intent  
97 to be a candidate with, and pay the proper assessment made  
98 pursuant to subsection (1) of this section to, the State Board of  
99 Election Commissioners.

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

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

111 9-4-5. (1) The term of office of judges of the Court of  
112 Appeals shall be eight (8) years. An election shall be held on  
113 the first Tuesday after the first Monday in November 1994, to  
114 elect the ten (10) judges of the Court of Appeals, two (2) from  
115 each congressional district. The judges of the Court of Appeals  
116 shall begin service on the first Monday of January 1995.

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

126 (i) In Congressional District Number 1, the judge  
127 of the Court of Appeals for Position Number 1 shall be that office  
128 for which the term ends in January \* \* \* 1999, and the judge of  
129 the Court of Appeals for Position Number 2 shall be that office  
130 for which the term ends in January \* \* \* 2003.

131 (ii) In Congressional District Number 2, the judge  
132 of the Court of Appeals for Position Number 1 shall be that office

133 for which the term ends in January \* \* \* 2003, and the judge of  
134 the Court of Appeals for Position Number 2 shall be that office  
135 for which the term ends in January \* \* \* 2001.

136 (iii) In Congressional District Number 3, the  
137 judge of the Court of Appeals for Position Number 1 shall be that  
138 office for which the term ends in January \* \* \* 2001, and the  
139 judge of the Court of Appeals for Position Number 2 shall be that  
140 office for which the term ends in January \* \* \* 1999.

141 (iv) In Congressional District Number 4, the judge  
142 of the Court of Appeals for Position Number 1 shall be that office  
143 for which the term ends in January \* \* \* 1999, and the judge of  
144 the Court of Appeals for Position Number 2 shall be that office  
145 for which the term ends in January \* \* \* 2003.

146 (v) In Congressional District Number 5, the judge  
147 of the Court of Appeals for Position Number 1 shall be that office  
148 for which the term ends in January \* \* \* 2003, and the judge of  
149 the Court of Appeals for Position Number 2 shall be that office  
150 for which the term ends in January \* \* \* 2001.

151 (b) Upon the expiration of any term of office, a  
152 vacancy shall exist which shall be filled by appointment as  
153 provided in this section.

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

162 (d) Any Court of Appeals judge holding office on the  
163 first Monday in January 2003, shall remain in office for the term  
164 to which he was elected or appointed unless removed for cause.

165           (3) \* \* \* To be eligible for the office of judge of the  
166 Court of Appeals, a person must have attained the age of thirty  
167 (30) years \* \* \* and have been a practicing attorney and citizen  
168 of the state for five (5) years immediately preceding his  
169 appointment.

170           \* \* \*

171           SECTION 6. Section 23-15-197, Mississippi Code of 1972, is  
172 amended as follows:

173           23-15-197. (1) Times for holding primary and general  
174 elections for congressional offices shall be as prescribed in  
175 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

176           \* \* \*

177           (2) Times for holding elections for the office of circuit  
178 court judge and the office of chancery court judge shall be as  
179 prescribed in Sections 23-15-974 through 23-15-985, and Section  
180 23-15-1015.

181           (3) Times for holding elections for the office of county  
182 election commissioners shall be as prescribed in Section  
183 23-15-213.

184           SECTION 7. Section 23-15-849, Mississippi Code of 1972, is  
185 amended as follows:

186           23-15-849. \* \* \* Vacancies in the office of \* \* \* circuit  
187 judge or chancellor shall be filled for the unexpired term by the  
188 qualified electors at the next regular election for state officers  
189 or for representatives in Congress occurring more than nine (9)  
190 months after the existence of the vacancy to be filled, and the  
191 term of office of the person elected to fill a vacancy shall  
192 commence on the first Monday in January following his election.  
193 Upon the occurring of such a vacancy, the Governor shall appoint a  
194 qualified person from the district in which the vacancy exists to  
195 hold the office and discharge the duties thereof until the vacancy  
196 shall be filled by election as hereinabove provided.

197           \* \* \*

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

202 SECTION 9. Section 23-15-607, Mississippi Code of 1972,  
203 which provides for the determination of the election of judges of  
204 the Supreme Court and Court of Appeals, is repealed.

205 SECTION 10. Section 23-15-991, Mississippi Code of 1972,  
206 which provides that the term of office of judges of the Supreme  
207 Court shall be eight (8) years, is repealed.

208 SECTION 11. Section 23-15-993, Mississippi Code of 1972,  
209 which sets the terms of office of judges of the Supreme Court, is  
210 repealed.

211 SECTION 12. Section 23-15-995, Mississippi Code of 1972,  
212 which provides that the general election laws shall apply to  
213 govern the election of judges of the Supreme Court, is repealed.

214 SECTION 13. The Attorney General of the State of Mississippi  
215 shall submit this act, immediately upon approval by the Governor,  
216 or upon approval by the Legislature subsequent to a veto, to the  
217 Attorney General of the United States or to the United States  
218 District Court for the District of Columbia in accordance with the  
219 provisions of the Voting Rights Act of 1965, as amended and  
220 extended.

221 SECTION 14. This act shall take effect and be in force  
222 either on the date it is effectuated under Section 5 of the Voting  
223 Rights Act of 1965, as amended and extended, or from and after  
224 January 1, 2003, whichever is later, provided that the amendments  
225 to the Mississippi Constitution of 1890 as proposed by Senate  
226 Concurrent Resolution No. 523, 2001 Regular Session, are certified  
227 by the Secretary of State as having been ratified by the people.