

By: Representative McBride

To: Judiciary A;
Apportionment and Elections

HOUSE BILL NO. 494

1 AN ACT TO AMEND SECTIONS 23-15-197, 23-15-973, 23-15-975,
2 23-15-977, 23-15-991 AND 23-15-993, MISSISSIPPI CODE OF 1972, TO
3 PROVIDE THAT JUDGES OF THE SUPREME COURT SHALL BE APPOINTED WITH
4 THE ADVICE AND CONSENT OF THE SENATE AT THE END OF THE CURRENT
5 TERMS AND EVERY EIGHT YEARS THEREAFTER; TO PROVIDE AN ELECTION AT
6 THE END OF A TERM TO DETERMINE IF AN INCUMBENT JUDGE IS TO BE
7 RETAINED OR REMOVED AND A SUCCESSOR APPOINTED; TO REPEAL SECTION
8 23-15-995, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE
9 APPLICABILITY OF ELECTION LAWS TO THE ELECTION OF JUDGES OF THE
10 SUPREME COURT; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 23-15-197, Mississippi Code of 1972, is
13 amended as follows:

14 23-15-197. (1) Times for holding primary and general
15 elections for congressional offices shall be as prescribed in
16 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

17 * * *

18 (2) Times for holding elections for the office of circuit
19 court judge and the office of chancery court judge shall be as
20 prescribed in Sections 23-15-974 through 23-15-985, and Section
21 23-15-1015.

22 (3) Times for holding elections for the office of county
23 election commissioners shall be as prescribed in Section
24 23-15-213.

25 **SECTION 2.** Section 23-15-973, Mississippi Code of 1972, is
26 amended as follows:

27 23-15-973. It shall be the duty of the judges of the circuit
28 court to give a reasonable time and opportunity to the candidates
29 for the office of * * * judges of the Court of Appeals, circuit
30 judge and chancellor to address the people during court terms. In
31 order to give further and every possible emphasis to the fact that

32 the said judicial offices are not political but are to be held
33 without favor and with absolute impartiality as to all persons,
34 and because of the jurisdiction conferred upon the courts by this
35 chapter, the judges thereof should be as far removed as possible
36 from any political affiliations or obligations. It shall be
37 unlawful for any candidate for any of the offices mentioned in
38 this section to align himself with any candidate or candidates for
39 any other office or with any political faction or any political
40 party at any time during any primary or general election campaign.
41 Likewise it shall be unlawful for any candidate for any other
42 office nominated or to be nominated at any primary election,
43 wherein any candidate for any of the judicial offices in this
44 section mentioned, is or are to be nominated, to align himself
45 with any one or more of the candidates for said offices or to take
46 any part whatever in any nomination for any one or more of said
47 judicial offices, except to cast his individual vote. Any
48 candidate for any office, whether nominated with or without
49 opposition, at any primary wherein a candidate for any one of the
50 judicial offices herein mentioned is to be nominated who shall
51 deliberately, knowingly and willfully violate the provisions of
52 this section shall forfeit his nomination, or if elected at the
53 following general election by virtue of said nomination, his
54 election shall be void.

55 **SECTION 3.** Section 23-15-975, Mississippi Code of 1972, is
56 amended as follows:

57 23-15-975. As used in Sections 23-15-974 through 23-15-985
58 of this subarticle, the term "judicial office" includes the office
59 of * * * judge of the Court of Appeals, circuit judge, chancellor,
60 county court judge and family court judge. All such * * * judges
61 shall be full-time positions and such * * * judges shall not
62 engage in the practice of law before any court, administrative
63 agency or other judicial or quasi-judicial forum except as

64 provided by law for finalizing pending cases after election to
65 judicial office.

66 **SECTION 4.** Section 23-15-977, Mississippi Code of 1972, is
67 amended as follows:

68 23-15-977. (1) All candidates for judicial office as
69 defined in Section 23-15-975 of this subarticle shall file their
70 intent to be a candidate with the proper officials not later than
71 5:00 p.m. on the first Friday after the first Monday in May prior
72 to the general election for judicial office and shall pay to the
73 proper officials the following amounts:

74 (a) Candidates for * * * Court of Appeals judge, the
75 sum of Two Hundred Dollars (\$200.00).

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

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

80 (2) Candidates for judicial offices listed in paragraphs (a)
81 and (b) of subsection (1) of this section shall file their intent
82 to be a candidate with, and pay the proper assessment made
83 pursuant to subsection (1) of this section to, the State Board of
84 Election Commissioners.

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

94 **SECTION 5.** Section 23-15-991, Mississippi Code of 1972, is
95 amended as follows:

96 23-15-991. (1) The term of office of judges of the Supreme
97 Court shall be eight (8) years. Concurrently with the regular
98 election for representatives in Congress, held next preceding the
99 expiration of the term of an incumbent, and likewise each eighth
100 year thereafter, an election shall be held in the Supreme Court
101 district from which such incumbent was elected at which there
102 shall be elected a successor to the incumbent, whose term of
103 office shall thereafter begin on the first Monday of January of
104 the year in which the term of the incumbent he succeeds expires.
105 At the end of the current terms of the judges of the Supreme
106 Court, the Governor shall appoint a successor with the advice and
107 consent of the Senate who shall serve for a term of eight (8)
108 years and successors shall be retained or appointed with the
109 advice and consent of the Senate from thereafter as provided in
110 this section.

111 (2) In the year before the expiration of the term of an
112 incumbent, and likewise each eighth year thereafter, an election
113 shall be held at the general election in the Supreme Court
114 district from which the incumbent Supreme Court judge was elected
115 or appointed in which the qualified electors shall vote to retain
116 or remove the judge. If a majority of the qualified electors vote
117 in favor of retaining a judge, the judge shall serve for another
118 term. If a majority of the qualified electors vote in favor of
119 removing a judge, the judge shall serve until the end of the term
120 and the Governor shall appoint a successor to the incumbent, whose
121 term of office shall thereafter begin on the first Monday of
122 January of the year in which the term of the incumbent he succeeds
123 expires.

124 **SECTION 6.** Section 23-15-993, Mississippi Code of 1972, is
125 amended as follows:

126 23-15-993. For the purpose of all appointments, each of the
127 nine (9) judgeships of the Supreme Court shall be considered a
128 separate office. The three (3) offices in each of the three (3)

129 Supreme Court districts shall be designated Position Number 1,
130 Position Number 2 and Position Number 3 * * *. In Supreme Court
131 District Number 1: Position Number 1 shall be that office for
132 which the term ends in January 1966; Position Number 2 shall be
133 that office for which the term ends in January 1965; and Position
134 Number 3 shall be that office for which the term ends in January
135 1969. In District Number 2: Position Number 1 shall be that
136 office for which the term ends in January 1972; Position Number 2
137 shall be that office for which the term ends in January 1969; and
138 Position Number 3 shall be for that office for which the term ends
139 in January 1973. In District Number 3: Position Number 1 shall
140 be that office for which the term ends in January 1969; Position
141 Number 2 shall be that office for which the term ends in January
142 1969; and Position Number 3 shall be that office for which the
143 term ends in January 1965.

144 **SECTION 7.** Section 23-15-995, Mississippi Code of 1972,
145 which provides for the applicability of election laws to the
146 election of judges of the Supreme court, is repealed.

147 **SECTION 8.** The Attorney General of the State of Mississippi
148 shall submit this act, immediately upon approval by the Governor,
149 or upon approval by the Legislature subsequent to a veto, to the
150 Attorney General of the United States or to the United States
151 District Court for the District of Columbia in accordance with the
152 provisions of the Voting Rights Act of 1965, as amended and
153 extended.

154 **SECTION 9.** This act shall take effect and be in force from
155 and after the date it and House Concurrent Resolution No. ____,
156 2004 Regular Session, are effectuated under Section 5 of the
157 Voting Rights Act of 1965, as amended and extended.