

By: Senator(s) Little

To: Rules

SENATE RESOLUTION NO. 2

1 A RESOLUTION TO ESTABLISH THE PROCEDURES TO BE FOLLOWED IN
2 THE ELECTION CONTEST FOR MISSISSIPPI SENATE DISTRICT 29 FILED WITH
3 THE SECRETARY OF THE SENATE BY RICHARD WHITE.

4 WHEREAS, on or about November 25, 2003, the Hinds County
5 Commissioners of Election certified the election of Dwayne Thomas
6 as Senator for Mississippi Senate District 29; and

7 WHEREAS, on December 5, 2003, Richard White filed with the
8 Secretary of the Senate a Petition to Contest the Election for
9 Mississippi State Senate District 29; and

10 WHEREAS, Section 38, Mississippi Constitution of 1890,
11 provides that each house of the Legislature "...shall judge of the
12 qualification, return and election of its own members"; and

13 WHEREAS, the Senate has adopted no rule establishing
14 procedures to govern election contests of Senate seats, and the
15 Mississippi Legislature has adopted no statutes governing the
16 specific procedures involved in handling the contest of an
17 election other than Sections 23-15-955 and 23-15-957; and

18 WHEREAS, Section 23-15-955 provides that the legislative
19 resolution of election contests involving Senate and House of
20 Representative seats "...shall be conducted in accordance with
21 procedures and precedents established by the House of
22 Representatives or the Senate as the case may be. Such procedures
23 and precedents may be found in the Journals of the House of
24 Representatives and of the State Senate and/or in the published
25 Rules of the House of Representatives and of the State Senate";
26 and

27 WHEREAS, the Senate has the authority to establish procedures
28 for the handling of election contests pursuant to Section 38,
29 Mississippi Constitution of 1890, and Section 23-15-955:

30 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF
31 MISSISSIPPI, That effective upon the adoption of this resolution,
32 the procedure for resolving the contest of the election in Senate
33 District 29 shall be as follows:

34 (1) The Lieutenant Governor shall appoint a special
35 committee to investigate the election contest and make
36 recommendations to the Senate regarding the resolution of the
37 contest. The special committee shall be composed of one (1)
38 member of the Senate from each congressional district and one (1)
39 member of the Senate appointed from the state at large. As soon
40 as practicable, the committee shall meet to review the election
41 contest.

42 (2) (a) The special committee may allow either party to the
43 election contest to obtain discovery regarding any matter, not
44 privileged, which is relevant to the particular grounds stated in
45 the election contest or any response thereto.

46 (b) If discovery is allowed, all forms of discovery
47 shall be completed within time limits set by the special
48 committee.

49 (3) The special committee shall meet as soon as practicable
50 after the adoption of this resolution. The resolution of the
51 election contest shall be a matter of the highest priority for the
52 Senate, and any conflicts in scheduling meetings of the special
53 committee shall be resolved in favor of expediting the committee's
54 work on the election contest. The special committee shall have
55 the power to investigate all facts concerning the election or
56 qualifications of any member or contestant, but shall not place
57 itself in the position of investigating matters not alleged in the
58 election contest or any response thereto. It also shall have the
59 power to issue subpoenas and compel the attendance of witnesses

60 and the production of such documents or papers as may be required
61 as provided for in Section 23-15-957.

62 (4) The committee shall conclude its deliberations, file a
63 report of its findings with the Secretary of the Senate and report
64 a resolution containing its recommendations to resolve the
65 election contest by not later than Thursday, January 15, 2004,
66 unless the special committee determines, by a majority vote, that
67 circumstances require an extension of the reporting deadline to a
68 later date. Dissenting members of the special committee may file
69 a minority report with the Secretary of the Senate by not later
70 than the date the special committee files the report of its
71 findings. The resolution, once reported to the Senate, shall be
72 subject to amendment and shall be adopted by a majority vote of
73 those present and voting. The resolution adopted by the Senate
74 may contain the following remedies:

75 (a) The permanent seating of the person who was
76 certified;

77 (b) The permanent seating of the petitioner in the
78 election contest;

79 (c) A declaration that the office of Senator for the
80 district as vacant;

81 (d) An order requiring a new election for the district
82 or for certain precincts in the district, as appropriate; or

83 (e) Any other remedy including those that are available
84 to the courts in cases involving an election contest.

85 (5) If a party to the election contest is permanently
86 seated, the person shall receive the regular compensation and
87 expenses of a member of the Senate and be entitled to all rights
88 and privileges of the office of Senator, including, but not
89 limited to, seniority, retroactive to the beginning of the
90 session.