MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Senator(s) Parker

To: Accountability, Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2196

AN ACT TO AMEND SECTION 7-1-35, MISSISSIPPI CODE OF 1972, TO REQUIRE THE GOVERNOR TO MAKE APPOINTMENTS TO FILL CERTAIN VACANT OFFICES WITHIN 180 DAYS FROM THE DATE OF THE VACANCY; TO PROVIDE THAT IF SUCH APPOINTMENT IS NOT MADE WITHIN 180 DAYS OF THE DATE OF THE VACANCY, THE POWER TO APPOINT SHALL TRANSFER; TO CREATE NEW SECTION 7-1-36, MISSISSIPPI CODE OF 1972, TO REQUIRE THE LIEUTENANT GOVERNOR TO MAKE APPOINTMENTS TO FILL CERTAIN VACANT OFFICES WITHIN 180 DAYS FROM THE DATE OF THE VACANCY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 7-1-35, Mississippi Code of 1972, is amended as follows:

7-1-35. (1) The Governor shall fill by appointment, with the advice and consent of the Senate, all offices subject to such appointment when the term of the incumbent will expire within nine (9) months after the meeting of the Legislature, and also vacancies in such offices occurring from any cause during the session of the Senate or during the vacation of that body. All such appointments to offices made in vacation shall be reported to the Senate within ten (10) days after the commencement of the session of that body for its advice and consent to the

appointment, and the vacancy shall not be filled if caused by the Senate's refusal to confirm any appointment or nomination, or if it does not occur during the last five (5) days of the session, by the appointment of the Governor in the vacation of the Senate, without its concurrence. Any appointment in vacation to which the Senate shall refuse to consent shall be thereby annulled from that date, but the acts of the appointee prior thereto shall not be affected thereby.

(2) (a) In recognition of the importance of the continuity of government during regular and extraordinary times, the Governor shall have one hundred eighty (180) days from the date of the vacancy to make an appointment to any board, commission or judicial office, including, but not limited to, those made with the advice and consent of the Senate. If the Governor fails to make the appointment within one hundred eighty (180) days of the date of the vacancy, the power to appoint shall transfer to the Lieutenant Governor. If the Lieutenant Governor fails to make the appointment within ninety (90) days, the power to appoint shall transfer back to the Governor, who shall make the appointment as soon as practicable.

(b) The provisions of this subsection (2) shall not apply to any appointment to the State Board of Education or the Board of Trustees of State Institutions of Higher Learning, as provided in the Mississippi Constitution, nor to any office for

which a contingency for the Governor's failure to make an appointment or fill a vacancy is provided by another statute.

SECTION 2. The following shall be codified as Section 7-1-36, Mississippi Code of 1972:

7-1-36. (1) In recognition of the importance of the continuity of government during regular and extraordinary times, the Lieutenant Governor shall have one hundred eighty (180) days from the date of the vacancy to make an appointment to any board, commission or judicial office, including, but not limited to, those made with the advice and consent of the Senate. If the Lieutenant Governor does not make an appointment within one hundred eighty (180) days of the date of the vacancy, the power to appoint shall transfer to the Governor. If the Governor fails to make the appointment within ninety (90) days, the power to appoint shall transfer back to the Lieutenant Governor, who shall make the appointment as soon as practicable.

(2) The provisions of this section shall not apply to any appointment to the State Board of Education or the Board of Trustees of State Institutions of Higher Learning, as provided in the Mississippi Constitution, nor to any office for which a contingency for the Lieutenant Governor's failure to make an appointment or fill a vacancy is provided by another statute.

SECTION 3. This act shall take effect and be in force from and after July 1, 2021, and shall stand repealed on June 30, 2021.