

By: Representative Blackmon

To: Judiciary A

## HOUSE BILL NO. 313

1 AN ACT TO AMEND SECTIONS 23-15-951 AND 23-15-955, MISSISSIPPI  
2 CODE OF 1972, TO CLARIFY THAT THE MISSISSIPPI STATE LEGISLATURE  
3 SHALL HAVE EXCLUSIVE JURISDICTION OVER AN ELECTION CONTEST  
4 REGARDING THE SEAT OF ANY MEMBER OF THE LEGISLATURE; TO AMEND  
5 SECTION 23-15-957, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE  
6 HOUSE OF REPRESENTATIVES OR THE SENATE, OR ANY COMMITTEE THEREOF,  
7 TO ISSUE SUBPOENAS CONCERNING SUCH ELECTION CONTESTS; TO BRING  
8 FORWARD SECTION 23-15-951, MISSISSIPPI CODE OF 1972, WHICH RELATES  
9 TO EXAMINATION OF BALLOT BOXES BY CANDIDATES, FOR THE PURPOSES OF  
10 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

12 SECTION 1. Section 23-15-951, Mississippi Code of 1972, is  
13 amended as follows:

14 23-15-951. Except as otherwise provided by Section 23-15-955  
15 or 23-15-961, a person desiring to contest the election of another  
16 person returned as elected to any office within any county, may,  
17 within twenty (20) days after the election, file a petition in the  
18 office of the clerk of the circuit court of the county, setting  
19 forth the grounds upon which the election is contested; and the  
20 clerk shall thereupon issue a summons to the party whose election  
21 is contested, returnable to the next term of the court, which  
22 summons shall be served as in other cases; and the court shall, at  
23 the first term, cause an issue to be made up and tried by a jury,  
24 and the verdict of the jury shall find the person having the  
25 greatest number of legal votes at the election. If the jury shall  
26 find against the person returned elected, the clerk shall issue a  
27 certificate thereof; and the person in whose favor the jury shall  
28 find shall be commissioned by the Governor, and shall qualify and  
29 enter upon the duties of his office. Each party shall be allowed  
30 ten (10) peremptory challenges, and new trials shall be granted

31 and costs awarded as in other cases. In case the election of  
32 district attorney or other state district election be contested,  
33 the petition may be filed in any county of the district or in any  
34 county of an adjoining district within twenty (20) days after the  
35 election, and like proceedings shall be had thereon as in the case  
36 of county officers, and the person found to be entitled to the  
37 office shall qualify as required by law and enter upon the duties  
38 of his office.

39 A person desiring to contest the election of another person  
40 returned as elected to any seat in the Mississippi Legislature  
41 shall comply with the provisions of Section 23-15-955. A person  
42 desiring to contest the qualifications of a candidate for  
43 nomination in a political party primary election shall comply with  
44 the provisions of Section 23-15-961.

45 SECTION 2. Section 23-15-955, Mississippi Code of 1972, is  
46 amended as follows:

47 23-15-955. Except as otherwise provided by Section  
48 23-15-961, the person contesting the seat of any member of the  
49 Senate or House of Representatives shall comply with the  
50 provisions of this section. Section 38, Mississippi Constitution  
51 of 1890, provides that each house of the Mississippi State  
52 Legislature shall judge the qualifications, return and election of  
53 its membership. Pursuant to that authority, the House of  
54 Representatives shall have exclusive jurisdiction over an election  
55 contest regarding the seat of any member of the House of  
56 Representatives, and the Senate shall have exclusive jurisdiction  
57 over an election contest regarding the seat of any member of the  
58 Senate. An election contest regarding the seat of a member of the  
59 House of Representatives or the Senate shall be filed with the  
60 Clerk of the House or the Secretary of the Senate, as the case may  
61 be. The legislative resolution of the election contest shall be  
62 conducted in accordance with procedures and precedents established  
63 by the House of Representatives or the Senate, as the case may be.

64 SECTION 3. Section 23-15-957, Mississippi Code of 1972, is  
65 amended as follows:

66 23-15-957. Each house of the Legislature, or any committee  
67 appointed to investigate the facts concerning the election or

68 qualifications of any member or persons claimed to be such, shall  
69 have power to issue subpoenas and compel the attendance of  
70 witnesses and the production of such documents or papers as may be  
71 required.

72 SECTION 4. Section 23-15-911, Mississippi Code of 1972, is  
73 brought forward as follows:

74 23-15-911. When the returns for a box and the contents of  
75 the ballot box and the conduct of the election thereat have been  
76 canvassed and reviewed by the county election commission in the  
77 case of general elections or the county executive committee in the  
78 case of primary elections, all the contents of the box required to  
79 be placed and sealed in the ballot box by the managers shall be  
80 replaced therein by the election commission or executive  
81 committee, as the case may be, and the box shall be forthwith  
82 resealed and delivered to the circuit clerk, who shall safely keep  
83 and secure the same against any tampering therewith. At any time  
84 within twelve (12) days after the canvass and examination of the  
85 box and its contents by the election commission or executive  
86 committee, as the case may be, any candidate or his representative  
87 authorized in writing by him shall have the right of full  
88 examination of said box and its contents upon three (3) days'  
89 notice of his application therefor served upon the opposing  
90 candidate or candidates, or upon any member of their family over  
91 the age of eighteen (18) years, which examination shall be  
92 conducted in the presence of the circuit clerk or his deputy who  
93 shall be charged with the duty to see that none of the contents of  
94 the box are removed from the presence of the clerk or in any way  
95 tampered with. Upon the completion of said examination the box  
96 shall be resealed with all its contents as theretofore. And if  
97 any contest or complaint before the court shall arise over said  
98 box, it shall be kept intact and sealed until the court hearing  
99 and another ballot box, if necessary, shall be furnished for the  
100 precinct involved.

101           SECTION 5. The Attorney General of the State of Mississippi  
102 shall submit this act, immediately upon approval by the Governor,  
103 or upon approval by the Legislature subsequent to a veto, to the  
104 Attorney General of the United States or to the United States  
105 District Court for the District of Columbia in accordance with the  
106 provisions of the Voting Rights Act of 1965, as amended and  
107 extended.

108           SECTION 6. This act shall take effect and be in force from  
109 and after the date it is effectuated under Section 5 of the Voting  
110 Rights Act of 1965, as amended and extended.