

By: Representative Blackmon

To: Judiciary A

HOUSE BILL NO. 313
(As Passed the House)

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 AMEND
8 SECTION 23-15-911, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT THE
9 PRESENT LAW ON EXAMINATION OF BALLOT BOXES BY CANDIDATES APPLIES
10 IN THE CASE OF AN ELECTION CONTEST REGARDING THE SEAT OF A MEMBER
11 OF THE STATE LEGISLATURE; AND FOR RELATED PURPOSES.

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

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

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

31 ten (10) peremptory challenges, and new trials shall be granted
32 and costs awarded as in other cases. In case the election of
33 district attorney or other state district election be contested,
34 the petition may be filed in any county of the district or in any
35 county of an adjoining district within twenty (20) days after the
36 election, and like proceedings shall be had thereon as in the case
37 of county officers, and the person found to be entitled to the
38 office shall qualify as required by law and enter upon the duties
39 of his office.

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

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

48 23-15-955. Except as otherwise provided by Section
49 23-15-961, the person contesting the seat of any member of the
50 Senate or House of Representatives shall comply with the
51 provisions of this section. Section 38, Mississippi Constitution
52 of 1890, provides that each house of the Mississippi State
53 Legislature shall judge the qualifications, return and election of
54 its membership. Pursuant to that authority, the House of
55 Representatives shall have exclusive jurisdiction over an election
56 contest regarding the seat of any member of the House of
57 Representatives, and the Senate shall have exclusive jurisdiction
58 over an election contest regarding the seat of any member of the
59 Senate. An election contest regarding the seat of a member of the
60 House of Representatives or the Senate shall be filed with the
61 Clerk of the House or the Secretary of the Senate, as the case may
62 be, within thirty (30) days after a regular general election or
63 ten (10) days after a special election to fill a vacancy. The
64 legislative resolution of the election contest shall be conducted
65 in accordance with procedures and precedents established by the
66 House of Representatives or the Senate, as the case may be. Such
67 procedures and precedents may be found in the Journals of the

68 House of Representatives and of the State Senate and/or in the
69 published Rules of the House of Representatives and of the State
70 Senate.

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

73 23-15-957. Each house of the Legislature, the Clerk of the
74 House of Representatives, the Secretary of the Senate, or any
75 committee appointed to investigate the facts concerning the
76 election or qualifications of any member or persons claimed to be
77 such, shall have power to issue subpoenas and compel the
78 attendance of witnesses and the production of such documents or
79 papers as may be required. In addition, the clerk or the
80 secretary, as the case may be, shall have the authority to enforce
81 any subpoena issued by him or her and to enforce compliance with
82 the time limitations set forth in Section 23-15-955 or in any
83 internal procedure or precedent of the respective house of the
84 State Legislature.

85 SECTION 4. Section 23-15-911, Mississippi Code of 1972, is
86 amended as follows:

87 23-15-911. (1) When the returns for a box and the contents
88 of the ballot box and the conduct of the election thereat have
89 been canvassed and reviewed by the county election commission in
90 the case of general elections or the county executive committee in
91 the case of primary elections, all the contents of the box
92 required to be placed and sealed in the ballot box by the managers
93 shall be replaced therein by the election commission or executive
94 committee, as the case may be, and the box shall be forthwith
95 resealed and delivered to the circuit clerk, who shall safely keep
96 and secure the same against any tampering therewith. At any time
97 within twelve (12) days after the canvass and examination of the
98 box and its contents by the election commission or executive
99 committee, as the case may be, any candidate or his representative
100 authorized in writing by him shall have the right of full

101 examination of said box and its contents upon three (3) days'
102 notice of his application therefor served upon the opposing
103 candidate or candidates, or upon any member of their family over
104 the age of eighteen (18) years, which examination shall be
105 conducted in the presence of the circuit clerk or his deputy who
106 shall be charged with the duty to see that none of the contents of
107 the box are removed from the presence of the clerk or in any way
108 tampered with. Upon the completion of said examination the box
109 shall be resealed with all its contents as theretofore. And if
110 any contest or complaint before the court shall arise over said
111 box, it shall be kept intact and sealed until the court hearing
112 and another ballot box, if necessary, shall be furnished for the
113 precinct involved.

114 (2) The provisions of this section allowing the examination
115 of ballot boxes shall apply in the case of an election contest
116 regarding the seat of a member of the State Legislature. In such
117 a case, the results of the examination shall be reported by the
118 applicable circuit clerk to the Clerk of the House of
119 Representatives or the Secretary of the Senate, as the case may
120 be.

121 SECTION 5. The Attorney General of the State of Mississippi
122 shall submit this act, immediately upon approval by the Governor,
123 or upon approval by the Legislature subsequent to a veto, to the
124 Attorney General of the United States or to the United States
125 District Court for the District of Columbia in accordance with the
126 provisions of the Voting Rights Act of 1965, as amended and
127 extended.

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