

By: Representative Denny

To: Apportionment and
Elections

HOUSE BILL NO. 916

1 AN ACT TO AUTHORIZE THE COUNTY EXECUTIVE COMMITTEE TO
2 DELEGATE ITS DUTIES TO THE COUNTY ELECTION COMMISSION FOR ONE
3 YEAR; TO PROVIDE THAT THE COUNTY EXECUTIVE COMMITTEE MAY PROVIDE
4 THE COUNTY ELECTION COMMISSION WITH A PROPOSED LIST OF PERSONS TO
5 SERVE AS POLL MANAGERS AT PRIMARY ELECTIONS; TO AMEND SECTIONS
6 23-15-263, 23-15-265, 23-15-267, 23-15-295, 23-15-299, 23-15-333,
7 23-15-335, 23-15-593, 23-15-595, 23-15-597, 23-15-841, 23-15-911,
8 23-15-921, 23-15-923, 23-15-927 AND 23-15-931, MISSISSIPPI CODE OF
9 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

11 SECTION 1. All duties of the county executive committee,
12 including but not limited to ruling on candidate qualifications,
13 preparation and printing of the primary election ballot, training
14 of poll managers, preparation and distribution of ballot boxes,
15 ruling on and counting of legal affidavit ballots, and
16 certification of the primary election, may be delegated for one
17 (1) calendar year to the county election commission, if a majority
18 of the members of the county executive committee vote to approve
19 the delegation of these duties and submit in writing a request for
20 the delegation of these duties to the election commission, and if
21 a majority of the election commission agrees in writing with the
22 delegation of these duties not later than ten (10) calendar days
23 before the deadline for assessments to be paid by candidates, as
24 provided in Section 23-15-299. However, the delegating county
25 executive committee may submit to the election commission a
26 written proposed list of persons to serve as poll managers at the
27 primary election, from which list the election commission shall
28 choose a sufficient number of persons qualified to serve as poll
29 managers in the primary election. However, if the list provided

30 by the executive committee shall not contain a sufficient number
31 of persons qualified to serve as poll managers, the election
32 commission may make additional appointments of poll managers.

33 SECTION 2. Section 23-15-263, Mississippi Code of 1972, is
34 amended as follows:

35 23-15-263. (1) Unless otherwise provided in this chapter
36 and except as otherwise provided by Section 1 of this act, the
37 county executive committee at primary elections shall perform all
38 duties that relate to the qualification of candidates for primary
39 elections, print ballots for primary elections, appoint the
40 primary election officers, resolve contests in regard to primary
41 elections, and perform all other duties required by law to be
42 performed by the county executive committee; however, each house
43 of the Legislature shall rule on the qualifications of the
44 membership of its respective body in contests involving the
45 qualifications of such members. The executive committee shall be
46 subject to all the penalties to which county election
47 commissioners are subject, except that Section 23-15-217 shall not
48 apply to members of the county executive committee who seek
49 elective office.

50 (2) A member of a county executive committee shall be
51 automatically disqualified to serve on the county executive
52 committee, and shall be considered to have resigned therefrom,
53 upon his qualification as a candidate for any elective office. The
54 provisions of this subsection shall not apply to a member of a
55 county executive committee who qualifies as a candidate for a
56 municipal elective office.

57 (3) The primary election officers appointed by the executive
58 committee of the party shall have the powers and perform the
59 duties, where not otherwise provided, required of such officers in
60 a general election, and any and every act or omission which by law
61 is an offense when committed in or about or in respect to such
62 general elections, shall be an offense if committed in or about or
63 in respect to a primary election; and the same shall be indictable
64 and punishable in the same way as if the election was a general
65 election for the election of state and county officers, except as
66 specially modified or otherwise provided in this chapter.

67 SECTION 3. Section 23-15-265, Mississippi Code of 1972, is
68 amended as follows:

69 23-15-265. Except as otherwise provided by Section 1 of this
70 act, the county executive committee of each county shall meet not
71 less than two (2) weeks before the date of any primary election
72 and appoint the managers and clerks for same, all of whom may be
73 members of the same political party. The number of managers and
74 clerks appointed by the county executive committee shall be the
75 same number as commissioners of election are allowed to appoint
76 pursuant to Sections 64 and 66 of this act. If the county
77 executive committee fails to meet on the date named, supra,
78 further notice shall be given of the time and place of meeting.

79 SECTION 4. Section 23-15-267, Mississippi Code of 1972, is
80 amended as follows:

81 23-15-267. Except as otherwise provided by Section 1 of this
82 act, the ballot boxes provided by the regular commissioners of
83 election in each county shall be used in primary elections, and
84 the county executive committees shall distribute them to the
85 voting precincts of the county before the time for opening the
86 polls, in the same manner, as near as may be, as that provided for
87 in general elections. If an adjournment shall take place after
88 the polls are open and before all votes are counted, the ballot
89 box shall be securely locked so as to prevent the admission into
90 it or the taking of anything from it during the time of
91 adjournment; and the box shall be kept by one of the managers, and
92 the key by another of the managers, and the manager having the box
93 shall carefully keep it, and neither undertake to open it himself
94 or permit it to be done, or to permit any person to have access to
95 it during the time of adjournment. The box shall not be removed
96 from the polling building or place after the polls are open until
97 the count is completed if as many as three (3) electors qualified
98 to vote at the election object. After each election, the ballot
99 boxes of those provided by the regular commissioner of election

100 shall be delivered, with the keys thereof immediately and as soon
101 thereafter as possible, and without delay to the clerk of the
102 circuit court of the county. The person, or persons, whose duty
103 it is to comply with the provisions of this section and who shall
104 fail, or neglect, from any cause, to deliver said boxes or any of
105 them as herein provided shall, upon conviction, be fined not less
106 than Two Hundred Dollars (\$200.00) and be imprisoned in the county
107 jail of the residence of the person, or persons, who violates any
108 of the provisions of this section, for a period of not less than
109 thirty (30) days or more than six (6) months, and fined not more
110 than Five Hundred Dollars (\$500.00).

111 SECTION 5. Section 23-15-295, Mississippi Code of 1972, is
112 amended as follows:

113 23-15-295. When any person has qualified in the manner
114 provided by law as a candidate for party nomination in any primary
115 election, such person shall have the right to withdraw his name as
116 a candidate by giving notice of his withdrawal in writing to the
117 secretary of the proper executive committee at any time prior to
118 the printing of the official ballots, and in the event of such
119 withdrawal the name of such candidate shall not be printed on the
120 ballot. When a candidate for party nomination for a state or
121 district office who has qualified with the state executive
122 committee withdraws as a candidate as is herein set forth after
123 the sample of the official ballot has been approved and certified
124 by the State Executive Committee the Secretary or Chairman of the
125 State Executive Committee shall forthwith notify the county
126 executive committee of each county affected or involved of the
127 fact of such withdrawal and such notification shall authorize said
128 county executive committees to omit the name of the withdrawn
129 candidate from the ballot if such notification is received prior
130 to the printing of the ballot. In the case of the withdrawal of
131 any candidate, the fee paid by such candidate shall be retained by
132 the state or county executive committee, as the case may be.

133 However, if the county executive committee has delegated its
134 duties to the county election commission, all notifications shall
135 be given to the election commission, and the commission shall omit
136 the withdrawn candidates name from the ballot.

137 SECTION 6. Section 23-15-299, Mississippi Code of 1972, is
138 amended as follows:

139 23-15-299. (1) Assessments made pursuant to paragraphs (a),
140 (b) and (c) of Section 23-15-297, and assessments made pursuant to
141 paragraph (d) of Section 23-15-297 for legislative offices for
142 districts composed of more than one (1) county or parts of more
143 than one (1) county, shall be paid by each candidate to the
144 secretary of the state executive committee with which the
145 candidate is affiliated by 5:00 p.m. on March 1 of the year in
146 which the primary election for the office is held or on the date
147 of the qualifying deadline provided by statute for the office,
148 whichever is earlier.

149 (2) Assessments made pursuant to paragraphs (d) and (e) of
150 Section 23-15-297, other than assessments made for legislative
151 offices for districts containing more than one (1) county or parts
152 of more than one (1) county, shall be paid by each candidate to
153 the circuit clerk of such candidate's county of residence by 5:00
154 p.m. on March 1 of the year in which the primary election for the
155 office is held or on the date of the qualifying deadline provided
156 by statute for the office, whichever is earlier. The circuit clerk
157 shall forward the fee and all necessary information to the
158 secretary of the proper county executive committee within two (2)
159 business days.

160 (3) Assessments made pursuant to paragraphs (f) and (g) of
161 Section 23-15-297 must be paid by each candidate to the Secretary
162 of the State Executive Committee with which the candidate is
163 affiliated by 5:00 p.m. on Friday, January 26, 1996, for the
164 presidential preference primary in 1996 and must be paid sixty
165 (60) days before the presidential preference primary in the years

166 after 1996. Assessments made pursuant to paragraphs (f) and (g)
167 of Section 23-15-297, in years when a presidential preference
168 primary is not being held, shall be paid by each candidate to the
169 Secretary of the State Executive Committee with which the
170 candidate is affiliated by 5:00 p.m. on March 1 of the year in
171 which the primary election for the office is held.

172 (4) The fees paid pursuant to subsections (1), (2) and (3)
173 of this section shall be accompanied by a written statement
174 containing the name and address of the candidate, the party with
175 which he or she is affiliated, and the office for which he or she
176 is a candidate.

177 (5) The secretary or circuit clerk to whom such payments are
178 made shall promptly receipt for same stating the office for which
179 such candidate making payment is running and the political party
180 with which he or she is affiliated, and he or she shall keep an
181 itemized account in detail showing the exact time and date of the
182 receipt of each payment received by him or her and, where
183 applicable, the date of the postmark on the envelope containing
184 the fee and from whom, and for what office the party paying same
185 is a candidate.

186 (6) The secretaries of the proper executive committee shall
187 hold said funds to be finally disposed of by order of their
188 respective executive committees. Such funds may be used or
189 disbursed by the executive committee receiving same to pay all
190 necessary traveling or other necessary expenses of the members of
191 the executive committee incurred in discharging their duties as
192 committeemen, and of their secretary and may pay the secretary
193 such salary as may be reasonable.

194 (7) Upon receipt of the proper fee and all necessary
195 information, the proper executive committee shall then determine
196 whether or not each candidate is a qualified elector, and whether
197 any candidate has been convicted of any crime listed in Section
198 241, Mississippi Constitution of 1890, or is a fugitive from

199 justice for this state or any other state, and such charge upon
200 which a candidate has fled has not been dismissed. If the proper
201 executive committee finds that a candidate is not a qualified
202 elector, or that such candidate has been convicted of any crime
203 listed in Section 241, Mississippi Constitution of 1890, and not
204 pardoned nor has served his or her sentence, or is a fugitive from
205 justice as aforesaid, then the name of such candidate shall not be
206 placed upon the ballot.

207 Where there is but one (1) candidate, the proper executive
208 committee when the time has expired within which the names of
209 candidates shall be furnished shall declare such candidate the
210 nominee.

211 All duties given to the county executive committee by this
212 section may be delegated to the county election commissioners as
213 provided in Section 1 of this act.

214 SECTION 7. Section 23-15-333, Mississippi Code of 1972, is
215 amended as follows:

216 23-15-333. Except as otherwise provided by Section 1 of this
217 act, the county executive committee shall have printed all
218 necessary ballots, for use in primary elections. The ballots
219 shall contain the names of all the candidates to be voted for at
220 such election, and there shall be left on each ballot one (1)
221 blank space under the title of each office for which a nominee is
222 to be elected; and in the event of the death of any candidate
223 whose name shall have been printed on the ballot, the name of the
224 candidate duly substituted in the place of the deceased candidate
225 may be written in such blank space by the voter. The order in
226 which the titles to the various offices shall be printed, and the
227 size, print and quality of the paper of the ballot is left to the
228 discretion of the county executive committee. Provided, however,
229 that in all cases the arrangement of the names of the candidates
230 for each office shall be alphabetical. No ballot shall be used
231 except those so printed.

232 The county executive committee shall also prepare full
233 instructions for the guidance of electors at elections as to
234 obtaining ballots, the manner of marking them, and the mode of
235 obtaining new ballots in the place of those spoiled by accident.
236 The instructions shall be printed in large, clear type on "Cards
237 of Instruction," and the county executive committee shall furnish
238 the same in sufficient numbers for the use of electors. The cards
239 shall be preserved by the officers of election and returned by
240 them to the county executive committee and they may be used, if
241 applicable, in subsequent elections.

242 SECTION 8. Section 23-15-335, Mississippi Code of 1972, is
243 amended as follows:

244 23-15-335. Except as otherwise provided by Section 1 of this
245 act, the county executive committee shall designate a person whose
246 duty it shall be to distribute all necessary ballots for use in a
247 primary election, and shall designate one (1) among the managers
248 at each polling place to receive and receipt for the blank ballots
249 to be used at that place. When the blank ballots are delivered to
250 a local manager, the distributor shall take from the local manager
251 a receipt therefor signed in duplicate by both the distributor and
252 the manager, one of which receipts the distributor shall deliver
253 to the circuit clerk and the other shall be retained by the local
254 manager and said last mentioned duplicate receipt shall be
255 inclosed in the ballot box with the voted ballots when the polls
256 have been closed and the votes have been counted. The printer of
257 the ballots shall take a receipt from the distributor of the
258 ballots for the total number of the blank ballots delivered to the
259 distributor. The printer shall secure all ballots printed by him
260 in such a safe manner that no person can procure them or any of
261 them, and he shall deliver no blank ballot or ballots to any
262 person except the distributor above mentioned, and then only upon
263 his receipt therefor as above specified. The distributor of the
264 blank ballots shall so securely hold the same that no person can

265 obtain any of them, and he shall not deliver any of them to any
266 person other than to the authorized local managers and upon their
267 respective receipts therefor. The executive committee shall see
268 to it that the total blank ballots delivered to the distributor,
269 shall correspond with the total of the receipts executed by the
270 local managers. Any person charged with any of the duties
271 prescribed in this section who shall willfully or with culpable
272 carelessness violate the same shall be guilty of a misdemeanor.

273 SECTION 9. Section 23-15-593, Mississippi Code of 1972, is
274 amended as follows:

275 23-15-593. Except as otherwise provided by Section 1 of this
276 act, when the ballot box is opened and examined by the county
277 executive committee in the case of a primary election, or county
278 election commissioners in the case of other elections, and it is
279 found that there have been failures in material particulars to
280 comply with the requirements of Section 23-15-591 and Section
281 23-15-895 to such an extent that it is impossible to arrive at the
282 will of the voters at such precinct, the entire box may be thrown
283 out unless it be made to appear with reasonable certainty that the
284 irregularities were not deliberately permitted or engaged in by
285 the managers at that box, or by one (1) of them responsible for
286 the wrong or wrongs, for the purpose of electing or defeating a
287 certain candidate or candidates by manipulating the election or
288 the returns thereof at that box in such manner as to have it
289 thrown out; in which latter case the county executive committee,
290 or the county election commission, as appropriate, shall conduct
291 such hearing and make such determination in respect to said box as
292 may appear lawfully just, subject to a judicial review of said
293 matter as elsewhere provided by this chapter. Or the executive
294 committee, or the election commission, or the court upon review,
295 may order another election to be held at that box appointing new
296 managers to hold the same.

297 SECTION 10. Section 23-15-595, Mississippi Code of 1972, is

298 amended as follows:

299 23-15-595. The box containing the ballots and other records
300 required by this act shall, as soon as practical after the ballots
301 have been counted, be delivered by one (1) of the precinct
302 managers to the clerk of the circuit court of the county and said
303 clerk shall, in the presence of the manager making delivery of the
304 box, place upon the lock of such box a metal seal similar to the
305 seal commonly used in sealing the doors of railroad freight cars.
306 Such seals shall be numbered consecutively to the number of ballot
307 boxes used in the election in the county, and the clerk shall keep
308 in a place separate from such boxes a record of the number of the
309 seal of each separate box in the county. The board of supervisors
310 of the county shall pay the cost of providing such seals. Except
311 as otherwise provided by Section 1 of this act, upon demand of the
312 chairman of the county executive committee in the case of primary
313 elections, or the county election commissioner in the case of
314 other elections, the boxes and their contents shall be delivered
315 to the county executive committee, or the county election
316 commission, as appropriate, and after such committee or
317 commission, as appropriate, has finished the work of tabulating
318 returns and counting ballots as required by law, the said
319 committee or commission, as appropriate, shall return all papers
320 and ballots to the box of the precinct where such election was
321 held, and it shall make redelivery of such boxes and their
322 contents to the circuit clerk who shall reseal said boxes. Upon
323 every occasion said boxes shall be reopened and each resealing
324 shall be done as provided in this act.

325 SECTION 11. Section 23-15-597, Mississippi Code of 1972, is
326 amended as follows:

327 23-15-597. Except as otherwise provided by Section 1 of this
328 act, the county executive committee shall meet on the first or
329 second day after each primary election, shall receive and canvass
330 the returns which must be made within the time fixed by law for

331 returns of general elections and declare the result, and announce
332 the name of the nominees for county and county district offices
333 and legislative offices for districts containing one (1) county or
334 less, and the names of those candidates to be submitted to the
335 second primary. The vote for state and state district offices and
336 legislative offices for districts containing more than one county
337 or parts of more than one county shall be tabulated by precincts
338 and certified to and returned to the State Executive Committee,
339 such returns to be mailed by registered letter or any safe mode of
340 transmission within thirty-six (36) hours after the returns are
341 canvassed and the result ascertained. The State Executive
342 Committee shall meet a week from the day following the first
343 primary election held for state and state district offices and
344 legislative offices for districts containing more than one county
345 or parts of more than one county, and shall proceed to canvass the
346 returns and to declare the result, and announce the names of those
347 nominated for the different offices in the first primary and the
348 names of those candidates whose names are to be submitted to the
349 second primary election. The State Executive Committee shall also
350 meet a week from the day on which the second primary election was
351 held and receive and canvass the returns for state and district
352 offices, if any, and legislative offices for districts containing
353 more than one county or parts of more than one county, if any,
354 voted on in such second primary. An exact and full duplicate of
355 all tabulations by precincts as certified under this section shall
356 be filed with the circuit clerk of the county who shall safely
357 preserve the same in his office.

358 SECTION 12. Section 23-15-841, Mississippi Code of 1972, is
359 amended as follows:

360 23-15-841. Except as otherwise provided by Section 1 of this
361 act, nominations for candidates to fill vacancies in county or
362 county district offices shall be made upon dates to be fixed by
363 the county executive committee for county or county district

364 offices. The first and second primaries shall be held on the
365 dates to be fixed by such executive committees, which committees
366 shall also fix the dates when the returns are to be made of the
367 results of such primaries. If there is not sufficient time, after
368 the election is ordered, for the holding of second primary to fill
369 such vacancies, on account of the nearness of the election, from
370 the date at which it is ordered, the executive committee having
371 such nomination in charge, may submit the result to the first
372 primary election, the nomination going to the candidate receiving
373 the highest popular vote. Such special primary election shall be
374 conducted, as far as applicable, under the laws governing other
375 primary elections.

376 SECTION 13. Section 23-15-911, Mississippi Code of 1972, is
377 amended as follows:

378 23-15-911. Except as otherwise provided by Section 1 of this
379 act, when the returns for a box and the contents of the ballot box
380 and the conduct of the election thereat have been canvassed and
381 reviewed by the county election commission in the case of general
382 elections or the county executive committee in the case of primary
383 elections, all the contents of the box required to be placed and
384 sealed in the ballot box by the managers shall be replaced therein
385 by the election commission or executive committee, as the case may
386 be, and the box shall be forthwith resealed and delivered to the
387 circuit clerk, who shall safely keep and secure the same against
388 any tampering therewith. At any time within twelve (12) days
389 after the canvass and examination of the box and its contents by
390 the election commission or executive committee, as the case may
391 be, any candidate or his representative authorized in writing by
392 him shall have the right of full examination of said box and its
393 contents upon three (3) days' notice of his application therefor
394 served upon the opposing candidate or candidates, or upon any
395 member of their family over the age of eighteen (18) years, which
396 examination shall be conducted in the presence of the circuit

397 clerk or his deputy who shall be charged with the duty to see that
398 none of the contents of the box are removed from the presence of
399 the clerk or in any way tampered with. Upon the completion of
400 said examination the box shall be resealed with all its contents
401 as theretofore. And if any contest or complaint before the court
402 shall arise over said box, it shall be kept intact and sealed
403 until the court hearing and another ballot box, if necessary,
404 shall be furnished for the precinct involved.

405 SECTION 14. Section 23-15-921, Mississippi Code of 1972, is
406 amended as follows:

407 23-15-921. Except as otherwise provided by Section 1 of S.B.
408 No. 2796, a person desiring to contest the election of another
409 person returned as the nominee of the party to any county or
410 county district office, or as the nominee of a legislative
411 district composed of one (1) county or less, may, within twenty
412 (20) days after the primary election, file a petition with the
413 secretary, or any member of the county executive committee in the
414 county in which the election was held, setting forth the grounds
415 upon which the primary election is contested; and it shall be the
416 duty of the executive committee to assemble by call of the
417 chairman or three (3) members of said committee, notice of which
418 contest shall be served five (5) days before said meeting, and
419 after notifying all parties concerned proceed to investigate the
420 grounds upon which the election is contested and, by majority vote
421 of members present, declare the true results of such primary.
422 However, if the county executive committee has delegated its
423 duties to the county election commission, then the petition shall
424 be filed with the commission and the commission shall investigate
425 and declare the results of the election.

426 SECTION 15. Section 23-15-923, Mississippi Code of 1972, is
427 amended as follows:

428 23-15-923. Except as otherwise provided in Section 1 of S.B.
429 No. 2796, a person desiring to contest the election of another

430 returned as the nominee in state, congressional and judicial
431 districts, and in legislative districts composed of more than one
432 (1) county or parts of more than one (1) county, upon complaint
433 filed with the Chairman of the State Executive Committee, by
434 petition, reciting the grounds upon which the election is
435 contested. If necessary and with the advice of four (4) members
436 of said committee, the chairman shall issue his fiat to the
437 chairman of the appropriate county executive committee, and in
438 like manner as in the county office, the county committee shall
439 investigate the complaint and return their findings to the
440 chairman of the state committee. However, if the county executive
441 committee has delegated its duties to the county election
442 commission, then the fiat shall be issued to the commission, and
443 the commission shall investigate and return its findings to the
444 chairman of the state committee. The State Executive Committee by
445 majority vote of members present shall declare the true results of
446 such primary.

447 SECTION 16. Section 23-15-927, Mississippi Code of 1972, is
448 amended as follows:

449 23-15-927. When and after any contest has been filed with
450 the county executive committee or the county election commission,
451 if the county executive committee has delegated its duties to the
452 commission as authorized by Section 1 of this act, or complaint
453 with the State Executive Committee, and the said executive
454 committee or commission having jurisdiction shall fail to promptly
455 meet or having met shall fail or unreasonably delay to fully act
456 upon the contest or complaint, or shall fail to give with
457 reasonable promptness the full relief required by the facts and
458 the law, the contestant shall have the right forthwith to file in
459 the circuit court of the county wherein the irregularities are
460 charged to have occurred, or if more than one county to be
461 involved then in one (1) of said counties, a sworn copy of his
462 said protest or complaint, together with a sworn petition, setting

463 forth with particularity wherein the executive committee or
464 commission has wrongfully failed to act or to fully and promptly
465 investigate or has wrongfully denied the relief prayed by said
466 contest, with a prayer for a judicial review thereof. But such
467 petition for a judicial review shall not be filed unless it bear
468 the certificate of two (2) practicing attorneys that they and each
469 of them have fully made an independent investigation into the
470 matters of fact and of law upon which the protest and petition are
471 based and that after such investigation they verily believe that
472 the said protest and petition should be sustained and that the
473 relief therein prayed should be granted, and the petitioner shall
474 give a cost bond in the sum of Three Hundred Dollars (\$300.00),
475 with two (2) or more sufficient sureties conditioned to pay all
476 costs in case his petition be dismissed, and an additional bond
477 may be required, by the judge or chancellor, if necessary, at any
478 subsequent stage of the proceedings. The filing of such petition
479 for judicial review in the manner set forth above shall
480 automatically supersede and suspend the operation and effect of
481 the order, ruling or judgment of the executive committee or
482 commission appealed from.

483 SECTION 17. Section 23-15-931, Mississippi Code of 1972, is
484 amended as follows:

485 23-15-931. (1) When the day for the hearing has been set,
486 the circuit clerk shall issue subpoenas for witnesses as in other
487 litigated cases, and he shall also issue a summons to each of the
488 five (5) election commissioners of the county, unless they waive
489 summons, requiring them to attend said hearing, throughout which
490 hearing the said commissioners shall sit with the judge or
491 chancellor as advisors or assistants in the trial and
492 determination of the facts, and as assistants in counts,
493 calculations and inspections, and in seeing to it that ballots,
494 papers, documents, books and the like are diligently secured
495 against misplacement, alteration, concealment or loss both in the

496 sessions and during recesses or adjournments; the judge or
497 chancellor being, however, the controlling judge both of the facts
498 and the law, and to have all the power in every respect of a
499 chancellor in term time; and the tribunal shall be attended by the
500 sheriff, and clerk, each with sufficient deputies, and by a court
501 reporter. The special tribunal so constituted shall fully hear
502 the contest or complaint de novo, and the original contestant
503 before the party executive committee shall have the burden of
504 proof and the burden of going forward with the evidence in the
505 hearing before the special tribunal. The special tribunal, after
506 the contest or complaint shall have been fully heard anew, shall
507 make a finding dictated to the reporter covering all controverted
508 material issues of fact, together with any dissents of any
509 commissioner, and thereupon, the trial judge shall enter the
510 judgment which the county executive committee should have entered,
511 of which the election commissioners shall take judicial notice, or
512 if the matter be one within the jurisdiction of the State
513 Executive Committee, the judgment shall be certified and promptly
514 forwarded to the Secretary of the State Executive Committee, and
515 in the absence of an appeal, it shall be the duty of the State
516 Executive Committee forthwith to reassemble and revise any
517 decision theretofore made by it so as to conform to the judicial
518 judgment aforesaid; provided that when the contest is upon a
519 complaint filed with the State Executive Committee and the
520 petition to the court avers that the wrong or irregularity is one
521 which occurred wholly within the proceedings of the state
522 committee, the petition to the court shall be filed in the circuit
523 or chancery court of Hinds County and, after notice served, shall
524 be promptly heard by the circuit judge or chancellor of that
525 county, without the attendance of commissioners.

526 (2) If any county executive committee has delegated its
527 authority to conduct primary elections to the county election
528 commission as authorized by Section 1 of this act, then the

529 presiding judge or chancellor shall not appoint any members of the
530 county election commission to serve on the tribunal as described
531 in paragraph (1) of this section, or to serve as advisors or
532 assistants to the judge or chancellor in the trial.

533 SECTION 18. The Attorney General of the State of Mississippi
534 shall submit this act, immediately upon approval by the Governor,
535 or upon approval by the Legislature subsequent to a veto, to the
536 Attorney General of the United States or to the United States
537 District Court for the District of Columbia in accordance with the
538 provisions of the Voting Rights Act of 1965, as amended and
539 extended.

540 SECTION 19. This act shall take effect and be in force from
541 and after the date it is effectuated under Section 5 of the Voting
542 Rights Act of 1965, as amended and extended.