

By: Senator(s) Harden

To: Elections

## SENATE BILL NO. 2771

1 AN ACT TO PROVIDE THAT IN CASE OF A VACANCY IN THE OFFICE OF  
2 ATTORNEY GENERAL, SECRETARY OF STATE, STATE TREASURER, AUDITOR OF  
3 PUBLIC ACCOUNTS, COMMISSIONER OF INSURANCE, COMMISSIONER OF  
4 AGRICULTURE AND COMMERCE, AND STATE PUBLIC SERVICE COMMISSIONER,  
5 THE UNEXPIRED TERM OF WHICH EXCEEDS SIX MONTHS, AN ELECTION SHALL  
6 BE HELD ON THE NEXT REGULAR SPECIAL ELECTION DAY; TO PROVIDE AN  
7 EXCEPTION THERETO; TO PROVIDE THAT THE GOVERNOR SHALL APPOINT A  
8 QUALIFIED PERSON TO HOLD THE OFFICE UNTIL THE VACANCY IS FILLED BY  
9 ELECTION; TO AMEND SECTIONS 23-15-833 AND 23-15-837, MISSISSIPPI  
10 CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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13 SECTION 1. In case of a vacancy in the office of Attorney  
14 General, Secretary of State, State Treasurer, Auditor of Public  
15 Accounts, Commissioner of Insurance, Commissioner of Agriculture  
16 and Commerce, and State Public Service Commissioner, the unexpired  
17 term of which shall exceed six (6) months, the Governor shall  
18 within ten (10) days after happening of such vacancy issue his  
19 proclamation calling an election to fill a vacancy in the vacant  
20 office to be held on the next regular special election day unless  
21 the vacancy shall occur before ninety (90) days prior to the  
22 general election in a year in which an election would normally be  
23 held for the vacant office as provided by law, in which case the  
24 person appointed by the Governor shall serve the unexpired portion  
25 of the term. Upon the occurring of such a vacancy, the Governor  
26 shall appoint a qualified person to hold the office and discharge  
27 the duties thereof until the vacancy shall be filled by election  
28 as provided in this section.

29 SECTION 2. Section 23-15-833, Mississippi Code of 1972, is  
30 amended as follows:

31 23-15-833. Except as otherwise provided by law, the first

32 Tuesday after the first Monday in November of each year shall be  
33 designated the regular special election day, and on that day an  
34 election shall be held to fill any vacancy in county, county  
35 district, \* \* \* district attorney elective offices and the offices  
36 enumerated in Section 1 of Senate Bill No. 2771, 1999 Regular  
37 Session.

38 All special elections, or elections to fill vacancies, shall  
39 in all respects be held, conducted and returned in the same manner  
40 as general elections, except that where no candidate receives a  
41 majority of the votes cast in such election, then a runoff  
42 election shall be held two (2) weeks after such election and the  
43 two (2) candidates who receive the highest popular votes for such  
44 office shall have their names submitted as such candidates to the  
45 said runoff and the candidate who leads in such runoff election  
46 shall be elected to the office. When there is a tie in the first  
47 election of those receiving next highest vote, these two (2) and  
48 the one receiving the highest vote, none having received a  
49 majority, shall go into the runoff election and whoever leads in  
50 such runoff election shall be entitled to the office.

51 In those years when the regular special election day shall  
52 occur on the same day as the general election, the names of  
53 candidates in any special election and the general election shall  
54 be placed on the same ballot, but shall be clearly distinguished  
55 as general election candidates or special election candidates.

56 At any time a special election is held on the same day as a  
57 party primary election, the names of the candidates in the special  
58 election may be placed on the same ballot, but shall be clearly  
59 distinguished as special election candidates or primary election  
60 candidates.

61 SECTION 3. Section 23-15-837, Mississippi Code of 1972, is  
62 amended as follows:

63 23-15-837. (1) When a special election shall have been  
64 called to fill any state or state district office and where only

65 one (1) person has duly qualified with the State Board of Election  
66 Commissioners to be a candidate in such special election within  
67 the time prescribed by law for qualifying as such candidate, the  
68 State Board of Election Commissioners shall make a finding and  
69 determination of such fact duly entered upon its official minutes.

70 (2) A finding and determination and certification to office  
71 by the State Board of Election Commissioners, as herein provided,  
72 shall dispense with the holding of the special election.

73 (3) A certified copy of the finding and determination of the  
74 State Board of Election Commissioners shall be forthwith filed  
75 with the Governor, and the Governor shall appoint the candidate so  
76 certified to fill the unexpired term.

77 SECTION 4. The Attorney General of the State of Mississippi  
78 is hereby directed to submit this act, immediately upon approval  
79 by the Governor, or upon approval by the Legislature subsequent to  
80 a veto, to the Attorney General of the United States or to the  
81 United States District Court for the District of Columbia in  
82 accordance with the provisions of the Voting Rights Act of 1965,  
83 as amended and extended.

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