

By: Dedeaux

To: Apportionment and
Elections

HOUSE BILL NO. 1439

1 AN ACT TO AMEND SECTIONS 23-15-317, 23-15-333 AND 23-15-365,
2 MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN PROVISIONS OF THE
3 ELECTION LAWS REGARDING WRITE-IN CANDIDATES; AND FOR RELATED
4 PURPOSES.

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

6 SECTION 1. Section 23-15-317, Mississippi Code of 1972, is
7 amended as follows:

8 23-15-317. If any person nominated for office in a primary
9 election shall die, be removed after his nomination or withdraw or
10 resign from his candidacy for a legitimate nonpolitical reason as
11 defined in this section, and such vacancy in nomination shall
12 occur between the primary election and the ensuing general
13 election, or, shall occur between the qualifying deadline and the
14 general election if the person is unopposed within the political
15 party that the person is affiliated with, then the municipal,
16 county or state executive committee with which the original
17 nominee qualified as a candidate in the primary election shall
18 nominate a nominee for such office. Where such a party nominee is
19 unopposed each political party registered with the State Board of
20 Election Commissioners shall have the privilege of nominating a
21 candidate for the office involved. Such nominee shall be duly
22 certified by the respective executive committee chairman. Within
23 two (2) days after such nomination is made by the appropriate
24 executive committee, such committee shall formally notify the
25 Secretary of State of the name of the nominee. The Secretary of
26 State shall thereupon officially notify the appropriate officials
27 charged with conducting the election for the office wherein the

28 vacancy occurred of the name of the nominee. All nominations made
29 pursuant to the provisions of this section shall have the same
30 force and effect and shall entitle the nominees to all rights and
31 privileges that would accrue to them as if they had been nominated
32 in the regular primary election.

33 "Legitimate nonpolitical reason" as used in this section
34 shall be limited to the following:

35 (a) Reasons of health, which shall include any health
36 condition which, in the written opinion of a medical doctor, would
37 be harmful to the health of the candidate if he continued.

38 (b) Family crises, which shall include circumstances
39 which would substantially alter the duties and responsibilities of
40 the candidate to the family or to a family business.

41 (c) Substantial business conflict, which shall include
42 the policy of an employer prohibiting employees being candidates
43 for public offices and an employment change which would result in
44 the ineligibility of the candidate or which would impair his
45 capability to properly carry out the functions of the office being
46 sought.

47 Any candidate who withdraws based upon a "legitimate
48 nonpolitical reason" which is not covered by the above definition
49 shall have the strict burden of proof for his reason.

50 A candidate who wishes to withdraw for a legitimate
51 nonpolitical reason shall submit his reason by sworn affidavit.
52 Such affidavit shall be filed with the state party chairman of the
53 nominee's party and the State Board of Election Commissioners. No
54 substitution of candidates shall be authorized, except for death
55 or disqualification, unless the State Board of Election
56 Commissioners approves the affidavit as constituting a "legitimate
57 nonpolitical reason" for the candidate's resignation within five
58 (5) days of the date the affidavit is submitted to the board.

59 Immediately upon approval or disapproval of such affidavit,
60 the State Board of Election Commissioners shall notify the
61 respective executive committee of same.

62 SECTION 2. Section 23-15-333, Mississippi Code of 1972, is
63 amended as follows:

64 23-15-333. The county executive committee shall have printed

65 all necessary ballots, for use in primary elections. The ballots
66 shall contain the names of all the candidates to be voted for at
67 such election, and there shall be left on each ballot one (1)
68 blank space under the title of each office for which a nominee is
69 to be elected; and in the event of the death of any candidate
70 between the qualifying deadline and the date of the first primary
71 election, the name of the candidate duly substituted in the place
72 of the deceased candidate may be written in such blank space by
73 the voter. The order in which the titles to the various offices
74 shall be printed, and the size, print and quality of the paper of
75 the ballot is left to the discretion of the county executive
76 committee. Provided, however, that in all cases the arrangement
77 of the names of the candidates for each office shall be
78 alphabetical. No ballot shall be used except those so printed.

79 The county executive committee shall also prepare full
80 instructions for the guidance of electors at elections as to
81 obtaining ballots, the manner of marking them, and the mode of
82 obtaining new ballots in the place of those spoiled by accident.
83 The instructions shall be printed in large, clear type on "Cards
84 of Instruction," and the county executive committee shall furnish
85 the same in sufficient numbers for the use of electors. The cards
86 shall be preserved by the officers of election and returned by
87 them to the county executive committee and they may be used, if
88 applicable, in subsequent elections.

89 SECTION 3. Section 23-15-365, Mississippi Code of 1972, is
90 amended as follows:

91 23-15-365. There shall be left on each ballot one (1) blank
92 space under the title of each office to be voted for, and in the
93 event of the death, resignation, withdrawal or removal of any
94 candidate between the qualifying deadline and the date of the
95 general election, the name of the candidate duly substituted in
96 the place of such candidate may be written in such blank space by
97 the voter. In the case of a special election in which no primary

98 is conducted, such substitution shall be permitted if the death,
99 resignation, withdrawal or removal of any candidate occurs after
100 the qualifying deadline for the office.

101 SECTION 4. 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 5. 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.