

By: Johnson (19th)

To: Elections

SENATE BILL NO. 2454

1 AN ACT TO AMEND SECTIONS 23-15-129, 23-15-171, 23-15-263,
2 23-15-265, 23-15-267, 23-15-295, 23-15-303, 23-15-331, 23-15-333,
3 23-15-335 AND 23-15-597, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
4 MUNICIPAL AND COUNTY COMMISSIONERS OF ELECTION SHALL SUPERVISE
5 PARTY PRIMARY ELECTIONS; TO PROVIDE THAT THE COUNTY COMMISSIONERS
6 OF ELECTION SHALL APPOINT THE MANAGERS AND CLERKS FOR THE PRIMARY
7 ELECTION UPON THE RECOMMENDATION OF THE COUNTY EXECUTIVE
8 COMMITTEE; TO PROVIDE THAT AN EQUAL NUMBER OF MANAGERS AND CLERKS
9 FROM EACH POLITICAL PARTY THAT PARTICIPATES IN A PRIMARY ELECTION
10 SHALL BE APPOINTED AT EACH PRECINCT; TO PROVIDE THAT POLITICAL
11 PARTY PRIMARY ELECTIONS SHALL BE CONDUCTED TOGETHER; TO PROVIDE
12 THAT THE COUNTY COMMISSIONERS OF ELECTION SHALL CANVASS THE
13 PRIMARY ELECTION RETURNS FOR COUNTY AND COUNTY DISTRICT OFFICES
14 AND LEGISLATIVE DISTRICTS CONTAINING ONE COUNTY OR LESS AND
15 CERTIFY THE RESULTS TO THE COUNTY EXECUTIVE COMMITTEE; TO PROVIDE
16 THAT THE STATE BOARD OF ELECTION COMMISSIONERS SHALL CANVASS THE
17 PRIMARY ELECTION RETURNS FOR STATE AND STATE DISTRICT OFFICES AND
18 FOR LEGISLATIVE DISTRICTS CONTAINING MORE THAN ONE COUNTY OR PARTS
19 OF MORE THAN ONE COUNTY AND CERTIFY THE RESULTS TO THE STATE
20 EXECUTIVE COMMITTEE; TO AMEND SECTION 23-15-213, MISSISSIPPI CODE
21 OF 1972, TO PROVIDE THAT ELECTIONS FOR THE OFFICE OF COUNTY
22 ELECTION COMMISSIONER SHALL BE NONPARTISAN; TO PROHIBIT POLITICAL
23 PARTIES FROM FUND RAISING ON BEHALF OF A CANDIDATE FOR COUNTY
24 ELECTION COMMISSIONER; TO PROHIBIT POLITICAL PARTIES FROM MAKING
25 CONTRIBUTIONS TO AND PUBLICLY ENDORSING CANDIDATES FOR COUNTY
26 ELECTION COMMISSIONER; TO PROHIBIT CANDIDATES FOR COUNTY ELECTION
27 COMMISSIONER FROM ACCEPTING A CONTRIBUTION FROM A POLITICAL PARTY;
28 AND FOR RELATED PURPOSES.

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

30 SECTION 1. Section 23-15-129, Mississippi Code of 1972, is
31 amended as follows:

32 23-15-129. The commissioners of election and the registrars
33 of the respective counties are hereby directed to make an
34 administrative division of the pollbook for each county

35 immediately following any reapportionment of the Mississippi
36 Legislature or any realignment of supervisors districts, if
37 necessary. Such an administrative division shall form
38 subprecincts whenever necessary within each voting precinct so
39 that all persons within a subprecinct shall vote on the same
40 candidates for each public office. Separate pollbooks for each
41 subprecinct shall be made. The polling place for all subprecincts
42 within any given voting precinct shall be the same as the polling
43 place for the voting precinct. Additional managers may be
44 appointed for subprecincts in the discretion of the commissioners
45 of election * * *.

46 SECTION 2. Section 23-15-171, Mississippi Code of 1972, is
47 amended as follows:

48 23-15-171. (1) Municipal primary elections shall be held on
49 the first Tuesday in May preceding the general municipal election
50 and, in the event a second primary shall be necessary, such second
51 primary shall be held on the third Tuesday in May preceding such
52 general municipal election.

53 (2) At municipal primary elections the municipal executive
54 committee shall perform the same duties as are specified by law
55 and performed by members of the county executive committee with
56 regard to state and county primary elections. Each municipal
57 executive committee shall have as many members as there are
58 elective officers of the municipality, and such members of the
59 municipal executive committee of each political party shall be
60 elected in the primary elections held for the nomination of
61 candidates for municipal offices.

62 (3) The municipal commissioners of election shall supervise
63 the municipal primary elections and perform all other duties
64 specified by law to be performed by the county commissioners of
65 election with regard to state and county primary elections.

66 (4) The provisions of this section shall govern all
67 municipal primary elections as far as applicable, but * * * the
68 returns of such election shall be made to such municipal executive
69 committee. Vacancies in the executive committee shall be filled
70 by it.

71 (5) Provided, however, that in municipalities operating
72 under a special or private charter which fixes a time for holding
73 elections, other than the time fixed by Chapter 491, Laws of 1950,
74 the first primary election shall be held exactly four (4) weeks
75 before the time for holding the general election, as fixed by the
76 charter, and the second primary election, where necessary, shall
77 be held two (2) weeks after the first primary election, unless the
78 charter of any such municipality provides otherwise, in which
79 event the provisions of the special or private charter shall
80 prevail as to the time of holding such primary elections.

81 (5) All primary elections in municipalities shall be held
82 and conducted in the same manner as is provided by law for state
83 and county primary elections.

84 SECTION 3. Section 23-15-263, Mississippi Code of 1972, is
85 amended as follows:

86 23-15-263. (1) The county commissioners of election shall
87 supervise the primary elections and perform all other duties
88 specified by law to performed by the county commissioners of
89 election with regard to state and county primary elections.

90 (2) Unless otherwise provided in this chapter, the county
91 executive committee at primary elections shall perform all duties
92 that relate to the qualification of candidates for primary
93 elections, * * * resolve contests in regard to primary elections,

94 and perform all other duties required by law to be performed by
95 the county executive committee; however, each house of the
96 Legislature shall rule on the qualifications of the membership of
97 its respective body in contests involving the qualifications of
98 such members. The executive committee shall be subject to all the
99 penalties to which county election commissioners are subject,
100 except that Section 23-15-217 shall not apply to members of the
101 county executive committee who seek elective office.

102 (3) A member of a county executive committee shall be
103 automatically disqualified to serve on the county executive
104 committee, and shall be considered to have resigned therefrom,
105 upon his qualification as a candidate for any elective office.
106 The provisions of this subsection shall not apply to a member of a
107 county executive committee who qualifies as a candidate for a
108 municipal elective office.

109 (4) The primary election officers appointed by the
110 commissioners of election shall have the powers and perform the
111 duties, where not otherwise provided, required of such officers in
112 a general election, and any and every act or omission which by law
113 is an offense when committed in or about or in respect to such
114 general elections, shall be an offense if committed in or about or
115 in respect to a primary election; and the same shall be indictable
116 and punishable in the same way as if the election was a general
117 election for the election of state and county officers, except as
118 specially modified or otherwise provided in this chapter.

119 SECTION 4. Section 23-15-265, Mississippi Code of 1972, is
120 amended as follows:

121 23-15-265. The commissioners of election of each county

122 shall meet not less than two (2) weeks before the date of any
123 primary election and appoint the managers and clerks for
124 same * * *. The number of managers and clerks appointed by the
125 commissioners of election shall be the same number as
126 commissioners of election are allowed to appoint pursuant to
127 Sections 23-15-231 and 23-15-235. The commissioners of election
128 shall appoint managers and clerks upon the recommendation of the
129 county executive committee. The commissioners of election shall
130 appoint an equal number of managers and clerks from each political
131 party that participates in the primary election to serve at each
132 precinct. If the county commissioners of election fail to meet on
133 the date named, supra, further notice shall be given of the time
134 and place of meeting.

135 SECTION 5. Section 23-15-267, Mississippi Code of 1972, is
136 amended as follows:

137 23-15-267. The ballot boxes provided by the regular
138 commissioners of election in each county shall be used in primary
139 elections, and the commissioners of election shall distribute them
140 to the voting precincts of the county before the time for opening
141 the polls, in the same manner, as near as may be, as that provided
142 for in general elections. If an adjournment shall take place
143 after the polls are open and before all votes are counted, the
144 ballot box shall be securely locked so as to prevent the admission
145 into it or the taking of anything from it during the time of
146 adjournment; and the box shall be kept by one (1) of the managers,
147 and the key by another of the managers, and the manager having the
148 box shall carefully keep it, and neither undertake to open it
149 himself or permit it to be done, or to permit any person to have

150 access to it during the time of adjournment. The box shall not be
151 removed from the polling building or place after the polls are
152 open until the count is completed if as many as three (3) electors
153 qualified to vote at the election object. After each election,
154 the ballot boxes of those provided by the regular commissioner of
155 election shall be delivered, with the keys thereof immediately and
156 as soon thereafter as possible, and without delay to the clerk of
157 the circuit court of the county. The person, or persons, whose
158 duty it is to comply with the provisions of this section and who
159 shall fail, or neglect, for any cause, to deliver said boxes or
160 any of them as * * * provided for in this section shall, upon
161 conviction, be fined not less than Two Hundred Dollars (\$200.00)
162 and be imprisoned in the county jail of the residence of the
163 person, or persons, who violates any of the provisions of this
164 section, for a period of not less than thirty (30) days or more
165 than six (6) months, and fined not more than Five Hundred Dollars
166 (\$500.00).

167 SECTION 6. Section 23-15-295, Mississippi Code of 1972, is
168 amended as follows:

169 23-15-295. When any person has qualified in the manner
170 provided by law as a candidate for party nomination in any primary
171 election, such person shall have the right to withdraw his name as
172 a candidate by giving notice of his withdrawal in writing to the
173 secretary of the proper executive committee at any time prior to
174 the printing of the official ballots, and in the event of such
175 withdrawal the name of such candidate shall not be printed on the
176 ballot. When a candidate for party nomination for a state or
177 district office who has qualified with the state executive

178 committee withdraws as a candidate as provided for in this section
179 after the sample of the official ballot has been approved and
180 certified by the State Executive Committee, the Secretary or
181 Chairman of the State Executive Committee shall forthwith notify
182 the commissioners of election of each county affected or involved
183 of the fact of such withdrawal and such notification shall
184 authorize the commissioners of election to omit the name of the
185 withdrawn candidate from the ballot if such notification is
186 received prior to the printing of the ballot. In the case of the
187 withdrawal of any candidate, the fee paid by such candidate shall
188 be retained by the state or county executive committee, as the
189 case may be.

190 SECTION 7. Section 23-15-303, Mississippi Code of 1972, is
191 amended as follows:

192 23-15-303. When two (2) or more political parties or
193 political organizations are holding primary elections, each shall
194 be conducted together and at the same time.

195 The board of supervisors or the supervisor of the district in
196 which the voting precinct is located shall have authority, and it
197 is made its and his duty when requested, to specifically designate
198 the respective places where the precinct primary election * * *
199 shall be held where there may be a dispute as to the room or exact
200 place for holding such precinct elections.

201 SECTION 8. Section 23-15-331, Mississippi Code of 1972, is
202 amended as follows:

203 23-15-331. It shall be the duty of the state executive
204 committee of each political party to furnish to the commissioners
205 of election of each county, not less than fifty (50) days prior to

206 the primary election, the names of all state and state district
207 candidates and all candidates for legislative districts composed
208 of more than one county or parts of more than one county who have
209 qualified as provided by law, and in accordance with the
210 requirements of Section 23-15-333 a sample of the official ballot
211 to be used in the primary, the general form of which shall be
212 followed as nearly as practicable.

213 SECTION 9. Section 23-15-333, Mississippi Code of 1972, is
214 amended as follows:

215 23-15-333. The commissioners of election shall have printed
216 all necessary ballots, for use in primary elections. The ballots
217 shall contain the names of all the candidates to be voted for at
218 such election, and there shall be left on each ballot one (1)
219 blank space under the title of each office for which a nominee is
220 to be elected; and in the event of the death of any candidate
221 whose name shall have been printed on the ballot, the name of the
222 candidate duly substituted in the place of the deceased candidate
223 may be written in such blank space by the voter. The order in
224 which the titles to the various offices shall be printed, and the
225 size, print and quality of the paper of the ballot is left to the
226 discretion of the commissioners of election. Provided, however,
227 that in all cases the arrangement of the names of the candidates
228 for each office shall be alphabetical. No ballot shall be used
229 except those so printed.

230 The commissioners of election shall also prepare full
231 instructions for the guidance of electors at elections as to
232 obtaining ballots, the manner of marking them, and the mode of
233 obtaining new ballots in the place of those spoiled by accident.

234 The instructions shall be printed in large, clear type on "Cards
235 of Instruction," and the commissioners of election shall furnish
236 the same in sufficient numbers for the use of electors. The cards
237 shall be preserved by the officers of election and returned by
238 them to the commissioners of election and they may be used, if
239 applicable, in subsequent elections.

240 SECTION 10. Section 23-15-335, Mississippi Code of 1972, is
241 amended as follows:

242 23-15-335. The commissioners of election of each county
243 shall designate a person whose duty it shall be to distribute all
244 necessary ballots for use in a primary election, and shall
245 designate one (1) among the managers at each polling place to
246 receive and receipt for the blank ballots to be used at that
247 place. When the blank ballots are delivered to a local manager,
248 the distributor shall take from the local manager a receipt
249 therefor signed in duplicate by both the distributor and the
250 manager, one of which receipts the distributor shall deliver to
251 the circuit clerk and the other shall be retained by the local
252 manager and said last mentioned duplicate receipt shall be
253 enclosed in the ballot box with the voted ballots when the polls
254 have been closed and the votes have been counted. The printer of
255 the ballots shall take a receipt from the distributor of the
256 ballots for the total number of the blank ballots delivered to the
257 distributor. The printer shall secure all ballots printed by him
258 in such a safe manner that no person can procure them or any of
259 them, and he shall deliver no blank ballot or ballots to any
260 person except the distributor above mentioned, and then only upon
261 his receipt therefor as above specified. The distributor of the

262 blank ballots shall so securely hold the same that no person can
263 obtain any of them, and he shall not deliver any of them to any
264 person other than to the authorized local managers and upon their
265 respective receipts therefor. The commissioners of election shall
266 see to it that the total blank ballots delivered to the
267 distributor, shall correspond with the total of the receipts
268 executed by the local managers. Any person charged with any of
269 the duties prescribed in this section who shall willfully or with
270 culpable carelessness violate the same shall be guilty of a
271 misdemeanor.

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

274 23-15-597. The commissioners of election shall meet on the
275 first or second day after each primary election, shall receive and
276 canvass the returns which must be made within the time fixed by
277 law for returns of general elections and certify the result to the
278 county executive committee. The county executive committee shall
279 announce the name of the nominees for county and county district
280 offices and legislative offices for districts containing one (1)
281 county or less, and the names of those candidates to be submitted
282 to the second primary. The vote for state and state district
283 offices and legislative offices for districts containing more than
284 one county or parts of more than one county shall be tabulated by
285 precincts and certified to and returned to the State Board of
286 Election Commissioners, such returns to be mailed by registered
287 letter or any safe mode of transmission within thirty-six (36)
288 hours after the returns are canvassed and the result ascertained.
289 The State Board of Election Commissioners shall meet a week from

290 the day following the first primary election held for state and
291 state district offices and legislative offices for districts
292 containing more than one county or parts of more than one county,
293 and shall proceed to canvass the returns and to certify the result
294 to the State Executive Committee. The State Executive Committee
295 shall announce the names of those nominated for the different
296 offices in the first primary and the names of those candidates
297 whose names are to be submitted to the second primary election.
298 The State Board of Election Commissioners shall also meet a week
299 from the day on which the second primary election was held and
300 receive and canvass the returns for state and district offices, if
301 any, and legislative offices for districts containing more than
302 one county or parts of more than one county, if any, voted on in
303 such second primary and certify the result to the State Executive
304 Committee. An exact and full duplicate of all tabulations by
305 precincts as certified under this section shall be filed with the
306 circuit clerk of the county who shall safely preserve the same in
307 his office.

308 SECTION 12. Section 23-15-213, Mississippi Code of 1972, is
309 amended as follows:

310 23-15-213. (1) At the general election in 1984 and every
311 four (4) years thereafter there shall be elected five (5)
312 commissioners of election for each county whose terms of office
313 shall commence on the first Monday of January following their
314 election and who shall serve for a term of four (4) years. Each
315 of the commissioners, before acting, shall take and subscribe the
316 oath of office prescribed by the Constitution and file the same in
317 the office of the clerk of the chancery court, there to remain.

318 While engaged in their duties, the commissioners shall be
319 conservators of the peace in the county, with all the duties and
320 powers of such.

321 (2) The qualified electors of each supervisors district
322 shall elect, at the general election in 1984 and every four (4)
323 years thereafter, in their district one (1) commissioner of
324 election. No more than one (1) commissioner shall be a resident
325 of and reside in each supervisors district of the county; it being
326 the purpose of this section that the county board of election
327 commissioners shall consist of one (1) person from each
328 supervisors district of the county and that each such commissioner
329 be elected from the supervisors district in which he resides.

330 (3) Candidates for county election commissioner shall
331 qualify by filing with the clerk of the board of supervisors of
332 their respective counties a petition personally signed by not less
333 than fifty (50) qualified electors of the supervisors district in
334 which they reside, requesting that they be a candidate, not less
335 than sixty (60) days before the election and unless such petition
336 is filed within said time, their names shall not be placed upon
337 the ballot. * * *

338 The petition shall have attached thereto a certificate of the
339 registrar showing the number of qualified electors on each
340 petition, which shall be furnished by the registrar on request.
341 The board shall determine the sufficiency of the petition, and if
342 the same shall contain the required number of signatures and be
343 filed within the time required, the president of the board shall
344 verify that such candidate is a resident of the supervisors
345 district in which he seeks election and that such candidate is

346 otherwise qualified as provided by law, and shall certify the same
347 to the chairman or secretary of the county election commission and
348 the names of the candidates shall be placed upon the ballot for
349 the ensuing election. No county election commissioner shall serve
350 or be considered as elected unless and until he has received a
351 majority of the votes cast for the position or post for which he
352 is a candidate. If such majority vote is not received in the
353 first election, then the two (2) candidates receiving the most
354 votes for each position or post shall be placed upon the ballot
355 for a second election to be held two (2) weeks later in accordance
356 with appropriate procedures followed in other elections involving
357 runoff candidates.

358 (4) (a) The office of county election commissioner is a
359 nonpartisan office and a candidate for election thereto is
360 prohibited from campaigning or qualifying for such an office based
361 on party affiliation.

362 (b) In order to ensure that campaigns for county
363 election commissioner remain nonpartisan and without any
364 connection to a political party, political parties and any
365 committee or political committee affiliated with a political party
366 shall not:

367 (i) Engage in fund-raising on behalf of a
368 candidate for the office of county election commissioner;

369 (ii) Make any contribution to a candidate or
370 county election commissioner or the political committee of a
371 candidate for county election commissioner; and

372 (iii) Publicly endorse any candidate for county
373 election commissioner.

374 (c) No candidate or political committee for a candidate
375 for county election commissioner shall accept a contribution from
376 a political party or any committee or political committee
377 affiliated with a political party.

378 (5) Upon taking office, the county board of election
379 commissioners shall organize by electing a chairman and a
380 secretary.

381 (6) It shall be the duty of the chairman to have the
382 official ballot printed and distributed at each general or special
383 election.

384 SECTION 13. The Attorney General of the State of Mississippi
385 is hereby directed to submit this act, immediately upon approval
386 by the Governor, or upon approval by the Legislature subsequent to
387 a veto, to the Attorney General of the United States or to the
388 United States District Court for the District of Columbia in
389 accordance with the provisions of the Voting Rights Act of 1965,
390 as amended and extended.

391 SECTION 14. This act shall take effect and be in force from
392 and after the date it is effectuated under Section 5 of the Voting
393 Rights Act of 1965, as amended and extended.