

By: Tollison

To: Elections

SENATE BILL NO. 2813

1 AN ACT TO AMEND SECTION 23-15-365, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IN THE EVENT OF THE DEATH, RESIGNATION, WITHDRAWAL
3 OR REMOVAL OF A CANDIDATE AFTER THE QUALIFYING DEADLINE, THE NAME
4 OF THE CANDIDATE DULY SUBSTITUTED MAY BE WRITTEN BY THE VOTER IN
5 THE BLANK SPACE ON THE GENERAL ELECTION AND SPECIAL ELECTION
6 BALLOTS; TO AMEND SECTION 23-15-333, MISSISSIPPI CODE OF 1972, TO
7 PROVIDE THAT IN THE EVENT OF THE DEATH OF A CANDIDATE BETWEEN THE
8 QUALIFYING DEADLINE AND THE DATE OF THE FIRST PRIMARY ELECTION,
9 THE NAME OF THE CANDIDATE DULY SUBSTITUTED IN THE PLACE OF THE
10 DECEASED CANDIDATE MAY BE WRITTEN BY THE VOTER IN THE BLANK SPACE
11 ON THE PRIMARY ELECTION BALLOT; TO AMEND SECTION 23-15-317,
12 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF A PERSON NOMINATED
13 FOR OFFICE DIES OR IS REMOVED OR WITHDRAWS OR RESIGNS BETWEEN THE
14 QUALIFYING DEADLINE AND THE GENERAL ELECTION AND THE PERSON IS
15 UNOPPOSED IN THE PRIMARY ELECTION, THE APPROPRIATE EXECUTIVE
16 COMMITTEE IS AUTHORIZED TO NOMINATE A SUBSTITUTE; AND FOR RELATED
17 PURPOSES.

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

19 SECTION 1. Section 23-15-365, Mississippi Code of 1972, is
20 amended as follows:[WAN1]

21 23-15-365. There shall be left on each ballot one (1) blank
22 space under the title of each office to be voted for, and in the
23 event of the death, resignation, withdrawal or removal of any
24 candidate between the qualifying deadline and the date of the
25 general election, the name of the candidate duly substituted in
26 the place of such candidate may be written in such blank space by
27 the voter. In the case of a special election in which no primary
28 is conducted, the name of the candidate duly substituted may be
29 written in such blank space by the voter if the death,
30 resignation, withdrawal or removal of any candidate occurs after
31 the qualifying deadline.

32 SECTION 2. Section 23-15-333, Mississippi Code of 1972, is
33 amended as follows:[WAN2]

34 23-15-333. The county executive committee shall have printed
35 all necessary ballots, for use in primary elections. The ballots
36 shall contain the names of all the candidates to be voted for at
37 such election, and there shall be left on each ballot one (1)
38 blank space under the title of each office for which a nominee is
39 to be elected; and in the event of the death of any candidate
40 between the qualifying deadline and the date of the first primary
41 election, the name of the candidate duly substituted in the place
42 of the deceased candidate may be written in such blank space by
43 the voter. The order in which the titles to the various offices
44 shall be printed, and the size, print and quality of the paper of
45 the ballot is left to the discretion of the county executive
46 committee. Provided, however, that in all cases the arrangement
47 of the names of the candidates for each office shall be
48 alphabetical. No ballot shall be used except those so printed.

49 The county executive committee shall also prepare full
50 instructions for the guidance of electors at elections as to
51 obtaining ballots, the manner of marking them, and the mode of
52 obtaining new ballots in the place of those spoiled by accident.
53 The instructions shall be printed in large, clear type on "Cards
54 of Instruction," and the county executive committee shall furnish
55 the same in sufficient numbers for the use of electors. The cards
56 shall be preserved by the officers of election and returned by
57 them to the county executive committee and they may be used, if
58 applicable, in subsequent elections.

59 SECTION 3. Section 23-15-317, Mississippi Code of 1972, is
60 amended as follows:[WAN3]

61 23-15-317. If any person nominated for office in a primary
62 election shall die, be removed after his nomination or withdraw or
63 resign from his candidacy for a legitimate nonpolitical reason as
64 defined in this section, and such vacancy in nomination shall
65 occur between the primary election and the ensuing general
66 election, or between the qualifying deadline and the general

67 election if the person is unopposed in the primary election of the
68 political party with which the person is affiliated, then the
69 municipal, county or state executive committee with which the
70 original nominee qualified as a candidate in the primary election
71 shall nominate a nominee for such office. Where such a party
72 nominee is unopposed each political party registered with the
73 State Board of Election Commissioners shall have the privilege of
74 nominating a candidate for the office involved. Such nominee
75 shall be duly certified by the respective executive committee
76 chairman. Within two (2) days after such nomination is made by
77 the appropriate executive committee, such committee shall formally
78 notify the Secretary of State of the name of the nominee. The
79 Secretary of State shall thereupon officially notify the
80 appropriate officials charged with conducting the election for the
81 office wherein the vacancy occurred of the name of the nominee.
82 All nominations made pursuant to the provisions of this section
83 shall have the same force and effect and shall entitle the
84 nominees to all rights and privileges that would accrue to them as
85 if they had been nominated in the regular primary election.

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

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

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

94 (c) Substantial business conflict, which shall include
95 the policy of an employer prohibiting employees being candidates
96 for public offices and an employment change which would result in
97 the ineligibility of the candidate or which would impair his
98 capability to properly carry out the functions of the office being
99 sought.

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

103 A candidate who wishes to withdraw for a legitimate
104 nonpolitical reason shall submit his reason by sworn affidavit.
105 Such affidavit shall be filed with the state party chairman of the
106 nominee's party and the State Board of Election Commissioners. No
107 substitution of candidates shall be authorized, except for death
108 or disqualification, unless the State Board of Election
109 Commissioners approves the affidavit as constituting a "legitimate
110 nonpolitical reason" for the candidate's resignation within five
111 (5) days of the date the affidavit is submitted to the board.

112 Immediately upon approval or disapproval of such affidavit,
113 the State Board of Election Commissioners shall notify the
114 respective executive committee of same.

115 SECTION 4. The Attorney General of the State of Mississippi
116 shall submit this act, immediately upon approval by the Governor,
117 or upon approval by the Legislature subsequent to a veto, to the
118 Attorney General of the United States or to the United States
119 District Court for the District of Columbia in accordance with the
120 provisions of the Voting Rights Act of 1965, as amended and
121 extended.

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