HOUSE BILL NO. 1188

AN ACT TO AMEND SECTION 23-15-295, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF AFTER THE QUALIFYING DEADLINE, BUT BEFORE THE PRIMARY ELECTION, THE SOLE CANDIDATE FOR NOMINATION IN A PARTY'S PRIMARY ELECTION DIES, IS REMOVED, WITHDRAWS OR RESIGNS FOR A LEGITIMATE NONPOLITICAL REASON AND A VACANCY OCCURS ON THAT PARTY'S BALLOT IN THE PRIMARY ELECTION, THEN THE EXECUTIVE COMMITTEE SHALL APPOINT A NOMINEE FOR THE OFFICE; TO DEFINE "LEGITIMATE NONPOLITICAL REASON"; TO PROVIDE THAT A CANDIDATE WHO WITHDRAWS FOR A LEGITIMATE NONPOLITICAL REASON SHALL SUBMIT AN AFFIDAVIT TO THE STATE PARTY CHAIRMAN OF THE CANDIDATE'S PARTY AND THE STATE BOARD OF ELECTION COMMISSIONERS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 23-15-295, Mississippi Code of 1972, is amended as follows:

23-15-295. (1) When any person has qualified in the manner provided by law as a candidate for party nomination in any primary election, that person shall have the right to withdraw his name as a candidate by giving notice of his withdrawal in writing to the secretary of the proper executive committee at any time before the printing of the official ballots, and in the event of a withdrawal the name of the candidate shall not be printed on the ballot.

When a candidate for party nomination for a state or district office who has qualified with the state executive committee withdraws as a candidate as provided in this section after the sample of the official ballot has been approved and certified by the State Executive Committee, the Secretary or Chairman of the State Executive Committee shall forthwith notify the county executive committee of each county affected or involved of the fact of the withdrawal and the notification shall authorize the county executive committees to omit the name of the withdrawn
candidate from the ballot if the notification is received before
the printing of the ballot. In the case of the withdrawal of any
candidate, the fee paid by the candidate shall be retained by the
state or county executive committee, as the case may be.

(2) (a) If after the qualifying deadline, but before the
primary election, there is only one candidate for nomination in a
party's primary election and that candidate dies, is removed,
withdraws or resigns from his candidacy for a legitimate
nonpolitical reason as defined in this section, and the death,
removal, withdrawal or resignation causes a complete vacancy on
that party's ballot for the office for which the candidate
qualified in the primary election, then the municipal, county or
state executive committee with which the candidate qualified as a
candidate for the primary election shall appoint a nominee for the
office. Within two (2) days after the nomination is made by the
appropriate executive committee, the committee shall formally
notify the Secretary of State of the name of the nominee. The
Secretary of State shall thereupon officially notify the
appropriate officials charged with conducting the election for the
office wherein the vacancy occurred of the name of the nominee.
All nominations made pursuant to the provisions of this section
shall have the same force and effect and shall entitle the nominee
to all rights and privileges that would accrue to him as if he had
been nominated in the regular primary election. The nominee shall
have his name submitted as his party's nominee in the general
election.

(b) Any candidate who withdraws based upon a
"legitimate nonpolitical reason" which is not covered by the
definition in this section, shall have the strict burden of proof
for his reason.

(c) "Legitimate nonpolitical reason" as used in this
section shall be limited to the following:
(i) Reasons of health, which shall include any health condition which, in the written opinion of a medical doctor, would be harmful to the health of the candidate if he continued.

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

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

(d) A candidate who wishes to withdraw or resign for a legitimate nonpolitical reason shall submit his reason by sworn affidavit. The affidavit shall be filed with the state party chairman of the candidate's party and the State Board of Election Commissioners. No substitution of candidates shall be authorized, except for death or disqualification, unless the State Board of Election Commissioners approves the affidavit as constituting a "legitimate nonpolitical reason" for the candidate's withdrawal or resignation within five (5) days of the date the affidavit is submitted to the board.

(e) Immediately upon approval or disapproval of the affidavit, the State Board of Election Commissioners shall notify the respective executive committee of same.

SECTION 2. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the

SECTION 3. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended, or from and after July 1, 2001, whichever date is later.