

By: Representative Cummings

To: Apportionment and
Elections

HOUSE BILL NO. 1188

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

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

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

16 23-15-295. (1) When any person has qualified in the manner
17 provided by law as a candidate for party nomination in any primary
18 election, that person shall have the right to withdraw his name as
19 a candidate by giving notice of his withdrawal in writing to the
20 secretary of the proper executive committee at any time before the
21 printing of the official ballots, and in the event of a withdrawal
22 the name of the candidate shall not be printed on the ballot.
23 When a candidate for party nomination for a state or district
24 office who has qualified with the state executive committee
25 withdraws as a candidate as provided in this section after the
26 sample of the official ballot has been approved and certified by
27 the State Executive Committee, the Secretary or Chairman of the
28 State Executive Committee shall forthwith notify the county
29 executive committee of each county affected or involved of the
30 fact of the withdrawal and the notification shall authorize the
31 county executive committees to omit the name of the withdrawn

32 candidate from the ballot if the notification is received before
33 the printing of the ballot. In the case of the withdrawal of any
34 candidate, the fee paid by the candidate shall be retained by the
35 state or county executive committee, as the case may be.

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

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

62 (c) "Legitimate nonpolitical reason" as used in this
63 section shall be limited to the following:

64 (i) Reasons of health, which shall include any
65 health condition which, in the written opinion of a medical
66 doctor, would be harmful to the health of the candidate if he
67 continued.

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

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

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

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

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

96 provisions of the Voting Rights Act of 1965, as amended and
97 extended.

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