

By: Representative Moak

To: Apportionment and
Elections; Judiciary B

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 446

1 AN ACT TO AMEND SECTION 23-15-193, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT JUSTICE COURT JUDGES SHALL BE ELECTED AT THE
3 GENERAL STATE ELECTION IN A NONPARTISAN MANNER WITH A RUNOFF TWO
4 WEEKS LATER IF NECESSARY; TO AMEND SECTION 23-15-297, MISSISSIPPI
5 CODE OF 1972, TO DELETE JUSTICE COURT JUDGE CANDIDATES FROM THE
6 LIST OF CANDIDATES REQUIRED TO PAY A FEE UPON ENTERING AN ELECTION
7 FOR PARTY NOMINATION; TO AMEND SECTION 23-15-359, MISSISSIPPI CODE
8 OF 1972, TO PROVIDE THAT THIS SECTION, WHICH REQUIRES THE NAMES OF
9 ALL CANDIDATES NOMINATED FOR OFFICE TO BE PRINTED ON THE BALLOT,
10 SHALL NOT APPLY TO JUSTICE COURT JUDGES; TO AMEND SECTION
11 23-15-973, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUSTICE COURT
12 JUDGES SHALL HAVE THE RIGHT TO ADDRESS THE PEOPLE DURING COURT
13 TERMS; TO AMEND SECTIONS 23-15-975 AND 23-15-977, MISSISSIPPI CODE
14 OF 1972, TO INCLUDE JUSTICE COURT JUDGES UNDER THE NONPARTISAN
15 JUDICIAL ELECTION ACT; TO AMEND SECTION 23-15-197, MISSISSIPPI
16 CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR
17 RELATED PURPOSES.

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

19 **SECTION 1.** Section 23-15-193, Mississippi Code of 1972, is
20 amended as follows:

21 23-15-193. (1) At the election in 1995, and every four (4)
22 years thereafter, there shall be elected a Governor, Lieutenant
23 Governor, Secretary of State, Auditor of Public Accounts, State
24 Treasurer, Attorney General, three (3) public service
25 commissioners, three (3) Mississippi Transportation Commissioners,
26 Commissioner of Insurance, Commissioner of Agriculture and
27 Commerce, Senators and members of the House of Representatives in
28 the Legislature, district attorneys for the several districts,
29 clerks of the circuit and chancery courts of the several counties,
30 as well as sheriffs, coroners, assessors, surveyors and members of
31 the boards of supervisors * * * and constables, and all other
32 officers to be elected by the people at the general state
33 election. All * * * officers shall hold their offices for a term
34 of four (4) years, and until their successors are elected and



35 qualified. The state officers shall be elected in the manner
36 prescribed in Section 140 of the Constitution.

37 (2) Justice court judges shall be elected at the time for
38 the election of the officers provided in subsection (1) of this
39 section. The election of justice court judges shall be
40 nonpartisan. If no candidate for such office receives a majority
41 of the votes cast for such office in the general election, the
42 names of the two (2) candidates receiving the highest number of
43 votes for such office shall be placed on the ballot for a second
44 election to be held three (3) weeks later in accordance with
45 appropriate procedures followed in other elections involving
46 runoff candidates.

47 **SECTION 2.** Section 23-15-197, Mississippi Code of 1972, is
48 amended as follows:

49 23-15-197. (1) Times for holding primary and general
50 elections for congressional offices shall be as prescribed in
51 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

52 (2) Times for holding elections for the office of judge of
53 the Supreme Court shall be as prescribed in Section 23-15-991 and
54 Sections 23-15-974 through 23-15-985.

55 (3) Times for holding elections for the office of circuit
56 court judge, the office of chancery court judge and the office of
57 justice court judge shall be as prescribed in Sections 23-15-974
58 through 23-15-985 and Section 23-15-1015.

59 (4) Times for holding elections for the office of county
60 election commissioners shall be as prescribed in Section
61 23-15-213.

62 **SECTION 3.** Section 23-15-297, Mississippi Code of 1972, is
63 amended as follows:

64 23-15-297. Any candidate * * * entering the race for party
65 nominations for office shall first pay to the proper officer as
66 provided for in Section 23-15-299 for each primary election the
67 following amounts:



68 (a) Candidates for Governor not to exceed Three Hundred
69 Dollars (\$300.00).

70 (b) Candidates for Lieutenant Governor, Attorney
71 General, Secretary of State, State Treasurer, Auditor of Public
72 Accounts, Commissioner of Insurance, Commissioner of Agriculture
73 and Commerce, State Highway Commissioner and State Public Service
74 Commissioner, not to exceed Two Hundred Dollars (\$200.00).

75 (c) Candidates for district attorney, not to exceed One
76 Hundred Dollars (\$100.00).

77 (d) Candidates for State Senator, State Representative,
78 sheriff, chancery clerk, circuit clerk, tax assessor, tax
79 collector, county attorney, county superintendent of education and
80 board of supervisors, not to exceed Fifteen Dollars (\$15.00).

81 (e) Candidates for county surveyor, county
82 coroner * * * and constable, not to exceed Ten Dollars (\$10.00).

83 (f) Candidates for United States Senator, not to exceed
84 Three Hundred Dollars (\$300.00).

85 (g) Candidates for United States Representative, not to
86 exceed Two Hundred Dollars (\$200.00).

87 **SECTION 4.** Section 23-15-359, Mississippi Code of 1972, is
88 amended as follows:

89 23-15-359. (1) The ballot shall contain the names of all
90 party nominees certified by the appropriate executive committee,
91 and independent and special election candidates who have timely
92 filed petitions containing the required signatures. A petition
93 requesting that an independent or special election candidate's
94 name be placed on the ballot for any office shall be filed as
95 provided for in subsection (3) or (4) of this section, as
96 appropriate, and shall be signed by not less than the following
97 number of qualified electors:

98 (a) For an office elected by the state at large, not
99 less than one thousand (1,000) qualified electors.



100 (b) For an office elected by the qualified electors of
101 a Supreme Court district, not less than three hundred (300)
102 qualified electors.

103 (c) For an office elected by the qualified electors of
104 a congressional district, not less than two hundred (200)
105 qualified electors.

106 (d) For an office elected by the qualified electors of
107 a circuit or chancery court district, not less than one hundred
108 (100) qualified electors.

109 (e) For an office elected by the qualified electors of
110 a senatorial or representative district, not less than fifty (50)
111 qualified electors.

112 (f) For an office elected by the qualified electors of
113 a county, not less than fifty (50) qualified electors.

114 (g) For an office elected by the qualified electors of
115 a supervisors district or justice court district, not less than
116 fifteen (15) qualified electors.

117 (2) Unless the petition required above shall be filed as
118 provided for in subsection (3) or (4) of this section, as
119 appropriate, the name of the person requested to be a candidate,
120 unless nominated by a political party, shall not be placed upon
121 the ballot. The ballot shall contain the names of each candidate
122 for each office, and such names shall be listed under the name of
123 the political party such candidate represents as provided by law
124 and as certified to the circuit clerk by the State Executive
125 Committee of such political party. In the event such candidate
126 qualifies as an independent as herein provided, he shall be listed
127 on the ballot as an independent candidate.

128 (3) Petitions for offices described in paragraphs (a), (b),
129 (c) and (d) of subsection (1) of this section, and petitions for
130 offices described in paragraph (e) of subsection (1) of this
131 section for districts composed of more than one (1) county or
132 parts of more than one (1) county, shall be filed with the State



133 Board of Election Commissioners by no later than 5:00 p.m. on the
134 same date by which candidates for nominations in the political
135 party primary elections are required to pay the fee provided for
136 in Section 23-15-297, Mississippi Code of 1972.

137 (4) Petitions for offices described in paragraphs (f) and
138 (g) of subsection (1) of this section, and petitions for offices
139 described in paragraph (e) of subsection (1) of this section for
140 districts composed of one (1) county or less, shall be filed with
141 the proper circuit clerk by no later than 5:00 p.m. on the same
142 date by which candidates for nominations in the political party
143 elections are required to pay the fee provided for in Section
144 23-15-297; provided, however, that no petition may be filed before
145 January 1 of the year in which the election for the office is
146 held. The circuit clerk shall notify the county commissioners of
147 election of all persons who have filed petitions with such clerk.
148 Such notification shall occur within two (2) business days and
149 shall contain all necessary information.

150 (5) The commissioners may also have printed upon the ballot
151 any local issue election matter that is authorized to be held on
152 the same date as the regular or general election pursuant to
153 Section 23-15-375; provided, however, that the ballot form of such
154 local issue must be filed with the commissioners of election by
155 the appropriate governing authority not less than sixty (60) days
156 previous to the date of the election.

157 (6) The provisions of this section shall not apply to
158 municipal elections or to the election of the offices of justice
159 of the Supreme Court, judge of the Court of Appeals, circuit
160 judge, chancellor, county court judge and justice court judge.

161 (7) Nothing in this section shall prohibit special elections
162 to fill vacancies in either house of the Legislature from being
163 held as provided in Section 23-15-851. In all elections conducted
164 under the provisions of Section 23-15-851 the commissioner shall
165 have printed on the ballot the name of any candidate who, not



166 having been nominated by a political party, shall have been
167 requested to be a candidate for any office by a petition filed
168 with said commissioner by 5:00 p.m. not less than ten (10) working
169 days prior to the election, and signed by not less than fifty (50)
170 qualified electors.

171 (8) The appropriate election commission shall determine
172 whether each candidate is a qualified elector of the state, state
173 district, county or county district they seek to serve, and
174 whether each candidate meets all other qualifications to hold the
175 office he is seeking or presents absolute proof that he will,
176 subject to no contingencies, meet all qualifications on or before
177 the date of the general or special election at which he could be
178 elected to office. The election commission also shall determine
179 whether any candidate has been convicted of any felony in a court
180 of this state, or has been convicted on or after December 8, 1992,
181 of any offense in another state which is a felony under the laws
182 of this state, or has been convicted of any felony in a federal
183 court on or after December 8, 1992. Excepted from the above are
184 convictions of manslaughter and violations of the United States
185 Internal Revenue Code or any violations of the tax laws of this
186 state, unless the offense also involved misuse or abuse of his
187 office or money coming into his hands by virtue of his office. If
188 the appropriate election commission finds that a candidate either
189 (a) is not a qualified elector, (b) does not meet all
190 qualifications to hold the office he seeks and fails to provide
191 absolute proof, subject to no contingencies, that he will meet the
192 qualifications on or before the date of the general or special
193 election at which he could be elected, or (c) has been convicted
194 of a felony as described in this subsection, and not pardoned,
195 then the name of such candidate shall not be placed upon the
196 ballot.

197 (9) If after the deadline to qualify as a candidate for an
198 office or after the time for holding any party primary for an



199 office, there shall be only one (1) person who has duly qualified
200 to be a candidate for the office in the general election, the name
201 of such person shall be placed on the ballot.

202 (10) The petition required by this section may not be filed
203 by using the internet.

204 **SECTION 5.** Section 23-15-973, Mississippi Code of 1972, is
205 amended as follows:

206 23-15-973. It shall be the duty of the judges of the circuit
207 court to give a reasonable time and opportunity to the candidates
208 for the office of judge of the Supreme Court, judges of the Court
209 of Appeals, circuit judge, chancellor and justice court judge to
210 address the people during court terms. In order to give further
211 and every possible emphasis to the fact that the * * * judicial
212 offices are not political but are to be held without favor and
213 with absolute impartiality as to all persons, and because of the
214 jurisdiction conferred upon the courts by this chapter, the judges
215 thereof should be as far removed as possible from any political
216 affiliations or obligations. It shall be unlawful for any
217 candidate for any of the offices mentioned in this section to
218 align himself with any candidate or candidates for any other
219 office or with any political faction or any political party at any
220 time during any primary or general election campaign. Likewise it
221 shall be unlawful for any candidate for any other office nominated
222 or to be nominated at any primary election, wherein any candidate
223 for any of the judicial offices in this section mentioned, is or
224 are to be nominated, to align himself with any one or more of the
225 candidates for the offices or to take any part whatever in any
226 nomination for any one or more of the judicial offices, except to
227 cast his individual vote. Any candidate for any office, whether
228 nominated with or without opposition, at any primary wherein a
229 candidate for any one of the judicial offices * * * mentioned in
230 this section is to be nominated who shall deliberately, knowingly
231 and willfully violate the provisions of this section shall forfeit



232 his nomination, or if elected at the following general election by
233 virtue of said nomination, his election shall be void.

234 **SECTION 6.** Section 23-15-975, Mississippi Code of 1972, is
235 amended as follows:

236 23-15-975. As used in Sections 23-15-974 through 23-15-985
237 of this subarticle, the term "judicial office" includes the office
238 of justice of the Supreme Court, judge of the Court of Appeals,
239 circuit judge, chancellor, county court judge, family court judge
240 and justice court judge. All * * * justices and judges, except
241 justice court judges, shall be full-time positions and the
242 justices and judges shall not engage in the practice of law before
243 any court, administrative agency or other judicial or
244 quasi-judicial forum except as provided by law for finalizing
245 pending cases after election to judicial office.

246 **SECTION 7.** Section 23-15-977, Mississippi Code of 1972, is
247 amended as follows:

248 23-15-977. (1) All candidates for judicial office as
249 defined in Section 23-15-975 of this subarticle shall file their
250 intent to be a candidate with the proper officials not later than
251 5:00 p.m. on the first Friday after the first Monday in May prior
252 to the general election for judicial office and shall pay to the
253 proper officials the following amounts:

254 (a) Candidates for Supreme Court judge and Court of
255 Appeals, the sum of Two Hundred Dollars (\$200.00).

256 (b) Candidates for circuit judge and chancellor, the
257 sum of One Hundred Dollars (\$100.00).

258 (c) Candidates for county judge and justice court
259 judge, the sum of Fifteen Dollars (\$15.00).

260 (2) Candidates for judicial offices listed in paragraphs (a)
261 and (b) of subsection (1) of this section shall file their intent
262 to be a candidate with, and pay the proper assessment made
263 pursuant to subsection (1) of this section to, the State Board of
264 Election Commissioners.



265 (3) Candidates for judicial offices listed in paragraph (c)
266 of subsection (1) of this section shall file their intent to be a
267 candidate with, and pay the proper assessment made pursuant to
268 subsection (1) of this section to, the circuit clerk of the proper
269 county. The circuit clerk shall notify the county commissioners
270 of election of all persons who have filed their intent to be a
271 candidate filed with, and paid the proper assessment to, such
272 clerk. Such notification shall occur within two (2) business days
273 and shall contain all necessary information.

274 **SECTION 8.** The Attorney General of the State of Mississippi
275 shall submit this act, immediately upon approval by the Governor,
276 or upon approval by the Legislature subsequent to a veto, to the
277 Attorney General of the United States or to the United States
278 District Court for the District of Columbia in accordance with the
279 provisions of the Voting Rights Act of 1965, as amended and
280 extended.

281 **SECTION 9.** This act shall take effect and be in force from
282 and after January 1, 2003, or the date it is effectuated under
283 Section 5 of the Voting Rights Act of 1965, as amended and
284 extended, whichever date is later.

