AN ACT TO AMEND SECTION 23-15-857, MISSISSIPPI CODE OF 1972, TO REVISE THE QUALIFYING DEADLINE FOR CANDIDATES IN A MUNICIPAL SPECIAL ELECTION; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 23-15-857, Mississippi Code of 1972, is amended as follows:

23-15-857. (1) When it shall happen that there is any vacancy in a city, town or village office which is elective, the unexpired term of which shall not exceed six (6) months, the same shall be filled by appointment by the governing authority or remainder of the governing authority of said city, town or village. The municipal clerk shall certify to the Secretary of State the fact of such appointment, and the person or persons so appointed shall be commissioned by the Governor.

(2) When it shall happen that there is any vacancy in an elective office in a city, town or village the unexpired term of which shall exceed six (6) months, the governing authority or remainder of the governing authority of said city, town or village shall make and enter on the minutes an order for an election to be held in such city, town or village to fill the vacancy and fix a date upon which such election shall be held. Such order shall be made and entered upon the minutes at the next regular meeting of the governing authority after such vacancy shall have occurred, or at a special meeting to be held not later than ten (10) days after such vacancy shall have occurred, Saturdays, Sundays and legal holidays excluded, whichever shall occur first. Such election shall be held on a date not less than thirty (30) days nor more
than forty-five (45) days after the date upon which the order is
adopted.

Notice of such election shall be given by the municipal clerk
by notice published in a newspaper published in the municipality.
Such notice shall be published once each week for three (3)
successive weeks preceding the date of such election. The first
notice to be published at least thirty (30) days before the date
of such election. Notice shall also be given by posting a copy of
such notice at three (3) public places in such municipality not
less than twenty-one (21) days prior to the date of such election.
One (1) of such notices shall be posted at the city, town or
village hall. In the event that there is no newspaper published
in the municipality, then such notice shall be published as
provided for above in a newspaper which has a general circulation
within the municipality and by posting as provided for above. In
addition, the governing authority may publish such notice in such
newspaper for such additional times as may be deemed necessary by
the governing authority.

Each candidate shall qualify by petition filed with the
municipal clerk by 5:00 p.m. at least twenty (20) days before the
date of the election and such petition shall be signed by not less
than the following number of qualified electors:

(a) For an office of a city, town or village having a
population of one thousand (1,000) or more, not less than fifty
(50) qualified electors.

(b) For an office of a city, town or village having a
population of less than one thousand (1,000), not less than
fifteen (15) qualified electors.

No qualifying fee shall be required of any candidate, and the
election provided for herein shall be held as far as practicable
in the same manner as municipal general elections.

The candidate receiving a majority of the votes cast in a
said election shall be elected. If no candidate shall receive a
majority vote at the election, the two (2) candidates receiving
the highest number of votes shall have their names placed on the
ballot for the election to be held one (1) week thereafter. The
candidate receiving a majority of the votes cast in said election
shall be elected. However, if no candidate shall receive a
majority and there is a tie in the election of those receiving the
next highest vote, those receiving the next highest vote and the
candidate receiving the highest vote shall have their names placed
on the ballot for the election to be held one (1) week thereafter,
and whoever receives the most votes cast in such election shall be
elected.

Should the election to be held one (1) week thereafter result
in a tie vote, the candidate to prevail shall be decided by lot,
fairly and publicly drawn under the supervision by the election
commission with the aid of two (2) or more qualified electors of
the municipality.

The clerk of the election commission shall then give a
certificate of election to the person elected, and shall return to
the Secretary of State a copy of the order of holding the election
and runoff election showing the results thereof, certified by the
clerk of the governing authority. The person elected shall be
commissioned by the Governor.

However, if nine (9) days prior to the date of the election
only one (1) person shall have qualified as a candidate, the
governing authority, or remainder of the governing authority,
shall dispense with the election and appoint that one (1)
candidate in lieu of an election. In the event no person shall
have qualified by 5:00 p.m. at least ten (10) days prior to the
date of the election, the governing authority or remainder of the
governing authority shall dispense with the election and fill the
vacancy by appointment. The clerk of the governing authority
shall certify to the Secretary of State the fact of the
appointment, and the person so appointed shall be commissioned by the Governor.

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

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.