

By: Representative Fleming

To: Apportionment and
Elections

HOUSE BILL NO. 176

1 AN ACT TO PROVIDE THAT WHEN ANY LEGISLATOR OR STATEWIDE
2 ELECTED OFFICIAL CHANGES HIS OR HER POLITICAL PARTY AFFILIATION
3 BEFORE JANUARY 1 OF THE YEAR IN WHICH THE LEGISLATOR OR STATEWIDE
4 ELECTED OFFICIAL IS REQUIRED TO QUALIFY FOR REELECTION, THE OFFICE
5 OF THE LEGISLATOR OR STATEWIDE ELECTED OFFICIAL SHALL BE DECLARED
6 VACANT AND A SPECIAL ELECTION SHALL BE CALLED WITHIN 60 DAYS OF
7 THE DATE THE ELECTED OFFICIAL CHANGES POLITICAL PARTY AFFILIATION;
8 TO AMEND SECTIONS 23-15-831 AND 23-15-851, MISSISSIPPI CODE OF
9 1972, IN CONFORMITY THEREWITH; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** (1) The office of any legislator or state-wide
12 elected official who changes his or her political party
13 affiliation before January 1 of the year in which the legislator
14 or statewide elected official is required to qualify for
15 reelection, shall be declared vacant, and a special election shall
16 be called within sixty (60) days of the date the elected official
17 changes political party affiliation. If the office of a
18 legislator is vacated under this section, the special election
19 shall be held in accordance with Section 23-15-851. A "change in
20 political party affiliation" occurs when:

21 (a) Any elected official publicly declares that he or
22 she is leaving the political party with which he or she was
23 affiliated when he or she was elected to office;

24 (b) Any elected official publicly declares that he or
25 she is becoming a member of a political party which is different
26 from the political party with which he or she was affiliated at
27 the time of election; or

28 (2) All special elections held under subsection (1) of this
29 section shall be conducted, held and returned in the same manner
30 and in all respects as general elections, except that where no

31 candidate receives a majority of the votes cast in such election,
32 then a runoff election shall be held two (2) weeks after such
33 election and the two (2) candidates who receive the highest
34 popular votes for such office shall have their names submitted as
35 such candidates to the said runoff and the candidate who leads in
36 such runoff election shall be elected to the office. When there
37 is a tie in the first election of those receiving next highest
38 vote, these two (2) and the one receiving the highest vote, none
39 having received a majority, shall go into the runoff election and
40 whoever leads in such runoff election shall be entitled to the
41 office.

42 **SECTION 2.** Section 23-15-831, Mississippi Code of 1972, is
43 amended as follows:

44 23-15-831. Except as otherwise provided in Section 1 of
45 House Bill No. _____, 2004 Regular Session, when a vacancy other
46 than in the Legislature shall occur, by death, resignation or
47 otherwise, in any state or state district office, which is
48 elective, and there is no special provision of law for the filling
49 of said vacancy, the same shall be filled for the unexpired term
50 by appointment by the Governor.

51 **SECTION 3.** Section 23-15-851, Mississippi Code of 1972, is
52 amended as follows:

53 23-15-851. Except as otherwise provided in Section 1 of
54 House Bill No. _____, 2004 Regular Session, when vacancies happen
55 in either House of the Legislature, the Governor shall issue writs
56 of election to fill such vacancies on a day therein to be
57 specified; and at least twenty (20) days' notice shall be given of
58 such election in each county or part of a county in which such
59 election shall be held. Notice of the election shall be posted at
60 the courthouse and in each supervisors district in the county or
61 part of county in which such election shall be held for as near
62 twenty (20) days as may be practicable; and the election shall be
63 prepared for and held as in the case of a general election.

64 **SECTION 4.** The Attorney General of the State of Mississippi
65 shall submit this act, immediately upon approval by the Governor,
66 or upon approval by the Legislature subsequent to a veto, to the
67 Attorney General of the United States or to the United States
68 District Court for the District of Columbia in accordance with the
69 provisions of the Voting Rights Act of 1965, as amended and
70 extended.

71 **SECTION 5.** This act shall take effect and be in force from
72 and after July 1, 2004, if it is effectuated on or before that
73 date under Section 5 of the Voting Rights Act of 1965, as amended
74 and extended. If it is effectuated under Section 5 of the Voting
75 Rights Act of 1965, as amended and extended, after July 1, 2004,
76 this act shall take effect and be in force from and after the date
77 it is effectuated under Section 5 of the Voting Rights Act of
78 1965, as amended and extended.