

By: Senator(s) Burton, Ross, Chaney, Clarke, Davis, Flowers, Hyde-Smith, Jackson (15th), King, Kirby, Lee (35th), Little, Nunnelee, Pickering, White To: Elections

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2387

1 AN ACT TO AMEND SECTION 23-15-805, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT FROM AND AFTER JANUARY 1, 2007, CANDIDATES FOR
3 STATE AND STATE DISTRICT OFFICE AND THEIR AUTHORIZED COMMITTEES OR
4 AGENTS THAT RECEIVE CONTRIBUTIONS OR MAKE EXPENDITURES IN EXCESS
5 OF \$500,000.00 IN ANY CALENDAR YEAR, SHALL FILE CAMPAIGN FINANCE
6 REPORTS BY ELECTRONIC FORMAT; TO AMEND SECTION 23-15-807,
7 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CAMPAIGN FINANCE REPORTS
8 SHALL INCLUDE CERTAIN INFORMATION REGARDING LOANS OR OTHER
9 EXTENSIONS OF CREDIT MADE TO A CANDIDATE FOR USE IN SUCH
10 CANDIDATE'S CAMPAIGN; TO AMEND SECTION 23-15-811, MISSISSIPPI CODE
11 OF 1972, TO PROVIDE THAT IF A CANDIDATE IS CHARGED WITH A CRIMINAL
12 VIOLATION OF THE CAMPAIGN FINANCE LAW, THE VIOLATION SHALL BE
13 DEEMED TO HAVE BEEN COMMITTED IN THE COUNTY IN WHICH THE
14 CANDIDATE'S CAMPAIGN FINANCE REPORT WAS PREPARED OR THE COUNTY OF
15 RESIDENCE OF THE DEFENDANT; TO AMEND SECTION 23-15-813,
16 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT HEARINGS HELD BY HEARING
17 OFFICERS REGARDING IMPOSITION OF CIVIL FINES UPON CANDIDATES UNDER
18 THE CAMPAIGN FINANCE LAW SHALL BE HELD IN THE COUNTY OF RESIDENCE
19 OF THE CANDIDATE; TO PROVIDE THAT AN APPEAL FROM THE DECISION OF
20 THE HEARING OFFICER BY A CANDIDATE SHALL BE TO THE CIRCUIT COURT
21 OF THE COUNTY OF RESIDENCE OF THE CANDIDATE; TO AMEND SECTION
22 97-13-15, MISSISSIPPI CODE OF 1972, TO INCREASE TO \$2,000.00 THE
23 AMOUNT THAT CORPORATIONS, INCORPORATED COMPANIES OR INCORPORATED
24 ASSOCIATIONS MAY ANNUALLY DONATE FOR THE PURPOSE OF AIDING ANY
25 POLITICAL PARTY OR ANY CANDIDATE FOR ANY PUBLIC OFFICE, OR ANY
26 CANDIDATE FOR ANY NOMINATION FOR ANY PUBLIC OFFICE OF ANY
27 POLITICAL PARTY TO INCLUDE LABOR UNIONS WITHIN SUCH CONTRIBUTION
28 LIMIT; TO AMEND SECTION 83-15-805, MISSISSIPPI CODE OF 1972, IN
29 CONFORMITY THERETO; TO REPEAL SECTION 23-15-1023, MISSISSIPPI CODE
30 OF 1972, WHICH PROVIDES THAT JUDICIAL CANDIDATES SHALL DISCLOSE
31 CERTAIN INFORMATION ABOUT CERTAIN LOANS; AND FOR RELATED PURPOSES.

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

33 **SECTION 1.** Section 23-15-805, Mississippi Code of 1972, is
34 amended as follows:

35 23-15-805. (1) Candidates for state, state district, and
36 legislative district offices, and every political committee, which
37 makes reportable contributions to or expenditures in support of or
38 in opposition to a candidate for any such office or makes
39 reportable contributions to or expenditures in support of or in
40 opposition to a statewide ballot measure, shall file all reports

41 required under this article with the Office of the Secretary of
42 State.

43 (2) (a) From and after January 1, 2007, when aggregate
44 contributions or aggregate disbursements for a calendar year reach
45 in excess of Five Hundred Thousand Dollars (\$500,000.00), a
46 candidate for state or state district office or his or her
47 authorized committee or agent shall file all subsequent reports
48 required by this article by electronic format.

49 (b) The Office of the Secretary of State shall adopt
50 rules and regulations designating the format and software to be
51 used in filing reports by electronic format under this subsection.
52 All candidates and committees required to file reports by
53 electronic format under this subsection shall follow the format
54 and use the software prescribed by the Office of the Secretary of
55 State.

56 (3) Candidates for county or county district office, and
57 every political committee which makes reportable contributions to
58 or expenditures in support of or in opposition to a candidate for
59 such office or makes reportable contributions to or expenditures
60 in support of or in opposition to a countywide ballot measure or a
61 ballot measure affecting part of a county, excepting a municipal
62 ballot measure, shall file all reports required by this section in
63 the office of the circuit clerk of the county in which the
64 election occurs. The circuit clerk shall forward copies of all
65 reports to the Office of the Secretary of State.

66 (4) Candidates for municipal office, and every political
67 committee which makes reportable contributions to or expenditures
68 in support of or in opposition to a candidate for such office, or
69 makes reportable contributions to or expenditures in support of or
70 in opposition to a municipal ballot measure shall file all reports
71 required by this article in the office of the municipal clerk of
72 the municipality in which the election occurs. The municipal

73 clerk shall forward copies of all reports to the Office of the
74 Secretary of State.

75 (5) The Secretary of State, the circuit clerks and the
76 municipal clerks shall make all reports received under this
77 subsection available for public inspection and copying and shall
78 preserve such reports for a period of five (5) years.

79 * * *

80 **SECTION 2.** Section 23-15-807, Mississippi Code of 1972, is
81 amended as follows:

82 23-15-807. (1) Each candidate or political committee shall
83 file reports of contributions and disbursements in accordance with
84 the provisions of this section. All candidates or political
85 committees required to report may terminate its obligation to
86 report only upon submitting a final report that it will no longer
87 receive any contributions or make any disbursement and that such
88 candidate or committee has no outstanding debts or obligations.
89 The candidate, treasurer or chief executive officer shall sign
90 each such report.

91 (2) Candidates who are seeking election, or nomination for
92 election, and political committees that make expenditures for the
93 purpose of influencing or attempting to influence the action of
94 voters for or against the nomination for election, or election, of
95 one or more candidates or balloted measures at such election,
96 shall file the following reports:

97 (a) In any calendar year during which there is a
98 regularly scheduled election, a preelection report, which shall be
99 filed no later than the seventh day before any election in which
100 such candidate or political committee has accepted contributions
101 or made expenditures and which shall be complete as of the tenth
102 day before such election;

103 (b) In 1987 and every fourth year thereafter, periodic
104 reports, which shall be filed no later than the tenth day after

105 April 30, May 31, June 30, September 30 and December 31, and which
106 shall be complete as of the last day of each period; and

107 (c) In any calendar years except 1987 and except every
108 fourth year thereafter, a report covering the calendar year which
109 shall be filed no later than January 31 of the following calendar
110 year.

111 (3) All candidates for judicial office as defined in Section
112 23-15-975, or their political committees, shall file in the year
113 in which they are to be elected, periodic reports which shall be
114 filed no later than the tenth day after April 30, May 31, June 30,
115 September 30 and December 31.

116 (4) Contents of reports. Each report under this article
117 shall disclose:

118 (a) For the reporting period and the calendar year, the
119 total amount of all contributions and the total amount of all
120 expenditures of the candidate or reporting committee which shall
121 include those required to be identified pursuant to item (ii) of
122 this paragraph as well as the total of all other contributions and
123 expenditures during the calendar year. Such reports shall be
124 cumulative during the calendar year to which they relate;

125 (b) The identification of:

126 (i) Each person or political committee who makes a
127 contribution to the reporting candidate or political committee
128 during the reporting period, whose contribution or contributions
129 within the calendar year have an aggregate amount or value in
130 excess of Two Hundred Dollars (\$200.00) together with the date and
131 amount of any such contribution;

132 (ii) Each person or organization, candidate or
133 political committee who receives an expenditure, payment or other
134 transfer from the reporting candidate, political committee or its
135 agent, employee, designee, contractor, consultant or other person
136 or persons acting in its behalf during the reporting period when
137 the expenditure, payment or other transfer to such person,

138 organization, candidate or political committee within the calendar
139 year have an aggregate value or amount in excess of Two Hundred
140 Dollars (\$200.00) together with the date and amount of such
141 expenditure;

142 (c) The total amount of cash on hand of each reporting
143 candidate and reporting political committee;

144 (d) In addition to the contents of reports specified in
145 paragraphs (a), (b) and (c) of this subsection (4), each political
146 party shall disclose:

147 (i) Each person or political committee who makes a
148 contribution to a political party during the reporting period and
149 whose contribution or contributions to a political party within
150 the calendar year have an aggregate amount or value in excess of
151 Two Hundred Dollars (\$200.00), together with the date and amount
152 of the contribution;

153 (ii) Each person or organization who receives an
154 expenditure by a political party or expenditures by a political
155 party during the reporting period when the expenditure or
156 expenditures to the person or organization within the calendar
157 year have an aggregate value or amount in excess of Two Hundred
158 Dollars (\$200.00), together with the date and amount of the
159 expenditure.

160 (5) The appropriate office specified in Section 23-15-805
161 must be in actual receipt of the reports specified in this article
162 by 5:00 p.m. on the dates specified in subsection (2) of this
163 section. If the date specified in subsection (2) of this section
164 shall fall on a weekend or legal holiday then the report shall be
165 due in the appropriate office at 5:00 p.m. on the first working
166 day before the date specified in subsection (2) of this section.
167 The reporting candidate or reporting political committee shall
168 ensure that the reports are delivered to the appropriate office by
169 the filing deadline. The Secretary of State may approve specific
170 means of electronic transmission of completed campaign finance

171 disclosure reports, which may include, but not be limited to,
172 transmission by electronic facsimile (FAX) devices.

173 (6) (a) If any contribution of more than Two Hundred
174 Dollars (\$200.00) is received by a candidate or candidate's
175 political committee after the tenth day, but more than forty-eight
176 (48) hours before 12:01 a.m. of the day of the election, the
177 candidate or political committee shall notify the appropriate
178 office designated in Section 23-15-805, within forty-eight (48)
179 hours of receipt of the contribution. The notification shall
180 include:

- 181 (i) The name of the receiving candidate;
- 182 (ii) The name of the receiving candidate's
183 political committee, if any;
- 184 (iii) The office sought by the candidate;
- 185 (iv) The identification of the contributor;
- 186 (v) The date of receipt;
- 187 (vi) The amount of the contribution;
- 188 (vii) If the contribution is in-kind, a
189 description of the in-kind contribution; and
- 190 (viii) The signature of the candidate or the
191 treasurer or director of the candidate's political committee.

192 (b) The notification shall be in writing, and may be
193 transmitted by overnight mail, courier service, or other reliable
194 means, including electronic facsimile (FAX), but the candidate or
195 candidate's committee shall ensure that the notification shall in
196 fact be received in the appropriate office designated in Section
197 23-15-805 within forty-eight (48) hours of the contribution.

198 (7) (a) In addition to the information required to be
199 disclosed in subsection (4) of this section, candidates shall
200 disclose:

- 201 (i) The identity of any individual or entity from
202 which the candidate receives a loan or other extension of credit

203 for use in his campaign or in furtherance of any campaign
204 activities;

205 (ii) The identity of any individual or entity
206 which assumes, in whole or in part, such loan or other extension
207 of credit;

208 (iii) The identity of any individual or entity to
209 which such loan or other extension of credit has been assigned or
210 otherwise transferred, in whole or in part, by contract, purchase,
211 operation of law or otherwise;

212 (iv) The identity of all creditors, cosigners,
213 guarantors, assignees or other parties to such loan, extension of
214 credit, assumption, assignment or related transaction;

215 (v) How such loan or other extension of credit was
216 utilized; and

217 (vi) All details concerning repayment of the loan
218 or extension of credit, including, but not limited to, the time of
219 the repayments, the method of repayments, the amount of repayments
220 and sources of repayments and the identity of the individuals
221 involved in the repayment.

222 (b) Candidates shall also file certified copies of all
223 documents related to the loans, extensions of credit, assumptions,
224 assignments or transactions required to be reported or identified
225 by this subsection.

226 **SECTION 3.** Section 23-15-811, Mississippi Code of 1972, is
227 amended as follows:

228 23-15-811. (1) Any candidate or any other person who shall
229 willfully and deliberately and substantially violate the
230 provisions and prohibitions of this article shall be guilty of a
231 misdemeanor and upon conviction thereof shall be punished by a
232 fine in a sum not to exceed Three Thousand Dollars (\$3,000.00) or
233 imprisoned for not longer than six (6) months or by both fine and
234 imprisonment.

235 (2) In addition to the penalties provided in subsection (1)
236 of this section, any candidate or political committee which is
237 required to file a statement or report which fails to file such
238 statement or report on the date in which it is due may be
239 compelled to file such statement or report by an action in the
240 nature of a mandamus.

241 (3) No candidate shall be certified as nominated for
242 election or as elected to office unless and until he files all
243 reports required by this article due as of the date of
244 certification.

245 (4) No candidate who is elected to office shall receive any
246 salary or other remuneration for the office unless and until he
247 files all reports required by this article due as of the date such
248 salary or remuneration is payable.

249 (5) In the event that a candidate fails to timely file any
250 report required pursuant to this article but subsequently files a
251 report or reports containing all of the information required to be
252 reported by him as of the date on which the sanctions of
253 subsections (3) and (4) of this section would be applied to him,
254 such candidate shall not be subject to the sanctions of
255 subsections (3) and (4) of this section.

256 (6) If a candidate is charged with a violation of this
257 section, the violation shall be deemed to have been committed in
258 the county of residence of the candidate.

259 **SECTION 4.** Section 23-15-813, Mississippi Code of 1972, is
260 amended as follows:

261 23-15-813. (1) In addition to any other penalty permitted
262 by law, the Secretary of State shall require any candidate or
263 political committee, as identified in Section 23-15-805(1), and
264 any other political committee registered with the Secretary of
265 State, who fails to file a campaign finance disclosure report as
266 required under Sections 23-15-801 through 23-15-813, or Sections
267 23-17-47 through 23-17-53, or who shall file a report which fails

268 to substantially comply with the requirements of Sections
269 23-15-801 through 23-15-813, or Sections 23-17-47 through
270 23-17-53, to be assessed a civil penalty as follows:

271 (a) Within five (5) calendar days after any deadline
272 for filing a report pursuant to Sections 23-15-801 through
273 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of
274 State shall compile a list of those candidates and political
275 committees who have failed to file a report. The Secretary of
276 State shall provide each candidate or political committee, who has
277 failed to file a report, notice of the failure by first-class
278 mail.

279 (b) Beginning with the tenth calendar day after which
280 any report shall be due, the Secretary of State shall assess the
281 delinquent candidate and political committee a civil penalty of
282 Fifty Dollars (\$50.00) for each day or part of any day until a
283 valid report is delivered to the Secretary of State, up to a
284 maximum of ten (10) days. However, in the discretion of the
285 Secretary of State, the assessing of the fine may be waived in
286 whole or in part if the Secretary of State determines that
287 unforeseeable mitigating circumstances, such as the health of the
288 candidate, interfered with timely filing of a report. Failure of
289 a candidate or political committee to receive notice of failure to
290 file a report from the Secretary of State is not an unforeseeable
291 mitigating circumstance, and failure to receive the notice shall
292 not result in removal or reduction of any assessed civil penalty.

293 (c) Filing of the required report and payment of the
294 fine within ten (10) calendar days of notice by the Secretary of
295 State that a required statement has not been filed, constitutes
296 compliance with Sections 23-15-801 through 23-15-813, or Sections
297 23-17-47 through 23-17-53.

298 (d) Payment of the fine without filing the required
299 report does not in any way excuse or exempt any person required to

300 file from the filing requirements of Sections 23-15-801 through
301 23-15-813, and Sections 23-17-47 through 23-17-53.

302 (e) If any candidate or political committee is assessed
303 a civil penalty, and the penalty is not subsequently waived by the
304 Secretary of State, the candidate or political committee shall pay
305 the fine to the Secretary of State within ninety (90) days of the
306 date of the assessment of the fine. If, after one hundred twenty
307 (120) days of the assessment of the fine the payment for the
308 entire amount of the assessed fine has not been received by the
309 Secretary of State, the Secretary of State shall notify the
310 Attorney General of the delinquency, and the Attorney General
311 shall file, where necessary, a suit to compel payment of the civil
312 penalty.

313 (2) (a) Upon the sworn application, made within sixty (60)
314 calendar days of the date upon which the required report is due,
315 of a candidate or political committee against whom a civil penalty
316 has been assessed pursuant to subsection (1) of this section, the
317 Secretary of State shall forward the application to the State
318 Board of Election Commissioners. The State Board of Election
319 Commissioners shall appoint one or more hearing officers who shall
320 be former chancellors, circuit court judges, judges of the Court
321 of Appeals or justices of the Supreme Court, and who shall conduct
322 hearings held pursuant to this article. The hearing officer shall
323 fix a time and place for a hearing and shall cause a written
324 notice specifying the civil penalties that have been assessed
325 against the candidate or political committee and notice of the
326 time and place of the hearing to be served upon the candidate or
327 political committee at least twenty (20) calendar days before the
328 hearing date. If the application is made by a candidate, the
329 place of the hearing shall be located in the county of residence
330 of the candidate. The notice may be served by mailing a copy
331 thereof by certified mail, postage prepaid, to the last known
332 business address of the candidate or political committee.

333 (b) The hearing officer may issue subpoenas for the
334 attendance of witnesses and the production of books and papers at
335 the hearing. Process issued by the hearing officer shall extend
336 to all parts of the state and shall be served by any person
337 designated by the hearing officer for the service.

338 (c) The candidate or political committee has the right
339 to appear either personally, by counsel or both, to produce
340 witnesses or evidence in his behalf, to cross-examine witnesses
341 and to have subpoenas issued by the hearing officer.

342 (d) At the hearing, the hearing officer shall
343 administer oaths as may be necessary for the proper conduct of the
344 hearing. All hearings shall be conducted by the hearing officer,
345 who shall not be bound by strict rules of procedure or by the laws
346 of evidence in the conduct of the proceedings, but the
347 determination shall be based upon sufficient evidence to sustain
348 it. The scope of review at the hearing shall be limited to making
349 a determination of whether failure to file a required report was
350 due to an unforeseeable mitigating circumstance.

351 (e) Where, in any proceeding before the hearing
352 officer, any witness fails or refuses to attend upon a subpoena
353 issued by the commission, refuses to testify, or refuses to
354 produce any books and papers the production of which is called for
355 by a subpoena, the attendance of the witness, the giving of his
356 testimony or the production of the books and papers shall be
357 enforced by any court of competent jurisdiction of this state in
358 the manner provided for the enforcement of attendance and
359 testimony of witnesses in civil cases in the courts of this state.

360 (f) Within fifteen (15) calendar days after conclusion
361 of the hearing, the hearing officer shall reduce his or her
362 decision to writing and forward an attested true copy of the
363 decision to the last known business address of the candidate or
364 political committee by way of United States first-class, certified
365 mail, postage prepaid.

366 (3) (a) The right to appeal from the decision of the
367 hearing officer in an administrative hearing concerning the
368 assessment of civil penalties authorized pursuant to this section
369 is granted. The appeal shall be to the Circuit Court of Hinds
370 County and shall include a verbatim transcript of the testimony at
371 the hearing; however, if the appeal is being made by a candidate,
372 the appeal shall be to the circuit court of the county of
373 residence of the candidate. The appeal shall be taken within
374 thirty (30) calendar days after notice of the decision of
375 the * * * hearing officer. The appeal shall be perfected upon
376 filing notice of the appeal and by the prepayment of all costs,
377 including the cost of the preparation of the record of the
378 proceedings by the hearing officer, and the filing of a bond in
379 the sum of Two Hundred Dollars (\$200.00), conditioned that if the
380 decision of the hearing officer be affirmed by the court, the
381 candidate or political committee shall pay the costs of the appeal
382 and the action in court. If the decision is reversed by the
383 court, the Secretary of State shall pay the costs of the appeal
384 and the action in court.

385 (b) If there is an appeal, the appeal shall act as a
386 supersedeas. The court shall dispose of the appeal and enter its
387 decision promptly. The hearing on the appeal may be tried in
388 vacation, in the court's discretion. The scope of review of the
389 court shall be limited to a review of the record made before the
390 hearing officer to determine if the action of the hearing officer
391 is unlawful for the reason that it was:

392 (i) Not supported by substantial evidence;

393 (ii) Arbitrary or capricious;

394 (iii) Beyond the power of the hearing officer to
395 make; or

396 (iv) In violation of some statutory or
397 constitutional right of the appellant.

398 The decision of the court may be appealed to the Supreme
399 Court in the manner provided by law.

400 (4) If, after forty-five (45) calendar days of the date of
401 the administrative hearing procedure set forth in subsection (2)
402 of this section, the candidate or political committee identified
403 in subsection (1) of this section fails to pay the monetary civil
404 penalty imposed by the hearing officer, the Secretary of State
405 shall notify the Attorney General of the delinquency. The
406 Attorney General shall investigate the offense in accordance with
407 the provisions of this chapter, and where necessary, file suit to
408 compel payment of the unpaid civil penalty.

409 (5) If, after twenty (20) calendar days of the date upon
410 which a campaign finance disclosure report is due, a candidate or
411 political committee identified in subsection (1) of this section
412 shall not have filed a valid report with the Secretary of State,
413 the Secretary of State shall notify the Attorney General of those
414 candidates and political committees who have not filed a valid
415 report, and the Attorney General shall thereupon prosecute the
416 delinquent candidates and political committees.

417 **SECTION 5.** Section 97-13-15, Mississippi Code of 1972, is
418 amended as follows:

419 97-13-15. It shall be unlawful for any corporation,
420 incorporated company, incorporated association or labor union, by
421 whatever name it may be known, incorporated or organized under the
422 laws of this state, or doing business in this state, or for any
423 servant, agent, employee or officer thereof, to give, donate,
424 appropriate or furnish directly or indirectly, any money,
425 security, funds or property of such a corporation, incorporated
426 company, incorporated association or labor union in excess of Two
427 Thousand Dollars (\$2,000.00) per calendar year for the purpose of
428 aiding any political party or any candidate for any public office,
429 or any candidate for any nomination for any public office of any
430 political party, or to give, donate, appropriate or furnish,

431 directly or indirectly, any money, security, funds or property of
432 such a corporation, incorporated company, association or labor
433 union in excess of Two Thousand Dollars (\$2,000.00) to any
434 committee or person as a contribution to the expense of any
435 political party or any candidate, representative or committee of
436 any political party or candidate for nomination by any political
437 party, or any committee or other person acting in behalf of such
438 candidate. The limit of Two Thousand Dollars (\$2,000.00) for
439 contributions to political parties, candidates and committees or
440 other persons acting in behalf of such candidates shall be an
441 annual limitation applicable to each calendar year and shall not
442 apply to contributions made by political committees.

443 **SECTION 6.** Section 23-15-817, Mississippi Code of 1972, is
444 amended as follows:

445 23-15-817. The Secretary of State shall compile a list of
446 all candidates for the Legislature or any statewide office who
447 fail to file a campaign disclosure report by the dates specified
448 in Section 23-15-807(2); the list shall be disseminated to the
449 members of the Mississippi Press Association within two (2)
450 working days after such reports are due and made available to the
451 public.

452 **SECTION 7.** Section 23-15-1023, Mississippi Code of 1972,
453 which provides that judicial candidates shall disclose information
454 about certain loans, is repealed.

455 **SECTION 8.** The Attorney General of the State of Mississippi
456 shall submit this act, immediately upon approval by the Governor,
457 or upon approval by the Legislature subsequent to a veto, to the
458 Attorney General of the United States or to the United States
459 District Court for the District of Columbia in accordance with the
460 provisions of the Voting Rights Act of 1965, as amended and
461 extended.

462 **SECTION 9.** This act shall take effect and be in force from
463 and after the date it is effectuated under Section 5 of the Voting
464 Rights Act of 1965, as amended and extended.