

By: Representative Brown

To: Apportionment and
Elections

HOUSE BILL NO. 706

1 AN ACT TO PROVIDE THAT ELECTIONS FOR STATE OFFICERS,
2 INCLUDING MISSISSIPPI SUPREME COURT JUSTICES AND JUDGES OF THE
3 COURT OF APPEALS, SHALL BE HELD ON SATURDAY; TO AMEND SECTION
4 9-4-5, TO CONFORM TO THE PRECEDING SECTION; TO AMEND SECTION
5 23-15-191, MISSISSIPPI CODE OF 1972, TO REVISE THE TIME THAT
6 PRIMARIES ARE HELD FOR STATE ELECTIVE OFFICERS; TO BRING FORWARD
7 SECTIONS 23-15-193, 23-15-631, 23-15-637 AND 23-15-715,
8 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; TO AMEND
9 SECTION 65-1-3, MISSISSIPPI CODE OF 1972, TO REVISE WHEN THE STATE
10 HIGHWAY COMMISSIONERS ARE ELECTED; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** A general election for all state elective
13 officers, including Mississippi Supreme Court justices and judges
14 of the Court of Appeals, shall be held on the Saturday next after
15 the first Monday of November, and every four (4) years thereafter.

16 **SECTION 2.** Section 9-4-5, Mississippi Code of 1972, is
17 amended as follows:

18 9-4-5. (1) The term of office of judges of the Court of
19 Appeals shall be eight (8) years. An election shall be held on
20 the first Saturday after the first Monday in November * * * to
21 elect the ten (10) judges of the Court of Appeals, two (2) from
22 each congressional district; provided, however, judges of the
23 Court of Appeals who are elected to take office after the first
24 Monday of January 2002, shall be elected from the Court of Appeals
25 Districts described in subsection (5) of this section. The judges
26 of the Court of Appeals shall begin service on the first Monday of
27 January 1995.

28 (2) (a) In order to provide that the offices of not more
29 than a majority of the judges of said court shall become vacant at
30 any one (1) time, the terms of office of six (6) of the judges
31 first to be elected shall expire in less than eight (8) years.

32 For the purpose of all elections of members of the court, each of
33 the ten (10) judges of the Court of Appeals shall be considered a
34 separate office. The two (2) offices in each of the five (5)
35 districts shall be designated Position Number 1 and Position
36 Number 2, and in qualifying for office as a candidate for any
37 office of judge of the Court of Appeals each candidate shall state
38 the position number of the office to which he aspires and the
39 election ballots shall so indicate.

40 (i) In Congressional District Number 1, the judge
41 of the Court of Appeals for Position Number 1 shall be that office
42 for which the term ends January 1, 1999, and the judge of the
43 Court of Appeals for Position Number 2 shall be that office for
44 which the term ends January 1, 2003.

45 (ii) In Congressional District Number 2, the judge
46 of the Court of Appeals for Position Number 1 shall be that office
47 for which the term ends on January 1, 2003, and the judge of the
48 Court of Appeals for Position Number 2 shall be that office for
49 which the term ends January 1, 2001.

50 (iii) In Congressional District Number 3, the
51 judge of the Court of Appeals for Position Number 1 shall be that
52 office for which the term ends on January 1, 2001, and the judge
53 of the Court of Appeals for Position Number 2 shall be that office
54 for which the term ends January 1, 1999.

55 (iv) In Congressional District Number 4, the judge
56 of the Court of Appeals for Position Number 1 shall be that office
57 for which the term ends on January 1, 1999, and the judge of the
58 Court of Appeals for Position Number 2 shall be that office for
59 which the term ends January 1, 2003.

60 (v) In Congressional District Number 5, the judge
61 of the Court of Appeals for Position Number 1 shall be that office
62 for which the term ends on January 1, 2003, and the judge of the
63 Court of Appeals for Position Number 2 shall be that office for
64 which the term ends January 1, 2001.

65 (b) The laws regulating the general elections shall
66 apply to and govern the elections of judges of the Court of
67 Appeals except as otherwise provided in Sections 23-15-974 through
68 23-15-985.

69 (c) In the year prior to the expiration of the term of
70 an incumbent, and likewise each eighth year thereafter, an
71 election shall be held in the manner provided in this section in
72 the district from which the incumbent Court of Appeals judge was
73 elected at which there shall be elected a successor to the
74 incumbent, whose term of office shall thereafter begin on the
75 first Monday of January of the year in which the term of the
76 incumbent he succeeds expires.

77 (3) No person shall be eligible for the office of judge of
78 the Court of Appeals who has not attained the age of thirty (30)
79 years at the time of his election and who has not been a
80 practicing attorney and citizen of the state for five (5) years
81 immediately preceding such election.

82 (4) Any vacancy on the Court of Appeals shall be filled by
83 appointment of the Governor for that portion of the unexpired term
84 prior to the election to fill the remainder of said term according
85 to provisions of Section 23-15-849, Mississippi Code of 1972.

86 (5) (a) The State of Mississippi is hereby divided into
87 five (5) Court of Appeals Districts as follows:

88 **FIRST DISTRICT.** The First Court of Appeals District shall be
89 composed of the following counties and portions of counties:
90 Alcorn, Benton, Calhoun, Chickasaw, Choctaw, DeSoto, Itawamba,
91 Lafayette, Lee, Marshall, Monroe, Pontotoc, Prentiss, Tate,
92 Tippah, Tishomingo, Union, Webster and Yalobusha; in Grenada
93 County the precincts of Providence, Mt. Nebo, Hardy and Pea Ridge;
94 in Montgomery County the precincts of North Winona, Lodi, Stewart,
95 Nations and Poplar Creek; in Panola County the precincts of East
96 Sardis, South Curtis, Tocowa, Pope, Courtland, Cole's Point, North
97 Springport, South Springport, Eureka, Williamson, East Batesville

98 4, West Batesville 4, Fern Hill, North Batesville A, East
99 Batesville 5 and West Batesville 5; and in Tallahatchie County the
100 precincts of Teasdale, Enid, Springhill, Charleston Beat 1,
101 Charleston Beat 2, Charleston Beat 3, Paynes, Leverette, Cascilla,
102 Murphreesboro and Rosebloom.

103 **SECOND DISTRICT.** The Second Court of Appeals District shall
104 be composed of the following counties and portions of counties:
105 Bolivar, Carroll, Claiborne, Coahoma, Holmes, Humphreys,
106 Issaquena, Jefferson, Leflore, Quitman, Sharkey, Sunflower,
107 Tunica, Warren, Washington and Yazoo; in Attala County the
108 precincts of Northeast, Hesterville, Possomneck, North Central,
109 McAdams, Newport, Sallis and Southwest; that portion of Grenada
110 County not included in the First Court of Appeals District; in
111 Hinds County Precincts 11, 12, 13, 22, 23, 27, 28, 29, 30, 40, 41,
112 83, 84 and 85, and the precincts of Bolton, Brownsville, Cayuga,
113 Chapel Hill, Cynthia, Edwards, Learned, Pine Haven, Pocahontas,
114 St. Thomas, Tinnin, Utica 1 and Utica 2; in Leake County the
115 precincts of Conway, West Carthage, Wiggins, Thomastown and
116 Ofahoma; in Madison County the precincts of Farmhaven, Canton
117 Precinct 2, Canton Precinct 3, Cameron Street, Canton Precinct 6,
118 Bear Creek, Gluckstadt, Smith School, Magnolia Heights, Flora,
119 Virililia, Canton Precinct 5, Cameron, Couparle, Camden, Sharon,
120 Canton Precinct 1 and Canton Precinct 4; that portion of
121 Montgomery County not included in the First Court of Appeals
122 District; that portion of Panola County not included in the First
123 Court of Appeals District; and that portion of Tallahatchie County
124 not included in the First Court of Appeals District.

125 **THIRD DISTRICT.** The Third Court of Appeals District shall be
126 composed of the following counties and portions of counties:
127 Clarke, Clay, Jasper, Kemper, Lauderdale, Lowndes, Neshoba,
128 Newton, Noxubee, Oktibbeha, Rankin, Scott, Smith and Winston; that
129 portion of Attala County not included in the Second Court of
130 Appeals District; in Jones County the precincts of Northwest High

131 School, Shady Grove, Sharon, Erata, Glade, Myrick School,
132 Northeast High School, Rustin, Sandersville Civic Center, Tuckers,
133 Antioch and Landrum; that portion of Leake County not included in
134 the Second Court of Appeals District; that portion of Madison
135 County not included in the Second Court of Appeals District; and
136 in Wayne County the precincts of Big Rock, Yellow Creek, Hiwannee,
137 Diamond, Chaparral, Matherville, Coit and Eucutta.

138 **FOURTH DISTRICT.** The Fourth Court of Appeals District shall
139 be composed of the following counties and portions of counties:
140 Adams, Amite, Copiah, Covington, Franklin, Jefferson Davis,
141 Lawrence, Lincoln, Marion, Pike, Simpson, Walthall and Wilkinson;
142 that portion of Hinds County not included in the Second Court of
143 Appeals District; and that portion of Jones county not included in
144 the Third Court of Appeals District.

145 **FIFTH DISTRICT.** The Fifth Court of Appeals District shall be
146 composed of the following counties and portions of counties:
147 Forrest, George, Greene, Hancock, Harrison, Jackson, Lamar, Pearl
148 River, Perry and Stone; and that portion of Wayne County not
149 included in the Third Court of Appeals District.

150 (b) The boundaries of the Court of Appeals Districts
151 described in paragraph (a) of this subsection shall be the
152 boundaries of the counties and precincts listed in paragraph (a)
153 of this subsection as such boundaries existed on October 1, 1990.

154 **SECTION 3.** Section 23-15-191, Mississippi Code of 1972, is
155 amended as follows:

156 23-15-191. Except the first primary for state elective
157 officers, the first primary shall be held on the first Tuesday
158 after the first Monday of August preceding any regular or general
159 election; and the second primary shall be held three (3) weeks
160 thereafter. However, the first primary for state elective offices
161 shall be held on the first Saturday after the first Monday of
162 August preceding any regular or general election; and the second
163 primary shall be held three (3) weeks thereafter. Any candidate

164 who receives the highest popular vote cast for the office which he
165 seeks in the first primary shall thereby become the nominee of the
166 party for such office; provided also it be a majority of all the
167 votes cast for that office. If no candidate receive such majority
168 of popular votes in the first primary, then the two (2) candidates
169 who receive the highest popular vote for such office shall have
170 their names submitted as such candidates to a second primary, and
171 the candidate who leads in such second primary shall be nominated
172 to the office. When there is a tie in the first primary of those
173 receiving next highest vote, these two (2) and the one (1)
174 receiving the highest vote, none having received a majority, shall
175 go into the second primary, and whoever leads in such second
176 primary shall be entitled to the nomination.

177 **SECTION 4.** Section 23-15-193, Mississippi Code of 1972, is
178 brought forward as follows:

179 23-15-193. At the election in 1995, and every four (4) years
180 thereafter, there shall be elected a Governor, Lieutenant
181 Governor, Secretary of State, Auditor of Public Accounts, State
182 Treasurer, Attorney General, three (3) public service
183 commissioners, three (3) Mississippi Transportation Commissioners,
184 Commissioner of Insurance, Commissioner of Agriculture and
185 Commerce, Senators and members of the House of Representatives in
186 the Legislature, district attorneys for the several districts,
187 clerks of the circuit and chancery courts of the several counties,
188 as well as sheriffs, coroners, assessors, surveyors and members of
189 the boards of supervisors, justice court judges and constables,
190 and all other officers to be elected by the people at the general
191 state election. All such officers shall hold their offices for a
192 term of four (4) years, and until their successors are elected and
193 qualified. The state officers shall be elected in the manner
194 prescribed in Section 140 of the Constitution.

195 **SECTION 5.** Section 23-15-631, Mississippi Code of 1972, is
196 brought forward as follows:

197 23-15-631. (1) The registrar shall enclose with each ballot
198 provided to an absent elector separate printed instructions
199 furnished by him containing the following:

200 (a) All absentee voters, excepting those with temporary
201 or permanent physical disabilities or those who are sixty-five
202 (65) years of age or older, who mark their ballots in the county
203 of the residence shall use the registrar of that county as the
204 witness. Said absentee voter shall come to the office of the
205 registrar and neither the registrar nor his deputy shall be
206 required to go out of the registrar's office to serve as an
207 attesting witness.

208 (b) Upon receipt of the enclosed ballot, you will not
209 mark same except in view or sight of the attesting witness. In
210 the sight or view of the attesting witness, mark the ballot
211 according to instructions.

212 (c) After marking the ballot, fill out and sign the
213 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
214 signature shall be across the flap of the envelope so as to insure
215 the integrity of the ballot. All absent electors shall have the
216 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
217 the flap on back of the envelope. Place necessary postage on the
218 envelope and deposit it in the post office or some government
219 receptacle provided for deposit of mail so that the absent
220 elector's ballot, excepting presidential absentee ballots, will
221 reach the registrar in which your precinct is located not later
222 than 5:00 p.m. on the day preceding the date of the election, or
223 by personally delivering such ballot to the registrar's office not
224 later than 12:00 noon on the Saturday immediately preceding
225 elections held on Tuesday, the Thursday immediately preceding
226 elections held on Saturday, and the second day immediately
227 preceding elections held on other days.

228 Any notary public, United States postmaster, assistant United
229 States postmaster, United States postal supervisor, clerk in

230 charge of a contract postal station, or any officer having
231 authority to administer an oath or take an acknowledgment may be
232 an attesting witness; provided, however, that in the case of an
233 absent elector who is temporarily or permanently physically
234 disabled, the attesting witness may be any person eighteen (18)
235 years of age or older and such person is not required to have the
236 authority to administer an oath. If a postmaster, assistant
237 postmaster, postal supervisor, or clerk in charge of a contract
238 postal station acts as an attesting witness, his signature on the
239 elector's certificate must be authenticated by the cancellation
240 stamp of their respective post offices. If one or the other
241 officers herein named acts as attesting witness, his signature on
242 the elector's certificate, together with his title and address,
243 but no seal, shall be required. Any affidavits made by an absent
244 elector who is in the Armed Forces may be executed before a
245 commissioned officer, warrant officer, or noncommissioned officer
246 not lower in grade than sergeant rating or any person authorized
247 to administer oaths.

248 (d) When the application accompanies the ballot it
249 shall not be returned in the same envelope as the ballot but shall
250 be returned in a separate preaddressed envelope provided by the
251 registrar.

252 (e) A person who is a candidate for public office may
253 not be an attesting witness for any absentee ballot upon which the
254 person's name appears.

255 (f) Any voter casting an absentee ballot who declares
256 that he requires assistance to vote by reason of blindness,
257 temporary or permanent physical disability or inability to read or
258 write, shall be entitled to receive assistance in the marking of
259 his absentee ballot and in completing the affidavit on the
260 absentee ballot envelope. The voter may be given assistance by
261 anyone of the voter's choice other than a candidate whose name
262 appears on the absentee ballot being marked, or the voter's

263 employer, or agent of that employer. In order to ensure the
264 integrity of the ballot, any person who provides assistance to an
265 absentee voter shall be required to sign and complete the
266 "Certificate of Person Providing Voter Assistance" on the absentee
267 ballot envelope.

268 (2) The foregoing instructions required to be provided by
269 the registrar to the elector shall also constitute the substantive
270 law pertaining to the handling of absentee ballots by the elector
271 and registrar.

272 **SECTION 6.** Section 23-15-637, Mississippi Code of 1972, is
273 brought forward as follows:

274 23-15-637. Absentee ballots received by mail, excluding
275 presidential ballots as provided for in Sections 23-15-731 and
276 23-15-733, must be received by the registrar by 5:00 p.m. on the
277 date preceding the election; any received after such time shall be
278 handled as provided in Section 23-15-647 and shall not be counted.
279 All ballots cast by the absent elector appearing in person in the
280 office of the registrar shall be cast not later than 12:00 noon on
281 the Saturday immediately preceding elections held on Tuesday, the
282 Thursday immediately preceding elections held on Saturday, or the
283 second day immediately preceding the date of elections held on
284 other days. The registrar shall deposit all absentee ballots
285 which have been timely cast in the ballot boxes upon receipt.

286 **SECTION 7.** Section 23-15-715, Mississippi Code of 1972, is
287 brought forward as follows:

288 23-15-715. Any elector desiring an absentee ballot as
289 provided in this subarticle may secure same if:

290 (a) Not more than forty-five (45) days nor later than
291 12:00 noon on the Saturday immediately preceding elections held on
292 Tuesday, the Thursday immediately preceding elections held on
293 Saturday, or the second day immediately preceding the date of
294 elections held on other days, he shall appear in person before the
295 registrar of the county in which he resides, or for municipal

296 elections he shall appear in person before the city clerk of the
297 municipality in which he resides and, when the elector so appears,
298 he shall execute and file an application as provided in Section
299 23-15-627 and vote by absentee ballot, except that if the ballot
300 has not been printed by forty-five (45) days preceding the
301 election, the elector may appear and file an application anytime
302 before the election. Then the absentee ballot shall be mailed by
303 the circuit clerk to the elector as soon as the ballot has been
304 printed.

305 (b) Within forty-five (45) days next prior to any
306 election, any elector who cannot comply with paragraph (a) of this
307 section by reason of temporarily residing outside the county, or
308 any person who has a temporary or permanent physical disability,
309 persons who are sixty-five (65) years of age or older, or any
310 person who is the parent, spouse or dependent of a temporarily or
311 permanently physically disabled person who is hospitalized outside
312 of his county of residence or more than fifty (50) miles away from
313 his residence and such parent, spouse or dependent will be with
314 such person on election day, may make application for an absentee
315 ballot by mailing the appropriate application to the registrar.
316 Only persons temporarily residing out of the county of their
317 residence, persons having a temporary or permanent physical
318 disability, persons who are sixty-five (65) years of age or older,
319 or any person who is the parent, spouse or dependent of a
320 temporarily or permanently physically disabled person who is
321 hospitalized outside of his county of residence or more than fifty
322 (50) miles away from his residence, and such parent, spouse or
323 dependent will be with such person on election day, may obtain
324 absentee ballots by mail under the provisions of this subsection
325 and as provided by Section 23-15-713. Applications of persons
326 temporarily residing outside the county shall be sworn to and
327 subscribed before an official who is authorized to administer
328 oaths or other official authorized to witness absentee balloting

329 as provided in this chapter, said application to be accompanied by
330 such verifying affidavits as required by this chapter. The
331 applications of persons having a temporary or permanent physical
332 disability shall not be required to be accompanied by an affidavit
333 but shall be witnessed and signed by a person eighteen (18) years
334 of age or older. The registrar shall send to such absent voter a
335 proper absentee voter ballot within twenty-four (24) hours, or as
336 soon thereafter as the ballots are available, containing the names
337 of all candidates who qualify or the proposition to be voted on in
338 such election, and with such ballot there shall be sent an
339 official envelope containing upon it in printed form the recitals
340 and data hereinafter required.

341 **SECTION 8.** Section 65-1-3, Mississippi Code of 1972, is
342 amended as follows:

343 65-1-3. There shall be a State Highway Commission which
344 shall consist of three (3) members, one (1) from each of the three
345 (3) Supreme Court districts of the state. Only qualified electors
346 who are citizens of the Supreme Court district in which he or she
347 offers for election shall be eligible for such office.

348 On Saturday after the first Monday in November, and every
349 four (4) years thereafter, state highway commissioners shall be
350 elected at the same time and in the same manner as the Governor is
351 chosen; and the laws governing primary elections and the holding
352 of general elections in this state shall apply to and govern the
353 nomination and election of state highway commissioners. The state
354 highway commissioners so elected shall enter upon the discharge of
355 the duties of their respective offices on the first Monday of
356 January in the year next succeeding the date of their election,
357 and they shall serve for a term of four (4) years and until their
358 successors shall have been duly elected and qualified.

359 If any one or more of the state highway commissioners elected
360 under the provisions of this chapter shall die, resign or be
361 removed from office, the Governor shall fill the vacancy by

362 appointment for the unexpired term, provided such unexpired term
363 shall not exceed twelve (12) months. If such unexpired term shall
364 exceed twelve (12) months, the Governor shall, within fifteen (15)
365 days from the date of such vacancy, by proclamation duly made,
366 call an election in the Supreme Court district in which such
367 vacancy exists, to be held within sixty (60) days from the date of
368 the issuance of such proclamation, at which election a state
369 highway commissioner shall be elected to fill such vacancy for the
370 remaining portion of such unexpired term. Such special election
371 shall be held in the manner provided for holding general elections
372 in this state, as far as practicable.

373 Each of said state highway commissioners, before entering
374 upon the discharge of the duties of his office, shall take and
375 subscribe the oath of office required of other state officials and
376 shall execute bond in the sum of Fifty Thousand Dollars
377 (\$50,000.00), with some surety company authorized to do business
378 in this state as surety, conditioned for the faithful performance
379 of the duties of his office and for the faithful and true
380 accounting of all funds or monies or property coming into his
381 hands by virtue of his office, and conditioned further that all
382 such funds, monies and property will be expended and used by him
383 only for purposes authorized by law, said bond to be approved by
384 the Governor or Attorney General and to be filed in the Office of
385 the Secretary of State. The premium on such bonds shall be paid
386 out of the funds of the Mississippi Department of Transportation.

387 From and after July 1, 1992, the State Highway Commission
388 shall be the Mississippi Transportation Commission and the members
389 thereof shall be the Mississippi transportation commissioners.

390 **SECTION 9.** The Attorney General of the State of Mississippi
391 shall submit this act, immediately upon approval by the Governor,
392 or upon approval by the Legislature subsequent to a veto, to the
393 Attorney General of the United States or to the United States
394 District Court for the District of Columbia in accordance with the

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

397 **SECTION 10.** This act shall take effect and be in force from
398 and after the date it and House Concurrent Resolution No. _____,
399 2006 Regular Session, are effectuated under Section 5 of the
400 Voting Rights Act of 1965, as amended and extended.