

By: Representative Reynolds

To: Apportionment and
Elections

HOUSE BILL NO. 1040

1 AN ACT TO AMEND SECTION 23-15-851, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE NOTICE REQUIREMENT FOR LEGISLATIVE VACANCIES; TO
3 AMEND SECTION 23-15-359, MISSISSIPPI CODE OF 1972, TO REVISE THE
4 QUALIFYING DEADLINE FOR LEGISLATIVE VACANCIES; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 23-15-851, Mississippi Code of 1972, is
8 amended as follows:

9 23-15-851. When vacancies happen in either House of the
10 Legislature, the Governor shall issue writs of election to fill
11 such vacancies on a day therein to be specified; and at least
12 forty (40) days' notice shall be given of such election in each
13 county or part of a county in which such election shall be held.
14 Notice of the election shall be posted at the courthouse and in
15 each supervisors district in the county or part of county in which
16 such election shall be held for as near forty (40) days as may be
17 practicable; and the election shall be prepared for and held as in
18 the case of a general election.

19 **SECTION 2.** Section 23-15-359, Mississippi Code of 1972, is
20 amended as follows:

21 23-15-359. (1) The ballot shall contain the names of all
22 party nominees certified by the appropriate executive committee,
23 and independent and special election candidates who have timely
24 filed petitions containing the required signatures. A petition
25 requesting that an independent or special election candidate's
26 name be placed on the ballot for any office shall be filed as
27 provided for in subsection (3) or (4) of this section, as

28 appropriate, and shall be signed by not less than the following
29 number of qualified electors:

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

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

35 (c) For an office elected by the qualified electors of
36 a congressional district, not less than two hundred (200)
37 qualified electors.

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

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

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

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

49 (2) Unless the petition required above shall be filed as
50 provided for in subsection (3) or (4) of this section, as
51 appropriate, the name of the person requested to be a candidate,
52 unless nominated by a political party, shall not be placed upon
53 the ballot. The ballot shall contain the names of each candidate
54 for each office, and such names shall be listed under the name of
55 the political party such candidate represents as provided by law
56 and as certified to the circuit clerk by the State Executive
57 Committee of such political party. In the event such candidate
58 qualifies as an independent as * * * provided in this section, he
59 shall be listed on the ballot as an independent candidate.

60 (3) Petitions for offices described in paragraphs (a), (b),
61 (c) and (d) of subsection (1) of this section, and petitions for
62 offices described in paragraph (e) of subsection (1) of this
63 section for districts composed of more than one (1) county or
64 parts of more than one (1) county, shall be filed with the State
65 Board of Election Commissioners by no later than 5:00 p.m. on the
66 same date by which candidates for nominations in the political
67 party primary elections are required to pay the fee provided for
68 in Section 23-15-297, Mississippi Code of 1972; however, no
69 petition may be filed before January 1 of the year in which the
70 election for the office is held.

71 (4) Petitions for offices described in paragraphs (f) and
72 (g) of subsection (1) of this section, and petitions for offices
73 described in paragraph (e) of subsection (1) of this section for
74 districts composed of one (1) county or less, shall be filed with
75 the proper circuit clerk by no later than 5:00 p.m. on the same
76 date by which candidates for nominations in the political party
77 elections are required to pay the fee provided for in Section
78 23-15-297; however, no petition may be filed before January 1 of
79 the year in which the election for the office is held. The
80 circuit clerk shall notify the county commissioners of election of
81 all persons who have filed petitions with such clerk. Such
82 notification shall occur within two (2) business days and shall
83 contain all necessary information.

84 (5) The commissioners may also have printed upon the ballot
85 any local issue election matter that is authorized to be held on
86 the same date as the regular or general election pursuant to
87 Section 23-15-375; however, the ballot form of such local issue
88 must be filed with the commissioners of election by the
89 appropriate governing authority not less than sixty (60) days
90 previous to the date of the election.

91 (6) The provisions of this section shall not apply to
92 municipal elections or to the election of the offices of justice

93 of the Supreme Court, judge of the Court of Appeals, circuit
94 judge, chancellor, county court judge and family court judge.

95 (7) Nothing in this section shall prohibit special elections
96 to fill vacancies in either house of the Legislature from being
97 held as provided in Section 23-15-851. In all elections conducted
98 under the provisions of Section 23-15-851, there shall be printed
99 on the ballot the name of any candidate who, not having been
100 nominated by a political party, shall have been requested to be a
101 candidate for any office by a petition filed with the State Board
102 of Election Commissioners for districts composed of more than one
103 (1) county or parts of more than one (1) county, or the proper
104 circuit clerk for districts composed of one (1) county or less, by
105 5:00 p.m. not less than thirty (30) working days prior to the
106 election, and signed by not less than fifty (50) qualified
107 electors.

108 (8) The appropriate election commission shall determine
109 whether each candidate is a qualified elector of the state, state
110 district, county or county district they seek to serve, and
111 whether each candidate meets all other qualifications to hold the
112 office he is seeking or presents absolute proof that he will,
113 subject to no contingencies, meet all qualifications on or before
114 the date of the general or special election at which he could be
115 elected to office. The election commission also shall determine
116 whether any candidate has been convicted of any felony in a court
117 of this state, or has been convicted on or after December 8, 1992,
118 of any offense in another state which is a felony under the laws
119 of this state, or has been convicted of any felony in a federal
120 court on or after December 8, 1992. Excepted from the above are
121 convictions of manslaughter and violations of the United States
122 Internal Revenue Code or any violations of the tax laws of this
123 state, unless the offense also involved misuse or abuse of his
124 office or money coming into his hands by virtue of his office. If
125 the appropriate election commission finds that a candidate either

126 (a) is not a qualified elector, (b) does not meet all
127 qualifications to hold the office he seeks and fails to provide
128 absolute proof, subject to no contingencies, that he will meet the
129 qualifications on or before the date of the general or special
130 election at which he could be elected, or (c) has been convicted
131 of a felony as described in this subsection, and not pardoned,
132 then the name of such candidate shall not be placed upon the
133 ballot.

134 (9) If after the deadline to qualify as a candidate for an
135 office or after the time for holding any party primary for an
136 office, there shall be only one (1) person who has duly qualified
137 to be a candidate for the office in the general election, the name
138 of such person shall be placed on the ballot; * * * however, * * *
139 if there shall be not more than one (1) person duly qualified to
140 be a candidate for each office on the general election ballot, the
141 election for all offices on the ballot shall be dispensed with and
142 the appropriate election commission shall declare each candidate
143 elected without opposition if the candidate meets all the
144 qualifications to hold the office as determined pursuant to a
145 review by the commission in accordance with the provisions of
146 subsection (8) of this section and if the candidate has filed all
147 required campaign finance disclosure reports as required by
148 Section 23-15-807.

149 (10) The petition required by this section may not be filed
150 by using the Internet.

151 **SECTION 3.** The Attorney General of the State of Mississippi
152 shall submit this act, immediately upon approval by the Governor,
153 or upon approval by the Legislature subsequent to a veto, to the
154 Attorney General of the United States or to the United States
155 District Court for the District of Columbia in accordance with the
156 provisions of the Voting Rights Act of 1965, as amended and
157 extended.

158 **SECTION 4.** This act shall take effect and be in force from
159 and after the date it is effectuated under Section 5 of the Voting
160 Rights Act of 1965, as amended and extended.