

By: Representative Reynolds

To: Apportionment and
ElectionsCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1259

1 AN ACT TO AMEND SECTION 23-15-35, MISSISSIPPI CODE OF 1972,
2 TO EXTEND THE TIME IN WHICH THE MUNICIPAL CLERKS ARE REQUIRED TO
3 CONFORM MUNICIPAL VOTER REGISTRATION BOOKS WITH THE COUNTY VOTER
4 REGISTRATION BOOKS; TO AMEND SECTION 23-15-857, MISSISSIPPI CODE
5 OF 1972, TO EXTEND THE TIME PERIOD DURING WHICH MUNICIPAL SPECIAL
6 ELECTIONS ARE CONDUCTED; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 23-15-35, Mississippi Code of 1972, is
9 amended as follows:

10 **[Until January 1, 2009, this section shall read as follows:]**

11 23-15-35. (1) The clerk of the municipality shall be the
12 registrar of voters of the municipality, and shall take the oath
13 of office prescribed by Section 268 of the Constitution. The
14 governing authorities shall provide suitable municipal
15 registration books, which shall conform as nearly as practicable
16 to the county registration books. The registrar shall, as nearly
17 as may be practicable, and where not otherwise provided, comply
18 with all the provisions of law regarding state and county
19 elections in keeping and maintaining such registration books and
20 in registering voters thereon. Applications for registration as
21 electors of the municipality shall be made upon a triplicate form
22 provided by and prepared at the expense of the county registrar,
23 which form shall conform as nearly as practicable to the
24 application for registration form provided for in Section
25 23-15-39.

26 (2) The municipal clerk shall be authorized to register
27 applicants as county electors. The municipal clerk shall forward
28 notice of registration, a copy of the application for
29 registration, and any changes to the registration when they occur,

30 either by certified mail to the county registrar or by personal
31 delivery to the county registrar provided that a numbered receipt
32 is signed by the registrar in return for the described documents.
33 Upon receipt of the copy of the application for registration or
34 changes to the registration, and if a review of the application
35 indicates that the applicant meets all the criteria necessary to
36 qualify as a county elector, then the county registrar shall make
37 a determination of the county voting precinct in which the person
38 making the application shall be required to vote. The county
39 registrar shall send this county voting precinct information by
40 United States first-class mail, postage prepaid, to the person at
41 the address provided on the application. Any and all mailing
42 costs incurred by the municipal clerk or the county registrar in
43 effectuating this subsection shall be paid by the county board of
44 supervisors. If a review of the copy of the application for
45 registration or changes to the registration indicates that the
46 applicant is not qualified to vote in the county, the county
47 registrar shall challenge the application. The county election
48 commissioners shall review any challenge or disqualification,
49 after having notified the applicant by certified mail of the
50 challenge or disqualification.

51 (3) The municipal clerk shall issue to the person making the
52 application a copy of the application, and the county registrar
53 shall process the application in accordance with the law regarding
54 the handling of voter registration applications.

55 (4) The receipt of a copy of the application for
56 registration sent pursuant to Section 23-15-39(3) shall be
57 sufficient to allow the applicant to be registered as an elector
58 in the municipality, provided that such application is not
59 challenged as provided for therein.

60 **[From and after January 1, 2009, this section shall read as**
61 **follows:]**

62 23-15-35. (1) The clerk of the municipality shall be the
63 registrar of voters of the municipality, and shall take the oath
64 of office prescribed by Section 268 of the Constitution. The
65 municipal registration shall conform to the county registration
66 which shall be a part of the official record of registered voters
67 as contained in the Statewide Elections Management System. The
68 municipal clerk shall comply with all the provisions of law
69 regarding the registration of voters, including the use of the
70 voter registration applications used by county registrars and
71 prescribed by the Secretary of State under Sections 23-15-39 and
72 23-15-47.

73 (2) The municipal clerk shall be authorized to register
74 applicants as county electors. The municipal clerk shall forward
75 notice of registration, a copy of the application for
76 registration, and any changes to the registration when they occur,
77 either by certified mail to the county registrar or by personal
78 delivery to the county registrar provided that a numbered receipt
79 is signed by the registrar in return for the described documents.
80 Upon receipt of the copy of the application for registration or
81 changes to the registration, and if a review of the application
82 indicates that the applicant meets all the criteria necessary to
83 qualify as a county elector, then the county registrar shall make
84 a determination of the county voting precinct in which the person
85 making the application shall be required to vote. The county
86 registrar shall send this county voting precinct information by
87 United States first-class mail, postage prepaid, to the person at
88 the address provided on the application. Any and all mailing
89 costs incurred by the municipal clerk or the county registrar in
90 effectuating this subsection shall be paid by the county board of
91 supervisors. If a review of the copy of the application for
92 registration or changes to the registration indicates that the
93 applicant is not qualified to vote in the county, the county
94 registrar shall challenge the application. The county election

95 commissioners shall review any challenge or disqualification,
96 after having notified the applicant by certified mail of the
97 challenge or disqualification.

98 (3) The municipal clerk shall issue to the person making the
99 application a copy of the application and the county registrar
100 shall process the application in accordance with the law regarding
101 the handling of voter registration applications.

102 (4) The receipt of a copy of the application for
103 registration sent pursuant to Section 23-15-39(3) shall be
104 sufficient to allow the applicant to be registered as an elector
105 in the municipality, provided that such application is not
106 challenged as provided for therein.

107 **SECTION 2.** Section 23-15-857, Mississippi Code of 1972, is
108 amended as follows:

109 23-15-857. (1) When it shall happen that there is any
110 vacancy in a city, town or village office which is elective, the
111 unexpired term of which shall not exceed six (6) months, the same
112 shall be filled by appointment by the governing authority or
113 remainder of the governing authority of said city, town or
114 village. The municipal clerk shall certify to the Secretary of
115 State the fact of such appointment, and the person or persons so
116 appointed shall be commissioned by the Governor.

117 (2) When it shall happen that there is any vacancy in an
118 elective office in a city, town or village the unexpired term of
119 which shall exceed six (6) months, the governing authority or
120 remainder of the governing authority of said city, town or village
121 shall make and enter on the minutes an order for an election to be
122 held in such city, town or village to fill the vacancy and fix a
123 date upon which such election shall be held. Such order shall be
124 made and entered upon the minutes at the next regular meeting of
125 the governing authority after such vacancy shall have occurred, or
126 at a special meeting to be held not later than ten (10) days after
127 such vacancy shall have occurred, Saturdays, Sundays and legal

128 holidays excluded, whichever shall occur first. Such election
129 shall be held on a date not less than thirty (30) days nor more
130 than forty-five (45) days after the date upon which the order is
131 adopted.

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

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

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

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

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

161 The candidate receiving a majority of the votes cast in a
162 said election shall be elected. If no candidate shall receive a
163 majority vote at the election, the two (2) candidates receiving
164 the highest number of votes shall have their names placed on the
165 ballot for the election to be held two (2) weeks thereafter. The
166 candidate receiving a majority of the votes cast in said election
167 shall be elected. However, if no candidate shall receive a
168 majority and there is a tie in the election of those receiving the
169 next highest vote, those receiving the next highest vote and the
170 candidate receiving the highest vote shall have their names placed
171 on the ballot for the election to be held one (1) week thereafter,
172 and whoever receives the most votes cast in such election shall be
173 elected.

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

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

185 However, if nineteen (19) days prior to the date of the
186 election only one (1) person shall have qualified as a candidate,
187 the governing authority, or remainder of the governing authority,
188 shall dispense with the election and appoint that one (1)
189 candidate in lieu of an election. In the event no person shall
190 have qualified by 5:00 p.m. at least twenty (20) days prior to the
191 date of the election, the governing authority or remainder of the
192 governing authority shall dispense with the election and fill the
193 vacancy by appointment. The clerk of the governing authority

194 shall certify to the Secretary of State the fact of the
195 appointment, and the person so appointed shall be commissioned by
196 the Governor.

197 **SECTION 3.** The Attorney General of the State of Mississippi
198 shall submit this act, immediately upon approval by the Governor,
199 or upon approval by the Legislature subsequent to a veto, to the
200 Attorney General of the United States or to the United States
201 District Court for the District of Columbia in accordance with the
202 provisions of the Voting Rights Act of 1965, as amended and
203 extended.

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