

By: Representative McBride

To: Apportionment and
Elections

HOUSE BILL NO. 1299

1 AN ACT TO PROHIBIT PERSONS FROM QUALIFYING AS A CANDIDATE FOR
2 MORE THAN ONE OFFICE AT ANY ELECTION IF IT IS PROHIBITED BY LAW
3 FROM SIMULTANEOUSLY HOLDING BOTH POSITIONS; TO PROVIDE THAT THE
4 APPROPRIATE EXECUTIVE COMMITTEES OR ELECTION COMMISSIONERS SHALL
5 DETERMINE WHETHER A PERSON HAS QUALIFIED AS A CANDIDATE FOR MORE
6 THAN ONE OFFICE AT AN ELECTION; TO PROVIDE THE OFFICE FOR WHICH
7 THE PERSON SHALL BE QUALIFIED IN THE EVENT THAT SUCH PERSON HAS
8 QUALIFIED FOR MORE THAN ONE OFFICE AT AN ELECTION; TO AMEND
9 SECTIONS 23-15-299, 23-15-309 AND 23-15-359, MISSISSIPPI CODE OF
10 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** No person may qualify as a candidate for more
13 than one (1) office at any one (1) election if it is prohibited by
14 law from simultaneously holding both positions. If a person takes
15 the steps necessary to qualify for more than one (1) office, the
16 appropriate executive committee or election commissioner shall
17 determine the last office for which the person qualified and the
18 person shall be considered to be qualified as a candidate for that
19 office only and the person shall be notified of this
20 determination.

21 **SECTION 2.** Section 23-15-299, Mississippi Code of 1972, is
22 amended as follows:

23 23-15-299. (1) (a) Assessments made pursuant to paragraphs
24 (a), (b) and (c) of Section 23-15-297 and assessments made
25 pursuant to paragraph (d) of Section 23-15-297 for legislative
26 offices shall be paid by each candidate to the Secretary of the
27 State Executive Committee with which the candidate is affiliated
28 by 5:00 p.m. on March 1 of the year in which the primary election
29 for the office is held or on the date of the qualifying deadline
30 provided by statute for the office, whichever is earlier; however,

31 no such assessments may be paid before January 1 of the year in
32 which the primary election for the office is held.

33 (b) If the 2010 federal decennial census has not been
34 received from the United States Secretary of Commerce by the
35 Governor of the State of Mississippi by January 1, 2011, then the
36 qualifying deadline for legislative offices shall be changed for
37 the year 2011 only, as follows: Assessments made pursuant to
38 paragraph (d) of Section 23-15-297 for legislative offices shall
39 be paid by each candidate to the Secretary of the State Executive
40 Committee with which the candidate is affiliated by 5:00 p.m. on
41 June 1, 2011. This paragraph (b) shall stand repealed on July 1,
42 2012; however, no such assessments may be paid before January 1 of
43 the year in which the election for the office is held.

44 (2) Assessments made pursuant to paragraphs (d) and (e) of
45 Section 23-15-297, other than assessments made for legislative
46 offices, shall be paid by each candidate to the circuit clerk of
47 such candidate's county of residence by 5:00 p.m. on March 1 of
48 the year in which the primary election for the office is held or
49 on the date of the qualifying deadline provided by statute for the
50 office, whichever is earlier; however, no such assessments may be
51 paid before January 1 of the year in which the election for the
52 office is held. The circuit clerk shall forward the fee and all
53 necessary information to the secretary of the proper county
54 executive committee within two (2) business days.

55 (3) Assessments made pursuant to paragraphs (f) and (g) of
56 Section 23-15-297 must be paid by each candidate to the Secretary
57 of the State Executive Committee with which the candidate is
58 affiliated by 5:00 p.m. sixty (60) days before the presidential
59 preference primary in years in which a presidential preference
60 primary is held; however, no such assessments may be paid before
61 January 1 of the year in which the primary election for the office
62 is held. Assessments made pursuant to paragraphs (f) and (g) of
63 Section 23-15-297, in years when a presidential preference primary

64 is not being held, shall be paid by each candidate to the
65 Secretary of the State Executive Committee with which the
66 candidate is affiliated by 5:00 p.m. on March 1 of the year in
67 which the primary election for the office is held; however, no
68 such assessments may be paid before January 1 of the year in which
69 the primary election for the office is held.

70 (4) (a) The fees paid pursuant to subsections (1), (2) and
71 (3) of this section shall be accompanied by a written statement
72 containing the name and address of the candidate, the party with
73 which he or she is affiliated and the office for which he or she
74 is a candidate.

75 (b) The State Executive Committee shall transmit to the
76 Secretary of State a copy of the written statements accompanying
77 the fees paid pursuant to subsections (1) and (2) of this section.
78 All copies must be received by the Office of the Secretary of
79 State by not later than 6:00 p.m. on the date of the qualifying
80 deadline; provided, however, the failure of the Office of the
81 Secretary of State to receive such copies by 6:00 p.m. on the date
82 of the qualifying deadline shall not affect the qualification of a
83 person who pays the required fee and files the required statement
84 by 5:00 p.m. on the date of the qualifying deadline. The name of
85 any person who pays the required fee and files the required
86 statement after 5:00 p.m. on the date of the qualifying deadline
87 shall not be placed on the primary election ballot.

88 (5) The secretary or circuit clerk to whom such payments are
89 made shall promptly receipt for same stating the office for which
90 such candidate making payment is running and the political party
91 with which he or she is affiliated, and he or she shall keep an
92 itemized account in detail showing the exact time and date of the
93 receipt of each payment received by him or her and, where
94 applicable, the date of the postmark on the envelope containing
95 the fee and from whom, and for what office the party paying same
96 is a candidate.

97 (6) The secretaries of the proper executive committee shall
98 hold said funds to be finally disposed of by order of their
99 respective executive committees. Such funds may be used or
100 disbursed by the executive committee receiving same to pay all
101 necessary traveling or other necessary expenses of the members of
102 the executive committee incurred in discharging their duties as
103 committeemen, and of their secretary and may pay the secretary
104 such salary as may be reasonable.

105 (7) Upon receipt of the proper fee and all necessary
106 information, the proper executive committee shall then determine
107 whether each candidate is a qualified elector of the state, state
108 district, county or county district which they seek to serve, and
109 whether each candidate meets all other qualifications to hold the
110 office he is seeking or presents absolute proof that he will,
111 subject to no contingencies, meet all qualifications on or before
112 the date of the general or special election at which he could be
113 elected to office. The executive committee shall determine
114 whether the candidate has taken the steps necessary to qualify for
115 more than one (1) office at the election. The committee also
116 shall determine whether any candidate has been convicted of any
117 felony in a court of this state, or has been convicted on or after
118 December 8, 1992, of any offense in another state which is a
119 felony under the laws of this state, or has been convicted of any
120 felony in a federal court on or after December 8, 1992. Excepted
121 from the above are convictions of manslaughter and violations of
122 the United States Internal Revenue Code or any violations of the
123 tax laws of this state unless the offense also involved misuse or
124 abuse of his office or money coming into his hands by virtue of
125 his office. If the proper executive committee finds that a
126 candidate either (a) is not a qualified elector, (b) does not meet
127 all qualifications to hold the office he seeks and fails to
128 provide absolute proof, subject to no contingencies, that he will
129 meet the qualifications on or before the date of the general or

130 special election at which he could be elected, or (c) has been
131 convicted of a felony as described in this subsection, and not
132 pardoned, then the name of such candidate shall not be placed upon
133 the ballot. If the proper executive committee determines that the
134 candidate has taken the steps necessary to qualify for more than
135 one (1) office at the election, the action required by Section 1
136 of House Bill No.____, 2007 Regular Session, shall be taken.

137 Where there is but one (1) candidate for each office
138 contested at the primary election, the proper executive committee
139 when the time has expired within which the names of candidates
140 shall be furnished shall declare such candidates the nominees.

141 (8) No candidate may qualify by filing the information
142 required by this section by using the Internet.

143 **SECTION 3.** Section 23-15-309, Mississippi Code of 1972, is
144 amended as follows:

145 23-15-309. (1) Nominations for all municipal officers which
146 are elective shall be made at a primary election, or elections, to
147 be held in the manner prescribed by law. All persons desiring to
148 be candidates for the nomination in the primary elections shall
149 first pay Ten Dollars (\$10.00) to the clerk of the municipality,
150 at least sixty (60) days prior to the first primary election, no
151 later than 5:00 p.m. on such deadline day.

152 (2) The fee paid pursuant to subsection (1) of this section
153 shall be accompanied by a written statement containing the name
154 and address of the candidate, the party with which he is
155 affiliated, and the office for which he is a candidate.

156 (3) The clerk shall promptly receipt the payment, stating
157 the office for which the person making the payment is running and
158 the political party with which such person is affiliated. The
159 clerk shall keep an itemized account in detail showing the time
160 and date of the receipt of such payment received by him, from whom
161 such payment was received, the party with which such person is
162 affiliated and for what office the person paying the fee is a

163 candidate. The clerk shall promptly supply all necessary
164 information and pay over all fees so received to the secretary of
165 the proper municipal executive committee. Such funds may be used
166 and disbursed in the same manner as is allowed in Section
167 23-15-299 in regard to other executive committees.

168 (4) Upon receipt of the above information, the proper
169 municipal executive committee shall then determine whether each
170 candidate is a qualified elector of the municipality, and of the
171 ward if the office sought is a ward office, shall determine
172 whether each candidate either meets all other qualifications to
173 hold the office he is seeking or presents absolute proof that he
174 will, subject to no contingencies, meet all qualifications on or
175 before the date of the general or special election at which he
176 could be elected to office. The executive committee shall
177 determine whether the candidate has taken the steps necessary to
178 qualify for more than one (1) office at the election. The
179 committee also shall determine whether any candidate has been
180 convicted of any felony in a court of this state, or has been
181 convicted on or after December 8, 1992, of any offense in another
182 state which is a felony under the laws of this state, or has been
183 convicted of any felony in a federal court on or after December 8,
184 1992. Excepted from the above are convictions of manslaughter and
185 violations of the United States Internal Revenue Code or any
186 violations of the tax laws of this state unless such offense also
187 involved misuse or abuse of his office or money coming into his
188 hands by virtue of his office. If the proper municipal executive
189 committee finds that a candidate either (a) does not meet all
190 qualifications to hold the office he seeks and fails to provide
191 absolute proof, subject to no contingencies, that he will meet the
192 qualifications on or before the date of the general or special
193 election at which he could be elected, or (b) has been convicted
194 of a felony as described in this subsection and not pardoned, then
195 the name of such candidate shall not be placed upon the ballot.

196 If the executive committee determines that the candidate has taken
197 the steps necessary to qualify for more than one (1) office at the
198 election, the action required by Section 1 of House Bill No. _____,
199 2007 Regular Session, shall be taken.

200 (5) Where there is but one (1) candidate, the proper
201 municipal executive committee when the time has expired within
202 which the names of candidates shall be furnished shall declare
203 such candidate the nominee.

204 **SECTION 4.** Section 23-15-359, Mississippi Code of 1972, is
205 amended as follows:

206 23-15-359. (1) The ballot shall contain the names of all
207 party nominees certified by the appropriate executive committee,
208 and independent and special election candidates who have timely
209 filed petitions containing the required signatures. A petition
210 requesting that an independent or special election candidate's
211 name be placed on the ballot for any office shall be filed as
212 provided for in subsection (3) or (4) of this section, as
213 appropriate, and shall be signed by not less than the following
214 number of qualified electors:

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

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

220 (c) For an office elected by the qualified electors of
221 a congressional district, not less than two hundred (200)
222 qualified electors.

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

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

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

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

234 (2) Unless the petition required above shall be filed as
235 provided for in subsection (3) or (4) of this section, as
236 appropriate, the name of the person requested to be a candidate,
237 unless nominated by a political party, shall not be placed upon
238 the ballot. The ballot shall contain the names of each candidate
239 for each office, and such names shall be listed under the name of
240 the political party such candidate represents as provided by law
241 and as certified to the circuit clerk by the State Executive
242 Committee of such political party. In the event such candidate
243 qualifies as an independent as herein provided, he shall be listed
244 on the ballot as an independent candidate.

245 (3) Petitions for offices described in paragraphs (a), (b),
246 (c) and (d) of subsection (1) of this section, and petitions for
247 offices described in paragraph (e) of subsection (1) of this
248 section for districts composed of more than one (1) county or
249 parts of more than one (1) county, shall be filed with the State
250 Board of Election Commissioners by no later than 5:00 p.m. on the
251 same date by which candidates for nominations in the political
252 party primary elections are required to pay the fee provided for
253 in Section 23-15-297, Mississippi Code of 1972; however, no
254 petition may be filed before January 1 of the year in which the
255 election for the office is held.

256 (4) Petitions for offices described in paragraphs (f) and
257 (g) of subsection (1) of this section, and petitions for offices
258 described in paragraph (e) of subsection (1) of this section for
259 districts composed of one (1) county or less, shall be filed with
260 the proper circuit clerk by no later than 5:00 p.m. on the same
261 date by which candidates for nominations in the political party

262 elections are required to pay the fee provided for in Section
263 23-15-297; however, no petition may be filed before January 1 of
264 the year in which the election for the office is held. The
265 circuit clerk shall notify the county commissioners of election of
266 all persons who have filed petitions with such clerk. Such
267 notification shall occur within two (2) business days and shall
268 contain all necessary information.

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

276 (6) The provisions of this section shall not apply to
277 municipal elections or to the election of the offices of justice
278 of the Supreme Court, judge of the Court of Appeals, circuit
279 judge, chancellor, county court judge and family court judge.

280 (7) Nothing in this section shall prohibit special elections
281 to fill vacancies in either house of the Legislature from being
282 held as provided in Section 23-15-851. In all elections conducted
283 under the provisions of Section 23-15-851, the commissioner shall
284 have printed on the ballot the name of any candidate who, not
285 having been nominated by a political party, shall have been
286 requested to be a candidate for any office by a petition filed
287 with said commissioner by 5:00 p.m. not less than ten (10) working
288 days prior to the election, and signed by not less than fifty (50)
289 qualified electors.

290 (8) The appropriate election commission shall determine
291 whether each candidate is a qualified elector of the state, state
292 district, county or county district they seek to serve, and
293 whether each candidate meets all other qualifications to hold the
294 office he is seeking or presents absolute proof that he will,

295 subject to no contingencies, meet all qualifications on or before
296 the date of the general or special election at which he could be
297 elected to office. The election commission shall determine
298 whether the candidate has taken the steps necessary to qualify for
299 more than one (1) office at the election. The election commission
300 also shall determine whether any candidate has been convicted of
301 any felony in a court of this state, or has been convicted on or
302 after December 8, 1992, of any offense in another state which is a
303 felony under the laws of this state, or has been convicted of any
304 felony in a federal court on or after December 8, 1992. Excepted
305 from the above are convictions of manslaughter and violations of
306 the United States Internal Revenue Code or any violations of the
307 tax laws of this state, unless the offense also involved misuse or
308 abuse of his office or money coming into his hands by virtue of
309 his office. If the appropriate election commission finds that a
310 candidate either (a) is not a qualified elector, (b) does not meet
311 all qualifications to hold the office he seeks and fails to
312 provide absolute proof, subject to no contingencies, that he will
313 meet the qualifications on or before the date of the general or
314 special election at which he could be elected, or (c) has been
315 convicted of a felony as described in this subsection, and not
316 pardoned, then the name of such candidate shall not be placed upon
317 the ballot. If the appropriate election commission determines
318 that the candidate has taken the steps necessary to qualify for
319 more than one (1) office at the election, the action required by
320 Section 1 of House Bill No.____, 2007 Regular Session, shall be
321 taken.

322 (9) If after the deadline to qualify as a candidate for an
323 office or after the time for holding any party primary for an
324 office, there shall be only one (1) person who has duly qualified
325 to be a candidate for the office in the general election, the name
326 of such person shall be placed on the ballot; provided, however,
327 that if there shall be not more than one (1) person duly qualified

328 to be a candidate for each office on the general election ballot,
329 the election for all offices on the ballot shall be dispensed with
330 and the appropriate election commission shall declare each
331 candidate elected without opposition if the candidate meets all
332 the qualifications to hold the office as determined pursuant to a
333 review by the commission in accordance with the provisions of
334 subsection (8) of this section and if the candidate has filed all
335 required campaign finance disclosure reports as required by
336 Section 23-15-807.

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

339 **SECTION 5.** The Attorney General of the State of Mississippi
340 shall submit this act, immediately upon approval by the Governor,
341 or upon approval by the Legislature subsequent to a veto, to the
342 Attorney General of the United States or to the United States
343 District Court for the District of Columbia in accordance with the
344 provisions of the Voting Rights Act of 1965, as amended and
345 extended.

346 **SECTION 6.** This act shall take effect and be in force from
347 and after the date it is effectuated under Section 5 of the Voting
348 Rights Act of 1965, as amended and extended.