

By: Senator(s) Burton, Harden

To: Elections

SENATE BILL NO. 2233
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 23-15-851, MISSISSIPPI CODE OF 1972,
2 TO ISSUE WRITS OF ELECTION FOR VACANCIES IN LEGISLATIVE OFFICE
3 WITHIN 30 DAYS AFTER THE VACANCIES OCCUR; TO PROVIDE THAT AT LEAST
4 30 DAYS' NOTICE OF THE ELECTION SHALL BE GIVEN; TO PROVIDE THAT
5 THE WRIT OF ELECTION SHALL SPECIFY A DAY AS THE QUALIFYING
6 DEADLINE FOR THE ELECTION THAT IS AT LEAST 10 DAYS AFTER THE WRIT
7 IS ISSUED AND AT LEAST 20 DAYS PRIOR TO THE ELECTION AND TO
8 PROVIDE THAT IF A VACANCY OCCURS ON OR AFTER JUNE 1 OF A YEAR IN
9 WHICH THE GENERAL ELECTION FOR STATE OFFICERS IS HELD, THE
10 GOVERNOR MAY ELECT NOT TO ISSUE A WRIT OF ELECTION TO FILL THE
11 VACANCY; TO AMEND SECTION 23-15-359, MISSISSIPPI CODE OF 1972, IN
12 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

16 23-15-851. (1) Except as otherwise provided in subsection
17 (2) of this section, within thirty (30) days after vacancies occur
18 in either House of the Legislature, the Governor shall issue writs
19 of election to fill the vacancies on a day * * * specified in the
20 writ of election. At least forty (40) days' notice shall be given
21 of the election in each county or part of a county in which the
22 election shall be held. The qualifying deadline for the election
23 shall be thirty (30) days prior to the election. Notice of the
24 election shall be posted at the courthouse and in each supervisors
25 district in the county or part of county in which such election
26 shall be held for as near forty (40) days as may be practicable.
27 The election shall be prepared for and held as in the case of a
28 general election.

29 (2) If a vacancy occurs on or after June 1 of a year in
30 which the general election for state officers is held, the
31 Governor may elect not to issue a writ of election to fill the
32 vacancy.

33 **SECTION 2.** Section 23-15-359, Mississippi Code of 1972, as
34 amended by Senate Bill No. 2056, 2007 Regular Session, is amended
35 as follows:

36 **[Through June 30, 2008, this section shall read as follows:]**

37 23-15-359. (1) The ballot shall contain the names of all
38 party nominees certified by the appropriate executive committee,
39 and independent and special election candidates who have timely
40 filed petitions containing the required signatures. A petition
41 requesting that an independent or special election candidate's
42 name be placed on the ballot for any office shall be filed as
43 provided for in subsection (3) or (4) of this section, as
44 appropriate, and shall be signed by not less than the following
45 number of qualified electors:

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

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

51 (c) For an office elected by the qualified electors of
52 a congressional district, not less than two hundred (200)
53 qualified electors.

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

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

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

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

65 (2) Unless the petition required above shall be filed as
66 provided for in subsection (3) or (4) of this section, as
67 appropriate, the name of the person requested to be a candidate,
68 unless nominated by a political party, shall not be placed upon
69 the ballot. The ballot shall contain the names of each candidate
70 for each office, and such names shall be listed under the name of
71 the political party such candidate represents as provided by law
72 and as certified to the circuit clerk by the State Executive
73 Committee of such political party. In the event such candidate
74 qualifies as an independent as * * * provided in this section, he
75 shall be listed on the ballot as an independent candidate.

76 (3) Petitions for offices described in paragraphs (a), (b),
77 (c) and (d) of subsection (1) of this section, and petitions for
78 offices described in paragraph (e) of subsection (1) of this
79 section for districts composed of more than one (1) county or
80 parts of more than one (1) county, shall be filed with the State
81 Board of Election Commissioners by no later than 5:00 p.m. on the
82 same date by which candidates for nominations in the political
83 party primary elections are required to pay the fee provided for
84 in Section 23-15-297, Mississippi Code of 1972; however, no
85 petition may be filed before January 1 of the year in which the
86 election for the office is held.

87 (4) Petitions for offices described in paragraphs (f) and
88 (g) of subsection (1) of this section, and petitions for offices
89 described in paragraph (e) of subsection (1) of this section for
90 districts composed of one (1) county or less, shall be filed with
91 the proper circuit clerk by no later than 5:00 p.m. on the same
92 date by which candidates for nominations in the political party
93 elections are required to pay the fee provided for in Section
94 23-15-297; however, no petition may be filed before January 1 of
95 the year in which the election for the office is held. The
96 circuit clerk shall notify the county commissioners of election of
97 all persons who have filed petitions with such clerk. Such

98 notification shall occur within two (2) business days and shall
99 contain all necessary information.

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

107 (6) The provisions of this section shall not apply to
108 municipal elections or to the election of the offices of justice
109 of the Supreme Court, judge of the Court of Appeals, circuit
110 judge, chancellor, county court judge and family court judge.

111 (7) Nothing in this section shall prohibit special elections
112 to fill vacancies in either house of the Legislature from being
113 held as provided in Section 23-15-851. In all elections conducted
114 under the provisions of Section 23-15-851, there shall be printed
115 on the ballot the name of any candidate who, not having been
116 nominated by a political party, shall have been requested to be a
117 candidate for any office by a petition filed with the State Board
118 of Election Commissioners for districts composed of more than one
119 (1) county or parts of more than one (1) county, or the proper
120 circuit clerk for districts composed of one (1) county or less, by
121 5:00 p.m. on or before the date set in the writ of election as the
122 qualifying deadline, and signed by not less than fifty (50)
123 qualified electors.

124 (8) The appropriate election commission shall determine
125 whether each candidate is a qualified elector of the state, state
126 district, county or county district they seek to serve, and
127 whether each candidate meets all other qualifications to hold the
128 office he is seeking or presents absolute proof that he will,
129 subject to no contingencies, meet all qualifications on or before
130 the date of the general or special election at which he could be

131 elected to office. The election commission also shall determine
132 whether any candidate has been convicted of any felony in a court
133 of this state, or has been convicted on or after December 8, 1992,
134 of any offense in another state which is a felony under the laws
135 of this state, or has been convicted of any felony in a federal
136 court on or after December 8, 1992. Excepted from the above are
137 convictions of manslaughter and violations of the United States
138 Internal Revenue Code or any violations of the tax laws of this
139 state, unless the offense also involved misuse or abuse of his
140 office or money coming into his hands by virtue of his office. If
141 the appropriate election commission finds that a candidate either
142 (a) is not a qualified elector, (b) does not meet all
143 qualifications to hold the office he seeks and fails to provide
144 absolute proof, subject to no contingencies, that he will meet the
145 qualifications on or before the date of the general or special
146 election at which he could be elected, or (c) has been convicted
147 of a felony as described in this subsection, and not pardoned,
148 then the name of such candidate shall not be placed upon the
149 ballot.

150 (9) If after the deadline to qualify as a candidate for an
151 office or after the time for holding any party primary for an
152 office, there shall be only one (1) person who has duly qualified
153 to be a candidate for the office in the general election, the name
154 of such person shall be placed on the ballot; provided, however,
155 that if there shall be not more than one (1) person duly qualified
156 to be a candidate for each office on the general election ballot,
157 the election for all offices on the ballot shall be dispensed with
158 and the appropriate election commission shall declare each
159 candidate elected without opposition if the candidate meets all
160 the qualifications to hold the office as determined pursuant to a
161 review by the commission in accordance with the provisions of
162 subsection (8) of this section and if the candidate has filed all

163 required campaign finance disclosure reports as required by
164 Section 23-15-807.

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

167 **[From and after July 1, 2008, this section shall read as**
168 **follows:]**

169 23-15-359. (1) The ballot shall contain the names of all
170 party nominees certified by the appropriate executive committee,
171 and independent and special election candidates who have timely
172 filed petitions containing the required signatures. A petition
173 requesting that an independent or special election candidate's
174 name be placed on the ballot for any office shall be filed as
175 provided for in subsection (3) or (4) of this section, as
176 appropriate, and shall be signed by not less than the following
177 number of qualified electors:

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

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

183 (c) For an office elected by the qualified electors of
184 a congressional district, not less than two hundred (200)
185 qualified electors.

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

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

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

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

197 (2) Unless the petition required above shall be filed as
198 provided for in subsection (3) or (4) of this section, as
199 appropriate, the name of the person requested to be a candidate,
200 unless nominated by a political party, shall not be placed upon
201 the ballot. The ballot shall contain the names of each candidate
202 for each office, and such names shall be listed under the name of
203 the political party such candidate represents as provided by law
204 and as certified to the circuit clerk by the State Executive
205 Committee of such political party. In the event such candidate
206 qualifies as an independent as * * * provided in this section, he
207 shall be listed on the ballot as an independent candidate.

208 (3) Petitions for offices described in paragraphs (a), (b),
209 (c) and (d) of subsection (1) of this section, and petitions for
210 offices described in paragraph (e) of subsection (1) of this
211 section for districts composed of more than one (1) county or
212 parts of more than one (1) county, shall be filed with the State
213 Board of Election Commissioners by no later than 5:00 p.m. on the
214 same date by which candidates for nominations in the political
215 party primary elections are required to pay the fee provided for
216 in Section 23-15-297, Mississippi Code of 1972; however, no
217 petition may be filed before January 1 of the year in which the
218 election for the office is held.

219 (4) Petitions for offices described in paragraphs (f) and
220 (g) of subsection (1) of this section, and petitions for offices
221 described in paragraph (e) of subsection (1) of this section for
222 districts composed of one (1) county or less, shall be filed with
223 the proper circuit clerk by no later than 5:00 p.m. on the same
224 date by which candidates for nominations in the political party
225 elections are required to pay the fee provided for in Section
226 23-15-297; however, no petition may be filed before January 1 of

227 the year in which the election for the office is held. The
228 circuit clerk shall notify the county commissioners of election of
229 all persons who have filed petitions with such clerk. Such
230 notification shall occur within two (2) business days and shall
231 contain all necessary information.

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

239 (6) The provisions of this section shall not apply to
240 municipal elections or to the election of the offices of justice
241 of the Supreme Court, judge of the Court of Appeals, circuit
242 judge, chancellor, county court judge and family court judge.

243 (7) Nothing in this section shall prohibit special elections
244 to fill vacancies in either house of the Legislature from being
245 held as provided in Section 23-15-851. In all elections conducted
246 under the provisions of Section 23-15-851, there shall be printed
247 on the ballot the name of any candidate who, not having been
248 nominated by a political party, shall have been requested to be a
249 candidate for any office by a petition filed with the State Board
250 of Election Commissioners for districts composed of more than one
251 (1) county or parts of more than one (1) county, or the proper
252 circuit clerk for districts composed of one (1) county or less, by
253 5:00 p.m. on or before the date set in the writ of election as the
254 qualifying deadline, and signed by not less than fifty (50)
255 qualified electors.

256 (8) The appropriate election commission shall determine
257 whether each candidate is a qualified elector of the state, state
258 district, county or county district they seek to serve, and
259 whether each candidate meets all other qualifications to hold the

260 office he is seeking or presents absolute proof that he will,
261 subject to no contingencies, meet all qualifications on or before
262 the date of the general or special election at which he could be
263 elected to office. The election commission shall determine
264 whether the candidate has taken the steps necessary to qualify for
265 more than one (1) office at the election. The election commission
266 also shall determine whether any candidate has been convicted of
267 any felony in a court of this state, or has been convicted on or
268 after December 8, 1992, of any offense in another state which is a
269 felony under the laws of this state, or has been convicted of any
270 felony in a federal court on or after December 8, 1992. Excepted
271 from the above are convictions of manslaughter and violations of
272 the United States Internal Revenue Code or any violations of the
273 tax laws of this state, unless the offense also involved misuse or
274 abuse of his office or money coming into his hands by virtue of
275 his office. If the appropriate election commission finds that a
276 candidate either (a) is not a qualified elector, (b) does not meet
277 all qualifications to hold the office he seeks and fails to
278 provide absolute proof, subject to no contingencies, that he will
279 meet the qualifications on or before the date of the general or
280 special election at which he could be elected, or (c) has been
281 convicted of a felony as described in this subsection, and not
282 pardoned, then the name of such candidate shall not be placed upon
283 the ballot. If the appropriate election commission determines
284 that the candidate has taken the steps necessary to qualify for
285 more than one (1) office at the election, the action required by
286 Section 1 of Senate Bill No. 2056, 2007 Regular Session, shall be
287 taken.

288 (9) If after the deadline to qualify as a candidate for an
289 office or after the time for holding any party primary for an
290 office, there shall be only one (1) person who has duly qualified
291 to be a candidate for the office in the general election, the name
292 of such person shall be placed on the ballot; provided, however,

293 that if there shall be not more than one (1) person duly qualified
294 to be a candidate for each office on the general election ballot,
295 the election for all offices on the ballot shall be dispensed with
296 and the appropriate election commission shall declare each
297 candidate elected without opposition if the candidate meets all
298 the qualifications to hold the office as determined pursuant to a
299 review by the commission in accordance with the provisions of
300 subsection (8) of this section and if the candidate has filed all
301 required campaign finance disclosure reports as required by
302 Section 23-15-807.

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

305 **SECTION 3.** The Attorney General of the State of Mississippi
306 shall submit this act, immediately upon approval by the Governor,
307 or upon approval by the Legislature subsequent to a veto, to the
308 Attorney General of the United States or to the United States
309 District Court for the District of Columbia in accordance with the
310 provisions of the Voting Rights Act of 1965, as amended and
311 extended.

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