

By: Senator(s) Dearing

To: Elections

SENATE BILL NO. 2761

1 AN ACT TO PROHIBIT A PERSON WHO HOLDS ELECTIVE OFFICE IN THIS
 2 STATE FROM BEING A CANDIDATE FOR ANY OTHER ELECTIVE OFFICE DURING
 3 THE TERM FOR WHICH HE WAS ELECTED UNLESS THE DATE OF THE ELECTION
 4 FOR THE OTHER ELECTIVE OFFICE IS THE DATE OF THE ELECTION FOR THE
 5 OFFICE HE HOLDS, OR HE RESIGNS FROM THE ELECTIVE OFFICE THAT HE
 6 HOLDS PRIOR TO QUALIFYING AS A CANDIDATE FOR THE OTHER ELECTIVE
 7 OFFICE; TO AMEND SECTIONS 23-15-299, 23-15-309 AND 23-15-359,
 8 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
 9 PURPOSES.

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

11 **SECTION 1.** A person who holds elective office in this state
 12 may not be a candidate for any other elective office during the
 13 term for which he was elected unless:

14 (a) The date of the election for the other elective
 15 office is the date of the election for the office he holds; or

16 (b) He resigns from the elective office that he holds
 17 prior to qualifying as a candidate for the other elective office.

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

20 23-15-299. (1) (a) Assessments made pursuant to paragraphs
 21 (a), (b) and (c) of Section 23-15-297 and assessments made
 22 pursuant to paragraph (d) of Section 23-15-297 for legislative
 23 offices shall be paid by each candidate to the Secretary of the
 24 State Executive Committee with which the candidate is affiliated
 25 by 5:00 p.m. on March 1 of the year in which the primary election
 26 for the office is held or on the date of the qualifying deadline
 27 provided by statute for the office, whichever is earlier; however,
 28 no such assessments may be paid before January 1 of the year in
 29 which the primary election for the office is held.

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 This paragraph (b) shall stand repealed on July 1,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

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

52 (3) Assessments made pursuant to paragraphs (f) and (g) of
53 Section 23-15-297 must be paid by each candidate to the Secretary
54 of the State Executive Committee with which the candidate is
55 affiliated by 5:00 p.m. sixty (60) days before the presidential
56 preference primary in years in which a presidential preference
57 primary is held; however, no such assessments may be paid before
58 January 1 of the year in which the primary election for the office
59 is held. Assessments made pursuant to paragraphs (f) and (g) of
60 Section 23-15-297, in years when a presidential preference primary
61 is not being held, shall be paid by each candidate to the
62 Secretary of the State Executive Committee with which the

63 candidate is affiliated by 5:00 p.m. on March 1 of the year in
64 which the primary election for the office is held; however, no
65 such assessments may be paid before January 1 of the year in which
66 the primary election for the office is held.

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

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

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

94 (6) The secretaries of the proper executive committee shall
95 hold said funds to be finally disposed of by order of their

96 respective executive committees. Such funds may be used or
97 disbursed by the executive committee receiving same to pay all
98 necessary traveling or other necessary expenses of the members of
99 the executive committee incurred in discharging their duties as
100 committeemen, and of their secretary and may pay the secretary
101 such salary as may be reasonable.

102 (7) Upon receipt of the proper fee and all necessary
103 information, the proper executive committee shall then determine
104 whether each candidate is a qualified elector of the state, state
105 district, county or county district which they seek to serve,
106 whether each candidate is in violation of Section 1 of Senate Bill
107 No. 2761, 2007 Regular Session, and whether each candidate meets
108 all other qualifications to hold the office he is seeking or
109 presents absolute proof that he will, subject to no contingencies,
110 meet all qualifications on or before the date of the general or
111 special election at which he could be elected to office. The
112 committee also shall determine whether any candidate has been
113 convicted of any felony in a court of this state, or has been
114 convicted on or after December 8, 1992, of any offense in another
115 state which is a felony under the laws of this state, or has been
116 convicted of any felony in a federal court on or after December 8,
117 1992. Excepted from the above are convictions of manslaughter and
118 violations of the United States Internal Revenue Code or any
119 violations of the tax laws of this state unless the offense also
120 involved misuse or abuse of his office or money coming into his
121 hands by virtue of his office. If the proper executive committee
122 finds that a candidate either (a) is not a qualified elector, (b)
123 is in violation of Section 1 of Senate Bill No. 2761, 2007 Regular
124 Session, (c) does not meet all qualifications to hold the office
125 he seeks and fails to provide absolute proof, subject to no
126 contingencies, that he will meet the qualifications on or before
127 the date of the general or special election at which he could be
128 elected, or (d) has been convicted of a felony as described in

129 this subsection, and not pardoned, then the name of such candidate
130 shall not be placed upon the ballot.

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

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

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

139 23-15-309. (1) Nominations for all municipal officers which
140 are elective shall be made at a primary election, or elections, to
141 be held in the manner prescribed by law. All persons desiring to
142 be candidates for the nomination in the primary elections shall
143 first pay Ten Dollars (\$10.00) to the clerk of the municipality,
144 at least sixty (60) days prior to the first primary election, no
145 later than 5:00 p.m. on such deadline day.

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

150 (3) The clerk shall promptly receipt the payment, stating
151 the office for which the person making the payment is running and
152 the political party with which such person is affiliated. The
153 clerk shall keep an itemized account in detail showing the time
154 and date of the receipt of such payment received by him, from whom
155 such payment was received, the party with which such person is
156 affiliated and for what office the person paying the fee is a
157 candidate. The clerk shall promptly supply all necessary
158 information and pay over all fees so received to the secretary of
159 the proper municipal executive committee. Such funds may be used
160 and disbursed in the same manner as is allowed in Section
161 23-15-299 in regard to other executive committees.

162 (4) Upon receipt of the above information, the proper
163 municipal executive committee shall then determine whether each
164 candidate is a qualified elector of the municipality, and of the
165 ward if the office sought is a ward office, whether each candidate
166 is in violation of Section 1 of Senate Bill No. 2761, 2007 Regular
167 Session, shall determine whether each candidate either meets all
168 other qualifications to hold the office he is seeking or presents
169 absolute proof that he will, subject to no contingencies, meet all
170 qualifications on or before the date of the general or special
171 election at which he could be elected to office. The committee
172 also shall determine whether any candidate has been convicted of
173 any felony in a court of this state, or has been convicted on or
174 after December 8, 1992, of any offense in another state which is a
175 felony under the laws of this state, or has been convicted of any
176 felony in a federal court on or after December 8, 1992. Excepted
177 from the above are convictions of manslaughter and violations of
178 the United States Internal Revenue Code or any violations of the
179 tax laws of this state unless such offense also involved misuse or
180 abuse of his office or money coming into his hands by virtue of
181 his office. If the proper municipal executive committee finds
182 that a candidate either (a) does not meet all qualifications to
183 hold the office he seeks and fails to provide absolute proof,
184 subject to no contingencies, that he will meet the qualifications
185 on or before the date of the general or special election at which
186 he could be elected, (b) is in violation of Section 1 of Senate
187 Bill No. 2761, 2007 Regular Session, or (c) has been convicted of
188 a felony as described in this subsection and not pardoned, then
189 the name of such candidate shall not be placed upon the ballot.

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

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

196 23-15-359. (1) The ballot shall contain the names of all
197 party nominees certified by the appropriate executive committee,
198 and independent and special election candidates who have timely
199 filed petitions containing the required signatures. A petition
200 requesting that an independent or special election candidate's
201 name be placed on the ballot for any office shall be filed as
202 provided for in subsection (3) or (4) of this section, as
203 appropriate, and shall be signed by not less than the following
204 number of qualified electors:

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

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

210 (c) For an office elected by the qualified electors of
211 a congressional district, not less than two hundred (200)
212 qualified electors.

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

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

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

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

224 (2) Unless the petition required above shall be filed as
225 provided for in subsection (3) or (4) of this section, as
226 appropriate, the name of the person requested to be a candidate,

227 unless nominated by a political party, shall not be placed upon
228 the ballot. The ballot shall contain the names of each candidate
229 for each office, and such names shall be listed under the name of
230 the political party such candidate represents as provided by law
231 and as certified to the circuit clerk by the State Executive
232 Committee of such political party. In the event such candidate
233 qualifies as an independent as herein provided, he shall be listed
234 on the ballot as an independent candidate.

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

246 (4) Petitions for offices described in paragraphs (f) and
247 (g) of subsection (1) of this section, and petitions for offices
248 described in paragraph (e) of subsection (1) of this section for
249 districts composed of one (1) county or less, shall be filed with
250 the proper circuit clerk by no later than 5:00 p.m. on the same
251 date by which candidates for nominations in the political party
252 elections are required to pay the fee provided for in Section
253 23-15-297; however, no petition may be filed before January 1 of
254 the year in which the election for the office is held. The
255 circuit clerk shall notify the county commissioners of election of
256 all persons who have filed petitions with such clerk. Such
257 notification shall occur within two (2) business days and shall
258 contain all necessary information.

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

266 (6) The provisions of this section shall not apply to
267 municipal elections or to the election of the offices of justice
268 of the Supreme Court, judge of the Court of Appeals, circuit
269 judge, chancellor, county court judge and family court judge.

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

280 (8) The appropriate election commission shall determine
281 whether each candidate is a qualified elector of the state, state
282 district, county or county district they seek to serve, and
283 whether each candidate meets all other qualifications to hold the
284 office he is seeking or presents absolute proof that he will,
285 subject to no contingencies, meet all qualifications on or before
286 the date of the general or special election at which he could be
287 elected to office. The election commission also shall determine
288 whether any candidate has been convicted of any felony in a court
289 of this state, whether each candidate is in violation of Section 1
290 of Senate Bill No. 2761, 2007 Regular Session, or has been
291 convicted on or after December 8, 1992, of any offense in another

292 state which is a felony under the laws of this state, or has been
293 convicted of any felony in a federal court on or after December 8,
294 1992. Excepted from the above are convictions of manslaughter and
295 violations of the United States Internal Revenue Code or any
296 violations of the tax laws of this state, unless the offense also
297 involved misuse or abuse of his office or money coming into his
298 hands by virtue of his office. If the appropriate election
299 commission finds that a candidate either (a) is not a qualified
300 elector, (b) is in violation of Section 1 of Senate Bill No. 2761,
301 2007 Regular Session, (c) does not meet all qualifications to hold
302 the office he seeks and fails to provide absolute proof, subject
303 to no contingencies, that he will meet the qualifications on or
304 before the date of the general or special election at which he
305 could be elected, or (d) has been convicted of a felony as
306 described in this subsection, and not pardoned, then the name of
307 such candidate shall not be placed upon the ballot.

308 (9) If after the deadline to qualify as a candidate for an
309 office or after the time for holding any party primary for an
310 office, there shall be only one (1) person who has duly qualified
311 to be a candidate for the office in the general election, the name
312 of such person shall be placed on the ballot; provided, however,
313 that if there shall be not more than one (1) person duly qualified
314 to be a candidate for each office on the general election ballot,
315 the election for all offices on the ballot shall be dispensed with
316 and the appropriate election commission shall declare each
317 candidate elected without opposition if the candidate meets all
318 the qualifications to hold the office as determined pursuant to a
319 review by the commission in accordance with the provisions of
320 subsection (8) of this section and if the candidate has filed all
321 required campaign finance disclosure reports as required by
322 Section 23-15-807.

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

325 **SECTION 5.** The Attorney General of the State of Mississippi
326 shall submit this act, immediately upon approval by the Governor,
327 or upon approval by the Legislature subsequent to a veto, to the
328 Attorney General of the United States or to the United States
329 District Court for the District of Columbia in accordance with the
330 provisions of the Voting Rights Act of 1965, as amended and
331 extended.

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