

By: Senator(s) Burton, Harden

To: Elections

SENATE BILL NO. 2831

1 AN ACT TO AMEND SECTIONS 23-15-171, 23-15-833, 23-15-857 AND
2 23-15-981, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SECOND
3 MUNICIPAL PRIMARY ELECTION, IF NECESSARY, SHALL BE HELD THREE
4 WEEKS AFTER THE FIRST MUNICIPAL PRIMARY ELECTION; TO PROVIDE THAT
5 THE RUNOFF ELECTION FOR VACANCIES IN COUNTY OFFICE, COUNTY
6 DISTRICT OFFICE AND MUNICIPAL OFFICE, IF NECESSARY, SHALL BE HELD
7 THREE WEEKS AFTER THE DATE DESIGNATED FOR THE INITIAL ELECTION; TO
8 PROVIDE THAT THE SECOND ELECTION FOR JUDICIAL OFFICE, IF
9 NECESSARY, SHALL BE HELD THREE WEEKS AFTER THE FIRST ELECTION; AND
10 FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 23-15-171, Mississippi Code of 1972, is
13 amended as follows:

14 23-15-171. (1) Municipal primary elections shall be held on
15 the first Tuesday in May preceding the general municipal election
16 and, in the event a second primary shall be necessary, such second
17 primary shall be held on the fourth Tuesday in May preceding such
18 general municipal election. At such primary election the
19 municipal executive committee shall perform the same duties as are
20 specified by law and performed by members of the county executive
21 committee with regard to state and county primary elections. Each
22 municipal executive committee shall have as many members as there
23 are elective officers of the municipality, and such members of the
24 municipal executive committee of each political party shall be
25 elected in the primary elections held for the nomination of
26 candidates for municipal offices. The provisions of this section
27 shall govern all municipal primary elections as far as applicable,
28 but the officers to prepare the ballots and the managers and other
29 officials of the primary election shall be appointed by the
30 municipal executive committee of the party holding such primary,
31 and the returns of such election shall be made to such municipal

32 executive committee. Vacancies in the executive committee shall
33 be filled by it.

34 (2) Provided, however, that in municipalities operating
35 under a special or private charter which fixes a time for holding
36 elections, other than the time fixed by Chapter 491, Laws of 1950,
37 the first primary election shall be held exactly four (4) weeks
38 before the time for holding the general election, as fixed by the
39 charter, and the second primary election, where necessary, shall
40 be held three (3) weeks after the first primary election, unless
41 the charter of any such municipality provides otherwise, in which
42 event the provisions of the special or private charter shall
43 prevail as to the time of holding such primary elections.

44 (3) All primary elections in municipalities shall be held
45 and conducted in the same manner as is provided by law for state
46 and county primary elections.

47 **SECTION 2.** Section 23-15-833, Mississippi Code of 1972, is
48 amended as follows:

49 23-15-833. Except as otherwise provided by law, the first
50 Tuesday after the first Monday in November of each year shall be
51 designated the regular special election day, and on that day an
52 election shall be held to fill any vacancy in county, county
53 district, and district attorney elective offices.

54 All special elections, or elections to fill vacancies, shall
55 in all respects be held, conducted and returned in the same manner
56 as general elections, except that where no candidate receives a
57 majority of the votes cast in such election, then a runoff
58 election shall be held three (3) weeks after such election and the
59 two (2) candidates who receive the highest popular votes for such
60 office shall have their names submitted as such candidates to the
61 said runoff and the candidate who leads in such runoff election
62 shall be elected to the office. When there is a tie in the first
63 election of those receiving next highest vote, these two (2) and
64 the one receiving the highest vote, none having received a

65 majority, shall go into the runoff election and whoever leads in
66 such runoff election shall be entitled to the office.

67 In those years when the regular special election day shall
68 occur on the same day as the general election, the names of
69 candidates in any special election and the general election shall
70 be placed on the same ballot, but shall be clearly distinguished
71 as general election candidates or special election candidates.

72 At any time a special election is held on the same day as a
73 party primary election, the names of the candidates in the special
74 election may be placed on the same ballot, but shall be clearly
75 distinguished as special election candidates or primary election
76 candidates.

77 **SECTION 3.** Section 23-15-857, Mississippi Code of 1972, is
78 amended as follows:

79 23-15-857. (1) When it shall happen that there is any
80 vacancy in a city, town or village office which is elective, the
81 unexpired term of which shall not exceed six (6) months, the same
82 shall be filled by appointment by the governing authority or
83 remainder of the governing authority of said city, town or
84 village. The municipal clerk shall certify to the Secretary of
85 State the fact of such appointment, and the person or persons so
86 appointed shall be commissioned by the Governor.

87 (2) When it shall happen that there is any vacancy in an
88 elective office in a city, town or village the unexpired term of
89 which shall exceed six (6) months, the governing authority or
90 remainder of the governing authority of said city, town or village
91 shall make and enter on the minutes an order for an election to be
92 held in such city, town or village to fill the vacancy and fix a
93 date upon which such election shall be held. Such order shall be
94 made and entered upon the minutes at the next regular meeting of
95 the governing authority after such vacancy shall have occurred, or
96 at a special meeting to be held not later than ten (10) days after
97 such vacancy shall have occurred, Saturdays, Sundays and legal

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

102 Notice of such election shall be given by the municipal clerk
103 by notice published in a newspaper published in the municipality.
104 Such notice shall be published once each week for three (3)
105 successive weeks preceding the date of such election. The first
106 notice to be published at least thirty (30) days before the date
107 of such election. Notice shall also be given by posting a copy of
108 such notice at three (3) public places in such municipality not
109 less than twenty-one (21) days prior to the date of such election.
110 One (1) of such notices shall be posted at the city, town or
111 village hall. In the event that there is no newspaper published
112 in the municipality, then such notice shall be published as
113 provided for above in a newspaper which has a general circulation
114 within the municipality and by posting as provided for above. In
115 addition, the governing authority may publish such notice in such
116 newspaper for such additional times as may be deemed necessary by
117 the governing authority.

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

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

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

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

131 The candidate receiving a majority of the votes cast in a
132 said election shall be elected. If no candidate shall receive a
133 majority vote at the election, the two (2) candidates receiving
134 the highest number of votes shall have their names placed on the
135 ballot for the election to be held three (3) weeks thereafter.
136 The candidate receiving a majority of the votes cast in said
137 election shall be elected. However, if no candidate shall receive
138 a majority and there is a tie in the election of those receiving
139 the next highest vote, those receiving the next highest vote and
140 the candidate receiving the highest vote shall have their names
141 placed on the ballot for the election to be held three (3) weeks
142 thereafter, and whoever receives the most votes cast in such
143 election shall be elected.

144 Should the election to be held three (3) weeks thereafter
145 result in a tie vote, the candidate to prevail shall be decided by
146 lot, fairly and publicly drawn under the supervision by the
147 election commission with the aid of two (2) or more qualified
148 electors of the municipality.

149 The clerk of the election commission shall then give a
150 certificate of election to the person elected, and shall return to
151 the Secretary of State a copy of the order of holding the election
152 and runoff election showing the results thereof, certified by the
153 clerk of the governing authority. The person elected shall be
154 commissioned by the Governor.

155 However, if nineteen (19) days prior to the date of the
156 election only one (1) person shall have qualified as a candidate,
157 the governing authority, or remainder of the governing authority,
158 shall dispense with the election and appoint that one (1)
159 candidate in lieu of an election. In the event no person shall
160 have qualified by 5:00 p.m. at least twenty (20) days prior to the
161 date of the election, the governing authority or remainder of the
162 governing authority shall dispense with the election and fill the
163 vacancy by appointment. The clerk of the governing authority

164 shall certify to the Secretary of State the fact of the
165 appointment, and the person so appointed shall be commissioned by
166 the Governor.

167 **SECTION 4.** Section 23-15-981, Mississippi Code of 1972, is
168 amended as follows:

169 23-15-981. If two (2) or more candidates qualify for
170 judicial office, the names of those candidates shall be placed on
171 the general election ballot. If any candidate for such an office
172 receives a majority of the votes cast for such office in the
173 general election, he shall be declared elected. If no candidate
174 for such office receives a majority of the votes cast for such
175 office in the general election, the names of the two (2)
176 candidates receiving the highest number of votes for such office
177 shall be placed on the ballot for a second election to be held
178 three (3) weeks later in accordance with appropriate procedures
179 followed in other elections involving runoff candidates.

180 **SECTION 5.** The Attorney General of the State of Mississippi
181 shall submit this act, immediately upon approval by the Governor,
182 or upon approval by the Legislature subsequent to a veto, to the
183 Attorney General of the United States or to the United States
184 District Court for the District of Columbia in accordance with the
185 provisions of the Voting Rights Act of 1965, as amended and
186 extended.

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