

By: Senator(s) Burton, Harden

To: Elections

SENATE BILL NO. 2831
(As Passed the Senate)

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; TO
10 AMEND SECTION 23-15-153, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
11 THE PAYMENT OF PER DIEM TO ELECTION COMMISSIONERS, FROM THE COUNTY
12 GENERAL FUND, FOR THE PERFORMANCE OF CERTAIN DUTIES IN A RUNOFF
13 ELECTION FOLLOWING EITHER A GENERAL OR SPECIAL ELECTION; TO AMEND
14 SECTION 23-15-227, MISSISSIPPI CODE OF 1972, TO INCREASE THE
15 COMPENSATION PAID TO MANAGERS AND CLERKS OF THE ELECTION; AND FOR
16 RELATED PURPOSES.

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

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

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

35 officials of the primary election shall be appointed by the
36 municipal executive committee of the party holding such primary,
37 and the returns of such election shall be made to such municipal
38 executive committee. Vacancies in the executive committee shall
39 be filled by it.

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

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

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

55 23-15-833. Except as otherwise provided by law, the first
56 Tuesday after the first Monday in November of each year shall be
57 designated the regular special election day, and on that day an
58 election shall be held to fill any vacancy in county, county
59 district, and district attorney elective offices.

60 All special elections, or elections to fill vacancies, shall
61 in all respects be held, conducted and returned in the same manner
62 as general elections, except that where no candidate receives a
63 majority of the votes cast in such election, then a runoff
64 election shall be held three (3) weeks after such election and the
65 two (2) candidates who receive the highest popular votes for such
66 office shall have their names submitted as such candidates to the
67 said runoff and the candidate who leads in such runoff election

68 shall be elected to the office. When there is a tie in the first
69 election of those receiving next highest vote, these two (2) and
70 the one receiving the highest vote, none having received a
71 majority, shall go into the runoff election and whoever leads in
72 such runoff election shall be entitled to the office.

73 In those years when the regular special election day shall
74 occur on the same day as the general election, the names of
75 candidates in any special election and the general election shall
76 be placed on the same ballot, but shall be clearly distinguished
77 as general election candidates or special election candidates.

78 At any time a special election is held on the same day as a
79 party primary election, the names of the candidates in the special
80 election may be placed on the same ballot, but shall be clearly
81 distinguished as special election candidates or primary election
82 candidates.

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

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

93 (2) When it shall happen that there is any vacancy in an
94 elective office in a city, town or village the unexpired term of
95 which shall exceed six (6) months, the governing authority or
96 remainder of the governing authority of said city, town or village
97 shall make and enter on the minutes an order for an election to be
98 held in such city, town or village to fill the vacancy and fix a
99 date upon which such election shall be held. Such order shall be
100 made and entered upon the minutes at the next regular meeting of

101 the governing authority after such vacancy shall have occurred, or
102 at a special meeting to be held not later than ten (10) days after
103 such vacancy shall have occurred, Saturdays, Sundays and legal
104 holidays excluded, whichever shall occur first. Such election
105 shall be held on a date not less than thirty (30) days nor more
106 than forty-five (45) days after the date upon which the order is
107 adopted.

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

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

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

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

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

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

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

155 The clerk of the election commission shall then give a
156 certificate of election to the person elected, and shall return to
157 the Secretary of State a copy of the order of holding the election
158 and runoff election showing the results thereof, certified by the
159 clerk of the governing authority. The person elected shall be
160 commissioned by the Governor.

161 However, if nineteen (19) days prior to the date of the
162 election only one (1) person shall have qualified as a candidate,
163 the governing authority, or remainder of the governing authority,
164 shall dispense with the election and appoint that one (1)
165 candidate in lieu of an election. In the event no person shall
166 have qualified by 5:00 p.m. at least twenty (20) days prior to the

167 date of the election, the governing authority or remainder of the
168 governing authority shall dispense with the election and fill the
169 vacancy by appointment. The clerk of the governing authority
170 shall certify to the Secretary of State the fact of the
171 appointment, and the person so appointed shall be commissioned by
172 the Governor.

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

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

186 **SECTION 5.** Section 23-15-153, Mississippi Code of 1972, is
187 amended as follows:

188 23-15-153. (1) At the following times the commissioners of
189 election shall meet at the office of the registrar and carefully
190 revise the registration books and the pollbooks of the several
191 voting precincts, and shall erase from those books the names of
192 all persons erroneously on the books, or who have died, removed or
193 become disqualified as electors from any cause; and shall register
194 the names of all persons who have duly applied to be registered
195 and have been illegally denied registration:

196 (a) On the Tuesday after the second Monday in January
197 1987 and every following year;

198 (b) On the first Tuesday in the month immediately
199 preceding the first primary election for congressmen in the years
200 when congressmen are elected;

201 (c) On the first Monday in the month immediately
202 preceding the first primary election for state, state district
203 legislative, county and county district offices in the years in
204 which those offices are elected; and

205 (d) On the second Monday of September preceding the
206 general election or regular special election day in years in which
207 a general election is not conducted.

208 Except for the names of those persons who are duly qualified
209 to vote in the election, no name shall be permitted to remain on
210 the registration books and pollbooks; however, no name shall be
211 erased from the registration books or pollbooks based on a change
212 in the residence of an elector except in accordance with
213 procedures provided for by the National Voter Registration Act of
214 1993 that are in effect at the time of such erasure. Except as
215 otherwise provided by Section 23-15-573, no person shall vote at
216 any election whose name is not on the pollbook.

217 (2) Except as provided in subsection (3) of this section,
218 and subject to the following annual limitations, the commissioners
219 of election shall be entitled to receive a per diem in the amount
220 of Eighty-four Dollars (\$84.00), to be paid from the county
221 general fund, for every day or period of no less than five (5)
222 hours accumulated over two (2) or more days actually employed in
223 the performance of their duties in the conduct of an election or
224 actually employed in the performance of their duties for the
225 necessary time spent in the revision of the registration books and
226 pollbooks as required in subsection (1) of this section:

227 (a) In counties having less than fifteen thousand
228 (15,000) residents according to the latest federal decennial
229 census, not more than fifty (50) days per year, with no more than

230 fifteen (15) additional days allowed for the conduct of each
231 election in excess of one (1) occurring in any calendar year;

232 (b) In counties having fifteen thousand (15,000)
233 residents according to the latest federal decennial census but
234 less than thirty thousand (30,000) residents according to the
235 latest federal decennial census, not more than seventy-five (75)
236 days per year, with no more than twenty-five (25) additional days
237 allowed for the conduct of each election in excess of one (1)
238 occurring in any calendar year;

239 (c) In counties having thirty thousand (30,000)
240 residents according to the latest federal decennial census but
241 less than seventy thousand (70,000) residents according to the
242 latest federal decennial census, not more than one hundred (100)
243 days per year, with no more than thirty-five (35) additional days
244 allowed for the conduct of each election in excess of one (1)
245 occurring in any calendar year;

246 (d) In counties having seventy thousand (70,000)
247 residents according to the latest federal decennial census but
248 less than ninety thousand (90,000) residents according to the
249 latest federal decennial census, not more than one hundred
250 twenty-five (125) days per year, with no more than forty-five (45)
251 additional days allowed for the conduct of each election in excess
252 of one (1) occurring in any calendar year;

253 (e) In counties having ninety thousand (90,000)
254 residents according to the latest federal decennial census but
255 less than one hundred seventy thousand (170,000) residents
256 according to the latest federal decennial census, not more than
257 one hundred fifty (150) days per year, with no more than
258 fifty-five (55) additional days allowed for the conduct of each
259 election in excess of one (1) occurring in any calendar year;

260 (f) In counties having one hundred seventy thousand
261 (170,000) residents according to the latest federal decennial
262 census but less than two hundred thousand (200,000) residents

263 according to the latest federal decennial census, not more than
264 one hundred seventy-five (175) days per year, with no more than
265 sixty-five (65) additional days allowed for the conduct of each
266 election in excess of one (1) occurring in any calendar year;

267 (g) In counties having two hundred thousand (200,000)
268 residents according to the latest federal decennial census but
269 less than two hundred twenty-five thousand (225,000) residents
270 according to the latest federal decennial census, not more than
271 one hundred ninety (190) days per year, with no more than
272 seventy-five (75) additional days allowed for the conduct of each
273 election in excess of one (1) occurring in any calendar year;

274 (h) In counties having two hundred twenty-five thousand
275 (225,000) residents according to the latest federal decennial
276 census but less than two hundred fifty thousand (250,000)
277 residents according to the latest federal decennial census, not
278 more than two hundred fifteen (215) days per year, with no more
279 than eighty-five (85) additional days allowed for the conduct of
280 each election in excess of one (1) occurring in any calendar year;

281 (i) In counties having two hundred fifty thousand
282 (250,000) residents according to the latest federal decennial
283 census but less than two hundred seventy-five thousand (275,000)
284 residents according to the latest federal decennial census, not
285 more than two hundred thirty (230) days per year, with no more
286 than ninety-five (95) additional days allowed for the conduct of
287 each election in excess of one (1) occurring in any calendar year;

288 (j) In counties having two hundred seventy-five
289 thousand (275,000) residents according to the latest federal
290 decennial census or more, not more than two hundred forty (240)
291 days per year, with no more than one hundred five (105) additional
292 days allowed for the conduct of each election in excess of one (1)
293 occurring in any calendar year.

294 (3) The commissioners of election shall be entitled to
295 receive a per diem in the amount of Eighty-four Dollars (\$84.00),

296 to be paid from the county general fund, not to exceed ten (10)
297 days for every day or period of no less than five (5) hours
298 accumulated over two (2) or more days actually employed in the
299 performance of their duties for the necessary time spent in the
300 revision of the registration books and pollbooks prior to any
301 special election. For purposes of this subsection, the regular
302 special election day shall not be considered a special election.
303 The annual limitations set forth in subsection (2) of this section
304 shall not apply to this subsection.

305 (4) The commissioners of election shall be entitled to
306 receive a per diem in the amount of Eighty-four Dollars (\$84.00),
307 to be paid from the county general fund, not to exceed fourteen
308 (14) days for every day or period of no less than five (5) hours
309 accumulated over two (2) or more days actually employed in the
310 performance of their duties for the necessary time spent in the
311 revision of the registration books, pollbooks and in the conduct
312 of a runoff election following either a general or special
313 election.

314 (5) The commissioners of election shall be entitled to
315 receive only one (1) per diem payment for those days when the
316 commissioners of election discharge more than one (1) duty or
317 responsibility on the same day.

318 (6) The county registrar shall prepare the pollbooks and the
319 county commissioners of election shall prepare the registration
320 books of each municipality located within the county pursuant to
321 an agreement between the county and each municipality in the
322 county. The county commissioners of election and the county
323 registrar shall be paid by each municipality for the actual cost
324 of preparing registration books and pollbooks for the municipality
325 and shall pay each county commissioner of election a per diem in
326 the amount provided for in subsection (2) of this section for each
327 day or period of not less than five (5) hours accumulated over two
328 (2) or more days the commissioners are actually employed in

329 preparing the registration books for the municipality, not to
 330 exceed five (5) days. The county commissioners of election and
 331 county registrar shall provide copies of the registration books
 332 and pollbooks to the municipal clerk of each municipality in the
 333 county. The municipality shall pay the county registrar for
 334 preparing and printing the pollbooks. A municipality may secure
 335 "read only" access to the Statewide Centralized Voter System and
 336 print its own pollbooks using this information; however, county
 337 commissioners of election shall remain responsible for preparing
 338 registration books for municipalities and shall be paid for this
 339 duty in accordance with this subsection.

340 (7) Every commissioner of election shall sign personally a
 341 certification setting forth the number of hours actually worked in
 342 the performance of the commissioner's official duties and for
 343 which the commissioner seeks compensation. The certification must
 344 be on a form as prescribed in this subsection. The commissioner's
 345 signature is, as a matter of law, made under the commissioner's
 346 oath of office and under penalties of perjury.

347 The certification form shall be as follows:

348 **COUNTY ELECTION COMMISSIONER**

349 **PER DIEM CLAIM FORM**

350 NAME: _____ COUNTY: _____

351 ADDRESS: _____ DISTRICT: _____

352 CITY: _____ ZIP: _____

353		PURPOSE	APPLICABLE	ACTUAL	PER DIEM
354	DATE	BEGINNING	ENDING	OF	MS CODE
355	WORKED	TIME	TIME	WORK	SECTION
356	_____				
357	_____				
358	_____				

356 _____

357 _____

358 _____

359 TOTAL NUMBER OF PER DIEM DAYS EARNED _____

360 PER DIEM RATE PER DAY EARNED X 84.00

361 TOTAL AMOUNT OF PER DIEM CLAIMED \$ _____

362 I understand that I am signing this document under my oath as
363 a commissioner of election and under penalties of perjury.

364 I understand that I am requesting payment from taxpayer funds
365 and that I have an obligation to be specific and truthful as to
366 the amount of hours worked and the compensation I am requesting.

367 Signed this the ____ day of _____, ____.

368 _____
369 Commissioner's Signature

370 When properly completed and signed, the certification must be
371 filed with the clerk of the county board of supervisors before any
372 payment may be made. The certification will be a public record
373 available for inspection and reproduction immediately upon the
374 oral or written request of any person.

375 Any person may contest the accuracy of the certification in
376 any respect by notifying the chairman of the commission, any
377 member of the board of supervisors or the clerk of the board of
378 supervisors of such contest at any time before or after payment is
379 made. If the contest is made before payment is made, no payment
380 shall be made as to the contested certificate until the contest is
381 finally disposed of. The person filing the contest shall be
382 entitled to a full hearing, and the clerk of the board of
383 supervisors shall issue subpoenas upon request of the contestor
384 compelling the attendance of witnesses and production of documents
385 and things. The contestor shall have the right to appeal de novo
386 to the circuit court of the involved county, which appeal must be
387 perfected within thirty (30) days from a final decision of the
388 commission, the clerk of the board of supervisors or the board of
389 supervisors, as the case may be.

390 Any contestor who successfully contests any certification
391 will be awarded all expenses incident to his contest, together
392 with reasonable attorney's fees, which will be awarded upon
393 petition to the chancery court of the involved county upon final
394 disposition of the contest before the election commission, board

395 of supervisors, clerk of the board of supervisors, or, in case of
396 an appeal, final disposition by the court. The commissioner
397 against whom the contest is decided shall be liable for the
398 payment of the expenses and attorney's fees, and the county shall
399 be jointly and severally liable for same.

400 (8) Any commissioner of election who has not received a
401 certificate issued by the Secretary of State pursuant to Section
402 23-15-211 indicating that the commissioner of election has
403 received the required elections seminar instruction and that the
404 commissioner of election is fully qualified to conduct an
405 election, shall not receive any compensation authorized by this
406 section, Section 23-15-491 or Section 23-15-239.

407 **SECTION 6.** Section 23-15-227, Mississippi Code of 1972, is
408 amended as follows:

409 23-15-227. The managers and clerks shall be each entitled to
410 Seventy-five Dollars (\$75.00) for each election; * * *
411 however, * * * the board of supervisors may, in its discretion,
412 pay the managers and clerks an additional amount not to exceed
413 Fifty Dollars (\$50.00) per election. The manager or other person
414 who shall carry to the place of voting, away from the courthouse,
415 the official ballots, ballot boxes, pollbooks and other
416 necessities, shall be allowed Ten Dollars (\$10.00) for each voting
417 precinct for so doing. The manager or other person who acts as
418 returning officer shall be allowed Ten Dollars (\$10.00) for each
419 voting precinct for that service. The compensation authorized in
420 this section shall be allowed by the board of supervisors, and
421 shall be payable out of the county treasury.

422 The compensation provided in this section shall constitute
423 payment in full for the services rendered by the persons named for
424 any election, whether there be one (1) election or issue voted
425 upon, or more than one (1) election or issue voted upon at the
426 same time.

427 **SECTION 7.** The Attorney General of the State of Mississippi
428 shall submit this act, immediately upon approval by the Governor,
429 or upon approval by the Legislature subsequent to a veto, to the
430 Attorney General of the United States or to the United States
431 District Court for the District of Columbia in accordance with the
432 provisions of the Voting Rights Act of 1965, as amended and
433 extended.

434 **SECTION 8.** This act shall take effect and be in force from
435 and after the date it is effectuated under Section 5 of the Voting
436 Rights Act of 1965, as amended and extended.