

By: Senator(s) Burton, Harden

To: Elections

SENATE BILL NO. 2831
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 23-15-833 AND 23-15-981, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE SECOND MUNICIPAL PRIMARY
3 ELECTION, IF NECESSARY, SHALL BE HELD THREE WEEKS AFTER THE FIRST
4 MUNICIPAL PRIMARY ELECTION; TO AMEND SECTION 23-15-857,
5 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MUNICIPAL SPECIAL
6 ELECTIONS SHALL BE HELD IN TWO WEEKS; TO PROVIDE THAT THE RUNOFF
7 ELECTION FOR VACANCIES IN COUNTY OFFICE, COUNTY DISTRICT OFFICE
8 AND MUNICIPAL OFFICE, IF NECESSARY, SHALL BE HELD THREE WEEKS
9 AFTER THE DATE DESIGNATED FOR THE INITIAL ELECTION; TO PROVIDE
10 THAT THE SECOND ELECTION FOR JUDICIAL OFFICE, IF NECESSARY, SHALL
11 BE HELD THREE WEEKS AFTER THE FIRST ELECTION; TO AMEND SECTION
12 23-15-153, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE PAYMENT OF
13 PER DIEM TO ELECTION COMMISSIONERS, FROM THE COUNTY GENERAL FUND,
14 FOR THE PERFORMANCE OF CERTAIN DUTIES IN A RUNOFF ELECTION
15 FOLLOWING EITHER A GENERAL OR SPECIAL ELECTION; TO AMEND SECTION
16 23-15-227, MISSISSIPPI CODE OF 1972, TO INCREASE THE COMPENSATION
17 PAID TO MANAGERS AND CLERKS OF THE ELECTION; AND FOR RELATED
18 PURPOSES.

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

20 **SECTION 1.** Section 23-15-833, Mississippi Code of 1972, is
21 amended as follows:

22 23-15-833. Except as otherwise provided by law, the first
23 Tuesday after the first Monday in November of each year shall be
24 designated the regular special election day, and on that day an
25 election shall be held to fill any vacancy in county, county
26 district, and district attorney elective offices.

27 All special elections, or elections to fill vacancies, shall
28 in all respects be held, conducted and returned in the same manner
29 as general elections, except that where no candidate receives a
30 majority of the votes cast in such election, then a runoff
31 election shall be held three (3) weeks after such election and the
32 two (2) candidates who receive the highest popular votes for such
33 office shall have their names submitted as such candidates to the
34 said runoff and the candidate who leads in such runoff election
35 shall be elected to the office. When there is a tie in the first

36 election of those receiving next highest vote, these two (2) and
37 the one receiving the highest vote, none having received a
38 majority, shall go into the runoff election and whoever leads in
39 such runoff election shall be entitled to the office.

40 In those years when the regular special election day shall
41 occur on the same day as the general election, the names of
42 candidates in any special election and the general election shall
43 be placed on the same ballot, but shall be clearly distinguished
44 as general election candidates or special election candidates.

45 At any time a special election is held on the same day as a
46 party primary election, the names of the candidates in the special
47 election may be placed on the same ballot, but shall be clearly
48 distinguished as special election candidates or primary election
49 candidates.

50 **SECTION 2.** Section 23-15-857, Mississippi Code of 1972, is
51 amended as follows:

52 23-15-857. (1) When it shall happen that there is any
53 vacancy in a city, town or village office which is elective, the
54 unexpired term of which shall not exceed six (6) months, the same
55 shall be filled by appointment by the governing authority or
56 remainder of the governing authority of said city, town or
57 village. The municipal clerk shall certify to the Secretary of
58 State the fact of such appointment, and the person or persons so
59 appointed shall be commissioned by the Governor.

60 (2) When it shall happen that there is any vacancy in an
61 elective office in a city, town or village the unexpired term of
62 which shall exceed six (6) months, the governing authority or
63 remainder of the governing authority of said city, town or village
64 shall make and enter on the minutes an order for an election to be
65 held in such city, town or village to fill the vacancy and fix a
66 date upon which such election shall be held. Such order shall be
67 made and entered upon the minutes at the next regular meeting of
68 the governing authority after such vacancy shall have occurred, or

69 at a special meeting to be held not later than ten (10) days after
70 such vacancy shall have occurred, Saturdays, Sundays and legal
71 holidays excluded, whichever shall occur first. Such election
72 shall be held on a date not less than thirty (30) days nor more
73 than forty-five (45) days after the date upon which the order is
74 adopted.

75 Notice of such election shall be given by the municipal clerk
76 by notice published in a newspaper published in the municipality.
77 Such notice shall be published once each week for three (3)
78 successive weeks preceding the date of such election. The first
79 notice to be published at least thirty (30) days before the date
80 of such election. Notice shall also be given by posting a copy of
81 such notice at three (3) public places in such municipality not
82 less than twenty-one (21) days prior to the date of such election.
83 One (1) of such notices shall be posted at the city, town or
84 village hall. In the event that there is no newspaper published
85 in the municipality, then such notice shall be published as
86 provided for above in a newspaper which has a general circulation
87 within the municipality and by posting as provided for above. In
88 addition, the governing authority may publish such notice in such
89 newspaper for such additional times as may be deemed necessary by
90 the governing authority.

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

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

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

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

104 The candidate receiving a majority of the votes cast in a
105 said election shall be elected. If no candidate shall receive a
106 majority vote at the election, the two (2) candidates receiving
107 the highest number of votes shall have their names placed on the
108 ballot for the election to be held two (2) weeks thereafter. The
109 candidate receiving a majority of the votes cast in said election
110 shall be elected. However, if no candidate shall receive a
111 majority and there is a tie in the election of those receiving the
112 next highest vote, those receiving the next highest vote and the
113 candidate receiving the highest vote shall have their names placed
114 on the ballot for the election to be held two (2) weeks
115 thereafter, and whoever receives the most votes cast in such
116 election shall be elected.

117 Should the election to be held two (2) weeks thereafter
118 result in a tie vote, the candidate to prevail shall be decided by
119 lot, fairly and publicly drawn under the supervision by the
120 election commission with the aid of two (2) or more qualified
121 electors of the municipality.

122 The clerk of the election commission shall then give a
123 certificate of election to the person elected, and shall return to
124 the Secretary of State a copy of the order of holding the election
125 and runoff election showing the results thereof, certified by the
126 clerk of the governing authority. The person elected shall be
127 commissioned by the Governor.

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

134 date of the election, the governing authority or remainder of the
135 governing authority shall dispense with the election and fill the
136 vacancy by appointment. The clerk of the governing authority
137 shall certify to the Secretary of State the fact of the
138 appointment, and the person so appointed shall be commissioned by
139 the Governor.

140 **SECTION 3.** Section 23-15-981, Mississippi Code of 1972, is
141 amended as follows:

142 23-15-981. If two (2) or more candidates qualify for
143 judicial office, the names of those candidates shall be placed on
144 the general election ballot. If any candidate for such an office
145 receives a majority of the votes cast for such office in the
146 general election, he shall be declared elected. If no candidate
147 for such office receives a majority of the votes cast for such
148 office in the general election, the names of the two (2)
149 candidates receiving the highest number of votes for such office
150 shall be placed on the ballot for a second election to be held
151 three (3) weeks later in accordance with appropriate procedures
152 followed in other elections involving runoff candidates.

153 **SECTION 4.** Section 23-15-153, Mississippi Code of 1972, is
154 amended as follows:

155 23-15-153. (1) At the following times the commissioners of
156 election shall meet at the office of the registrar and carefully
157 revise the registration books and the pollbooks of the several
158 voting precincts, and shall erase from those books the names of
159 all persons erroneously on the books, or who have died, removed or
160 become disqualified as electors from any cause; and shall register
161 the names of all persons who have duly applied to be registered
162 and have been illegally denied registration:

163 (a) On the Tuesday after the second Monday in January
164 1987 and every following year;

165 (b) On the first Tuesday in the month immediately
166 preceding the first primary election for congressmen in the years
167 when congressmen are elected;

168 (c) On the first Monday in the month immediately
169 preceding the first primary election for state, state district
170 legislative, county and county district offices in the years in
171 which those offices are elected; and

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

175 Except for the names of those persons who are duly qualified
176 to vote in the election, no name shall be permitted to remain on
177 the registration books and pollbooks; however, no name shall be
178 erased from the registration books or pollbooks based on a change
179 in the residence of an elector except in accordance with
180 procedures provided for by the National Voter Registration Act of
181 1993 that are in effect at the time of such erasure. Except as
182 otherwise provided by Section 23-15-573, no person shall vote at
183 any election whose name is not on the pollbook.

184 (2) Except as provided in subsection (3) of this section,
185 and subject to the following annual limitations, the commissioners
186 of election shall be entitled to receive a per diem in the amount
187 of Eighty-four Dollars (\$84.00), to be paid from the county
188 general fund, for every day or period of no less than five (5)
189 hours accumulated over two (2) or more days actually employed in
190 the performance of their duties in the conduct of an election or
191 actually employed in the performance of their duties for the
192 necessary time spent in the revision of the registration books and
193 pollbooks as required in subsection (1) of this section:

194 (a) In counties having less than fifteen thousand
195 (15,000) residents according to the latest federal decennial
196 census, not more than fifty (50) days per year, with no more than

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

199 (b) In counties having fifteen thousand (15,000)
200 residents according to the latest federal decennial census but
201 less than thirty thousand (30,000) residents according to the
202 latest federal decennial census, not more than seventy-five (75)
203 days per year, with no more than twenty-five (25) additional days
204 allowed for the conduct of each election in excess of one (1)
205 occurring in any calendar year;

206 (c) In counties having thirty thousand (30,000)
207 residents according to the latest federal decennial census but
208 less than seventy thousand (70,000) residents according to the
209 latest federal decennial census, not more than one hundred (100)
210 days per year, with no more than thirty-five (35) additional days
211 allowed for the conduct of each election in excess of one (1)
212 occurring in any calendar year;

213 (d) In counties having seventy thousand (70,000)
214 residents according to the latest federal decennial census but
215 less than ninety thousand (90,000) residents according to the
216 latest federal decennial census, not more than one hundred
217 twenty-five (125) days per year, with no more than forty-five (45)
218 additional days allowed for the conduct of each election in excess
219 of one (1) occurring in any calendar year;

220 (e) In counties having ninety thousand (90,000)
221 residents according to the latest federal decennial census but
222 less than one hundred seventy thousand (170,000) residents
223 according to the latest federal decennial census, not more than
224 one hundred fifty (150) days per year, with no more than
225 fifty-five (55) additional days allowed for the conduct of each
226 election in excess of one (1) occurring in any calendar year;

227 (f) In counties having one hundred seventy thousand
228 (170,000) residents according to the latest federal decennial
229 census but less than two hundred thousand (200,000) residents

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

234 (g) In counties having two hundred thousand (200,000)
235 residents according to the latest federal decennial census but
236 less than two hundred twenty-five thousand (225,000) residents
237 according to the latest federal decennial census, not more than
238 one hundred ninety (190) days per year, with no more than
239 seventy-five (75) additional days allowed for the conduct of each
240 election in excess of one (1) occurring in any calendar year;

241 (h) In counties having two hundred twenty-five thousand
242 (225,000) residents according to the latest federal decennial
243 census but less than two hundred fifty thousand (250,000)
244 residents according to the latest federal decennial census, not
245 more than two hundred fifteen (215) days per year, with no more
246 than eighty-five (85) additional days allowed for the conduct of
247 each election in excess of one (1) occurring in any calendar year;

248 (i) In counties having two hundred fifty thousand
249 (250,000) residents according to the latest federal decennial
250 census but less than two hundred seventy-five thousand (275,000)
251 residents according to the latest federal decennial census, not
252 more than two hundred thirty (230) days per year, with no more
253 than ninety-five (95) additional days allowed for the conduct of
254 each election in excess of one (1) occurring in any calendar year;

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

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

263 to be paid from the county general fund, not to exceed ten (10)
264 days for every day or period of no less than five (5) hours
265 accumulated over two (2) or more days actually employed in the
266 performance of their duties for the necessary time spent in the
267 revision of the registration books and pollbooks prior to any
268 special election. For purposes of this subsection, the regular
269 special election day shall not be considered a special election.
270 The annual limitations set forth in subsection (2) of this section
271 shall not apply to this subsection.

272 (4) The commissioners of election shall be entitled to
273 receive a per diem in the amount of Eighty-four Dollars (\$84.00),
274 to be paid from the county general fund, not to exceed fourteen
275 (14) days for every day or period of no less than five (5) hours
276 accumulated over two (2) or more days actually employed in the
277 performance of their duties for the necessary time spent in the
278 revision of the registration books, pollbooks and in the conduct
279 of a runoff election following either a general or special
280 election.

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

285 (6) The county registrar shall prepare the pollbooks and the
286 county commissioners of election shall prepare the registration
287 books of each municipality located within the county pursuant to
288 an agreement between the county and each municipality in the
289 county. The county commissioners of election and the county
290 registrar shall be paid by each municipality for the actual cost
291 of preparing registration books and pollbooks for the municipality
292 and shall pay each county commissioner of election a per diem in
293 the amount provided for in subsection (2) of this section for each
294 day or period of not less than five (5) hours accumulated over two
295 (2) or more days the commissioners are actually employed in

296 preparing the registration books for the municipality, not to
 297 exceed five (5) days. The county commissioners of election and
 298 county registrar shall provide copies of the registration books
 299 and pollbooks to the municipal clerk of each municipality in the
 300 county. The municipality shall pay the county registrar for
 301 preparing and printing the pollbooks. A municipality may secure
 302 "read only" access to the Statewide Centralized Voter System and
 303 print its own pollbooks using this information; however, county
 304 commissioners of election shall remain responsible for preparing
 305 registration books for municipalities and shall be paid for this
 306 duty in accordance with this subsection.

307 (7) Every commissioner of election shall sign personally a
 308 certification setting forth the number of hours actually worked in
 309 the performance of the commissioner's official duties and for
 310 which the commissioner seeks compensation. The certification must
 311 be on a form as prescribed in this subsection. The commissioner's
 312 signature is, as a matter of law, made under the commissioner's
 313 oath of office and under penalties of perjury.

314 The certification form shall be as follows:

315 **COUNTY ELECTION COMMISSIONER**

316 **PER DIEM CLAIM FORM**

317 NAME: _____ COUNTY: _____

318 ADDRESS: _____ DISTRICT: _____

319 CITY: _____ ZIP: _____

320		PURPOSE	APPLICABLE	ACTUAL	PER DIEM
321	DATE	BEGINNING	ENDING	OF	MS CODE
322	WORKED	TIME	TIME	WORK	SECTION
323					
324					
325					
326	TOTAL NUMBER OF PER DIEM DAYS EARNED				_____
327	PER DIEM RATE PER DAY EARNED				X 84.00
328	TOTAL AMOUNT OF PER DIEM CLAIMED				\$_____

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

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

334 Signed this the ____ day of _____, ____.

335 _____
336 Commissioner's Signature

337 When properly completed and signed, the certification must be
338 filed with the clerk of the county board of supervisors before any
339 payment may be made. The certification will be a public record
340 available for inspection and reproduction immediately upon the
341 oral or written request of any person.

342 Any person may contest the accuracy of the certification in
343 any respect by notifying the chairman of the commission, any
344 member of the board of supervisors or the clerk of the board of
345 supervisors of such contest at any time before or after payment is
346 made. If the contest is made before payment is made, no payment
347 shall be made as to the contested certificate until the contest is
348 finally disposed of. The person filing the contest shall be
349 entitled to a full hearing, and the clerk of the board of
350 supervisors shall issue subpoenas upon request of the contestor
351 compelling the attendance of witnesses and production of documents
352 and things. The contestor shall have the right to appeal de novo
353 to the circuit court of the involved county, which appeal must be
354 perfected within thirty (30) days from a final decision of the
355 commission, the clerk of the board of supervisors or the board of
356 supervisors, as the case may be.

357 Any contestor who successfully contests any certification
358 will be awarded all expenses incident to his contest, together
359 with reasonable attorney's fees, which will be awarded upon
360 petition to the chancery court of the involved county upon final
361 disposition of the contest before the election commission, board

362 of supervisors, clerk of the board of supervisors, or, in case of
363 an appeal, final disposition by the court. The commissioner
364 against whom the contest is decided shall be liable for the
365 payment of the expenses and attorney's fees, and the county shall
366 be jointly and severally liable for same.

367 (8) Any commissioner of election who has not received a
368 certificate issued by the Secretary of State pursuant to Section
369 23-15-211 indicating that the commissioner of election has
370 received the required elections seminar instruction and that the
371 commissioner of election is fully qualified to conduct an
372 election, shall not receive any compensation authorized by this
373 section, Section 23-15-491 or Section 23-15-239.

374 **SECTION 5.** Section 23-15-227, Mississippi Code of 1972, is
375 amended as follows:

376 23-15-227. The managers and clerks shall be each entitled to
377 Seventy-five Dollars (\$75.00) for each election; * * *
378 however, * * * the board of supervisors may, in its discretion,
379 pay the managers and clerks an additional amount not to exceed
380 Fifty Dollars (\$50.00) per election. The manager or other person
381 who shall carry to the place of voting, away from the courthouse,
382 the official ballots, ballot boxes, pollbooks and other
383 necessities, shall be allowed Ten Dollars (\$10.00) for each voting
384 precinct for so doing. The manager or other person who acts as
385 returning officer shall be allowed Ten Dollars (\$10.00) for each
386 voting precinct for that service. The compensation authorized in
387 this section shall be allowed by the board of supervisors, and
388 shall be payable out of the county treasury.

389 The compensation provided in this section shall constitute
390 payment in full for the services rendered by the persons named for
391 any election, whether there be one (1) election or issue voted
392 upon, or more than one (1) election or issue voted upon at the
393 same time.

394 **SECTION 6.** The Attorney General of the State of Mississippi
395 shall submit this act, immediately upon approval by the Governor,
396 or upon approval by the Legislature subsequent to a veto, to the
397 Attorney General of the United States or to the United States
398 District Court for the District of Columbia in accordance with the
399 provisions of the Voting Rights Act of 1965, as amended and
400 extended.

401 **SECTION 7.** This act shall take effect and be in force from
402 and after the date it is effectuated under Section 5 of the Voting
403 Rights Act of 1965, as amended and extended.