

By: Representatives Reynolds, Brown, Denny

To: Apportionment and
Elections; Judiciary ACOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 683

1 AN ACT TO CREATE THE "ELECTIONS SUPPORT FUND"; TO CREATE NEW
2 SECTION 79-29-215, MISSISSIPPI CODE OF 1972, TO REQUIRE DOMESTIC
3 AND FOREIGN LIMITED LIABILITY COMPANIES TO FILE AN ANNUAL REPORT;
4 TO CREATE NEW SECTION 79-29-821, MISSISSIPPI CODE OF 1972, TO
5 PROVIDE FOR ADMINISTRATIVE DISSOLUTION OF A LIMITED LIABILITY
6 COMPANY UNDER CERTAIN CIRCUMSTANCES; TO CREATE NEW SECTION
7 79-29-823, MISSISSIPPI CODE OF 1972, TO SPECIFY THE PROCEDURE FOR
8 ADMINISTRATIVE DISSOLUTION; TO CREATE NEW SECTION 79-29-825,
9 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT FOLLOWING
10 ADMINISTRATIVE DISSOLUTION; TO CREATE NEW SECTION 79-29-827,
11 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR APPEAL FROM A DENIAL OF
12 REINSTATEMENT; TO CREATE NEW SECTION 79-29-831, MISSISSIPPI CODE
13 OF 1972, TO SPECIFY THE VARIOUS EFFECTS OF DISSOLUTION; TO CREATE
14 NEW SECTION 79-29-1021, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR
15 ADMINISTRATIVE DISSOLUTION OF A FOREIGN LIMITED LIABILITY COMPANY;
16 TO CREATE NEW SECTION 79-29-1023, MISSISSIPPI CODE OF 1972, TO
17 SPECIFY THE PROCEDURE FOR ADMINISTRATIVE DISSOLUTION OF A FOREIGN
18 LIMITED LIABILITY COMPANY; TO CREATE NEW SECTION 79-29-1025,
19 MISSISSIPPI CODE OF 1972, TO PROVIDE FOR REINSTATEMENT OF A
20 FOREIGN LIMITED LIABILITY COMPANY FOLLOWING ADMINISTRATIVE
21 DISSOLUTION; TO CREATE NEW SECTION 79-29-1027, MISSISSIPPI CODE OF
22 1972, TO PROVIDE FOR APPEAL FROM A DENIAL OF REINSTATEMENT OF A
23 FOREIGN LIMITED LIABILITY COMPANY; TO AMEND SECTION 79-29-1203,
24 MISSISSIPPI CODE OF 1972, TO REVISE THE FEES CHARGED IN REFERENCE
25 TO CERTAIN FILINGS UNDER THE LIMITED LIABILITY COMPANY ACT; AND
26 FOR RELATED PURPOSES.

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

28 **SECTION 1.** (1) A special fund, to be designated the
29 "Elections Support Fund" is created within the State Treasury.
30 The fund shall be maintained by the State Treasurer as a separate
31 and special fund, separate and apart from the General Fund of the
32 state. Unexpended amounts remaining in the fund at the end of the
33 fiscal year shall not lapse into the State General Fund, and any
34 interest earned or investment earnings on amounts in the fund
35 shall be disbursed as provided in subsection (2) of this section.
36 The expenditure of monies in the fund shall be under the direction
37 of the Secretary of State as provided by subsection (2) of this



38 section, and such funds shall be paid by the State Treasurer upon
39 warrants issued by the Department of Finance and Administration.

40 (2) (a) Monies in the fund shall be used as follows:

41 (i) Fifty percent (50%) of the monies in the
42 special fund annually, shall be distributed to the counties based
43 on the proportion that the population of a county bears to the
44 total population in all counties of the state population,
45 according to the most recent information from the United States
46 Census Bureau, for the purpose of acquiring, upgrading,
47 maintaining or repairing voting equipment, systems and supplies,
48 hiring temporary technical support, conducting elections using
49 such voting equipment or systems and training election officials.
50 The remaining monies up to fifty percent (50%) of the annual
51 balance in the fund shall be distributed based on the proportion
52 of qualified electors casting ballots in the preceding
53 presidential and gubernatorial elections in each county to the
54 total number of qualified electors casting ballots in the last
55 presidential and gubernatorial election in the state;

56 (ii) Fifty percent (50%) of the monies in the
57 special fund annually shall be retained by the Secretary of State
58 and used for maintaining, upgrading or equipping the Statewide
59 Elections Management System; and

60 (iii) Any unexpended amounts remaining in the
61 special fund at the end of the fiscal year shall be distributed to
62 the counties in the same manner and for the same purposes
63 authorized in this subsection.

64 (b) The Secretary of State shall create standard
65 training guidelines to assist counties in training election
66 officials with the funds authorized by this act. Any criteria
67 established by the Secretary of State for the purposes of this act
68 shall be used in addition to any other training or coursework
69 prescribed by the Secretary of State to train circuit clerks, poll



70 managers and any other election officials participating in county
71 elections.

72 (c) Notwithstanding any other provision of law, no
73 funds authorized by this act shall be used by the Secretary of
74 State or any person associated with the Secretary of State's
75 office to provide or otherwise support expert testimony in any
76 manner for any hearing, trial or election contest.

77 **SECTION 2.** The following shall be codified as Section
78 79-29-215, Mississippi Code of 1972:

79 79-29-215. **Annual report for Secretary of State.** (1) Each
80 domestic limited liability company, and each foreign limited
81 liability company authorized to transact business in this state,
82 shall deliver on such date as may be established by the Secretary
83 of State, to the Secretary of State for filing an annual report
84 that sets forth:

85 (a) The name of the limited liability company and the
86 state or country or other foreign jurisdiction country under
87 whose law it is organized;

88 (b) The name and street or physical address of its
89 registered agent in this state;

90 (c) The address of its principal office;

91 (d) The names and business addresses of the managers
92 if manager-managed and the name and address of at least one (1)
93 member if member-managed;

94 (e) [Reserved]

95 (f) A statement as to whether the limited liability
96 company has a written operating agreement; and

97 (g) A brief description of the nature of its business.

98 (2) Information in the annual report must be current as of
99 the date the annual report is executed on behalf of the limited
100 liability company.

101 (3) If an annual report does not contain the information
102 required by this section, the Secretary of State shall notify



103 promptly the reporting domestic or foreign limited liability
104 company in writing and return the report to it for correction.
105 If the report is corrected to contain the information required by
106 this section and delivered to the Secretary of State within
107 thirty (30) days after the effective date of notice, it is deemed
108 to be timely filed.

109 **SECTION 3.** The following shall be codified as Section
110 79-29-821, Mississippi Code of 1972:

111 79-29-821. **Grounds for administrative dissolution.** The
112 Secretary of State may commence a proceeding under Section
113 79-29-823 to administratively dissolve a limited liability
114 company if:

115 (a) The limited liability company does not pay within
116 sixty (60) days after they are due any fees imposed by this
117 chapter or other law;

118 (b) The limited liability company does not deliver its
119 annual report to the Secretary of State within sixty (60) days
120 after it is due;

121 (c) The limited liability company is without a
122 registered agent in this state for sixty (60) days or more;

123 (d) The limited liability company does not notify the
124 Secretary of State within sixty (60) days that its registered
125 agent has been changed or that its registered agent has resigned;

126 (e) The Department of Revenue notifies the Secretary
127 of State that the limited liability company is delinquent in any
128 payments or tax owed by the limited liability company to the
129 State of Mississippi; or

130 (f) A misrepresentation has been made of any material
131 matter in any application, report, affidavit, or other record
132 submitted by the limited liability company to the Secretary of
133 State pursuant to this chapter.

134 **SECTION 4.** The following shall be codified as Section
135 79-29-823, Mississippi Code of 1972:



136 79-29-823. **Procedure for administrative dissolution.** (1)
137 If the Secretary of State determines that one or more grounds
138 exist under Section 79-29-821 for administratively dissolving a
139 limited liability company, the Secretary of State shall serve the
140 limited liability company with written notice of the
141 determination under Section 79-29-111, except that such
142 determination may be served by first class mail.

143 (2) If the limited liability company does not correct each
144 ground for dissolution or demonstrate to the reasonable
145 satisfaction of the Secretary of State that each ground
146 determined by the Secretary of State does not exist within sixty
147 (60) days after the service of the notice, the Secretary of State
148 shall administratively dissolve the limited liability company by
149 signing a certification of the administrative dissolution that
150 recites the ground or grounds for dissolution and its effective
151 date. The Secretary of State shall file the original of the
152 certificate of administrative dissolution and serve the limited
153 liability company with a copy of the certificate of
154 administrative dissolution under Section 79-29-111, except that
155 the certificate of administrative dissolution may be served by
156 first class mail.

157 **SECTION 5.** The following shall be codified as Section
158 79-29-825, Mississippi Code of 1972:

159 79-29-825. **Reinstatement following administrative**
160 **dissolution.** (1) A limited liability company administratively
161 dissolved under Section 79-29-823 may apply to the Secretary of
162 State for reinstatement at any time after the effective date of
163 dissolution. The application must:

164 (a) Recite the name of the limited liability company
165 and the effective date of its administrative dissolution;

166 (b) State that the ground or grounds for
167 administrative dissolution either did not exist or have been
168 eliminated; and



169 (c) State that the limited liability company's name
170 satisfies the requirements of Section 79-29-104.

171 (2) If the Secretary of State determines that the
172 application contains the information required by subsection (1)
173 of this section and that the information is correct, the
174 Secretary of State shall cancel the certificate of administrative
175 dissolution and prepare a certificate of reinstatement that
176 recites this determination and the effective date of
177 reinstatement, file the original of the certificate of
178 reinstatement, and serve the limited liability company with a
179 copy of the certificate of reinstatement under Section 79-29-111,
180 except that the certificate of reinstatement may be served by
181 first class mail.

182 (3) When the reinstatement is effective:

183 (a) The reinstatement relates back to and takes effect
184 as of the effective date of the administrative dissolution;

185 (b) Any liability incurred by the limited liability
186 company or a member after the administrative dissolution and
187 before the reinstatement shall be determined as if the
188 administrative dissolution had never occurred; and

189 (c) The limited liability company may resume carrying
190 on its business as if the administrative dissolution had never
191 occurred.

192 **SECTION 6.** The following shall be codified as Section
193 79-29-827, Mississippi Code of 1972:

194 79-29-827. **Appeal from denial of reinstatement.** (1) If
195 the Secretary of State denies a limited liability company's
196 application for reinstatement following administrative
197 dissolution, the Secretary of State shall serve the limited
198 liability company under Section 79-29-111 with a record that
199 explains the reason or reasons for denial, except that such
200 record may be served by first class mail.



201 (2) The limited liability company may appeal the denial of
202 reinstatement to the Chancery Court of the First Judicial
203 District of Hinds County, Mississippi, or the chancery court
204 where the limited liability company is domiciled within thirty
205 (30) days after service of the notice of denial is perfected.
206 The limited liability company appeals by petitioning the court to
207 set aside the dissolution and attaching to the petition copies of
208 the Secretary of State's certificate of administrative
209 dissolution, the limited liability company's application for
210 reinstatement, and the Secretary of State's notice of denial.

211 (3) The court may summarily order the Secretary of State to
212 reinstate the dissolved limited liability company or may take
213 other action the court considers appropriate.

214 (4) The court's final decision may be appealed as in other
215 civil proceedings.

216 **SECTION 7.** The following shall be codified as Section
217 79-29-831, Mississippi Code of 1972:

218 79-29-831. **Effect of dissolution.** (1) The administrative
219 dissolution of a limited liability company does not terminate the
220 authority of the registered agent of the limited liability
221 company.

222 (2) The administrative dissolution of a limited liability
223 company shall not impair the validity on any contract, deed,
224 mortgage, security interest, lien or act of such limited
225 liability company or prevent the limited liability company from
226 defending any action, suit or proceeding with any court of this
227 state.

228 (3) A member or manager of a limited liability company is
229 not liable for the debts, obligations or liabilities of the
230 limited liability company solely by reason of the administrative
231 dissolution of a limited liability company.

232 (4) A limited liability company that has been
233 administratively dissolved may not maintain any action, suit or



234 proceeding in any court of this state until the limited liability
235 company is reinstated. An action, suit or proceeding may not be
236 maintained in any court of this state by any successor or
237 assignee of the limited liability company or foreign limited
238 liability company on any right, claim or demand arising out of
239 the transaction of business by the limited liability company
240 after the administrative dissolution.

241 (5) A limited liability company that is dissolved pursuant
242 to Section 79-29-801 or 79-29-802 continues its legal existence
243 but may carry on only business necessary or appropriate to wind up
244 and liquidate its business and affairs under Section 79-29-803 and
245 to notify claimants under Sections 79-29-806 and 79-29-807.

246 **SECTION 8.** The following shall be codified as Section
247 79-29-1021, Mississippi Code of 1972:

248 79-29-1021. **Administrative revocation of registration of**
249 **foreign limited liability company.** (1) The Secretary of State
250 may commence a proceeding under Section 79-29-1023 to revoke the
251 registration of a foreign limited liability company authorized to
252 transact business in this state if:

253 (a) The foreign limited liability company does not pay
254 within sixty (60) days after they are due any fees imposed by this
255 chapter or other law;

256 (b) The foreign limited liability company does not
257 deliver its annual report to the Secretary of State within sixty
258 (60) days after it is due;

259 (c) The foreign limited liability company is without a
260 registered agent in this state for sixty (60) days or more;

261 (d) The foreign limited liability company does not
262 notify the Secretary of State within sixty (60) days that its
263 registered agent has been changed or that its registered agent has
264 resigned;

265 (e) The Secretary of State receives a duly
266 authenticated certificate from the Secretary of State or other



267 public official having custody of corporate records in the state
268 or country under whose law the foreign limited liability company
269 is organized stating that it has been dissolved or ceased to exist
270 as the result of a merger; or

271 (f) A misrepresentation has been made of any material
272 matter in any application, report, affidavit, or other record
273 submitted by the foreign limited liability company to the
274 Secretary of State pursuant to this chapter.

275 (2) The Secretary of State may not revoke a registration of
276 a foreign limited liability company unless the Secretary of State
277 sends the foreign limited liability company notice of the
278 administrative revocation under Section 79-29-1023, at least sixty
279 (60) days before its effective date, by a record addressed to its
280 registered agent, or to the foreign limited liability company if
281 the foreign limited liability company fails to appoint and
282 maintain a proper agent in this state. The notice must specify
283 the cause for the administrative revocation of the registration.
284 The authority of the foreign limited liability company to transact
285 business in this state ceases on the effective date of the
286 administrative revocation unless the foreign limited liability
287 company cures the failure before that date.

288 **SECTION 9.** The following shall be codified as Section
289 79-29-1023, Mississippi Code of 1972:

290 79-29-1023. **Administrative revocation of registration,**
291 **procedure and effect.** (1) If the Secretary of State determines
292 that one or more grounds exist under Section 79-29-1021 for
293 revocation of registration, the Secretary of State shall serve the
294 foreign limited liability company with written notice of the
295 determination under Section 79-29-111, except that the
296 determination may be served by first class mail.

297 (2) If the foreign limited liability company does not
298 correct each ground for administrative revocation or demonstrate
299 to the reasonable satisfaction of the Secretary of State that each



300 ground determined by the Secretary of State does not exist within
301 sixty (60) days after the service of the notice, the Secretary of
302 State may revoke the foreign limited liability company's
303 registration by signing a certificate of administrative revocation
304 that recites the ground or grounds for administrative revocation
305 and its effective date. The Secretary of State shall file the
306 original of the certificate of administrative revocation and serve
307 the foreign limited liability company with a copy of the
308 certificate of administrative revocation under Section 79-29-111,
309 except that the certificate of administrative revocation may be
310 served by first class mail.

311 (3) The authority of a foreign limited liability company to
312 transact business in this state ceases on the date shown on the
313 certificate of administrative revocation.

314 (4) The Secretary of State's administrative revocation of a
315 foreign limited liability company's registration appoints the
316 Secretary of State the foreign limited liability company's agent
317 for service of process in any proceeding based on a cause of
318 action which arose during the time the foreign limited liability
319 company was authorized to transact business in this state.
320 Service of process on the Secretary of State under this subsection
321 is service on the foreign limited liability company. Upon receipt
322 of process and the payment of the fee specified in Section
323 79-29-1203, the Secretary of State shall mail a copy of the
324 process to the foreign limited liability company at the office of
325 its registered agent, or if the agent has resigned or cannot be
326 located, at its principal office shown in its most recent
327 communication received from the foreign limited liability company
328 stating the current mailing address of its principal office, or,
329 if none are on file, in its application for registration of
330 foreign limited liability company.



331 (5) The administrative revocation of a foreign limited
332 liability company's registration does not terminate the authority
333 of the registered agent of the foreign limited liability company.

334 (6) The administrative revocation of the registration of a
335 foreign limited liability company shall not impair the validity on
336 any contract, deed, mortgage, security interest, lien or act of
337 the foreign limited liability company or prevent the foreign
338 limited liability company from defending any action, suit or
339 proceeding with any court of this state.

340 (7) A member or manager of a foreign limited liability
341 company is not liable for the debts, obligations or liabilities of
342 the foreign limited liability company solely by reason of the
343 administrative revocation of the registration of a foreign limited
344 liability company.

345 (8) A foreign limited liability company whose registration
346 has been administratively revoked may not maintain any action,
347 suit or proceeding in any court of this state until the foreign
348 limited liability company's registration has been reinstated. An
349 action, suit or proceeding may not be maintained in any court of
350 this state by any successor or assignee of the foreign limited
351 liability company on any right, claim or demand arising out of the
352 transaction of business by a foreign limited liability company
353 after the administrative revocation.

354 **SECTION 10.** The following shall be codified as Section
355 79-29-1025, Mississippi Code of 1972:

356 79-29-1025. **Administrative revocation of registration,**
357 **appeal and reinstatement.** (1) A foreign limited liability
358 company whose registration is administratively revoked under
359 Section 79-29-1021 may apply to the Secretary of State for
360 reinstatement at any time after the effective date of such
361 administrative revocation. The application must:

362 (a) Recite the name of the foreign limited liability
363 company and the effective date of the administrative revocation;



364 (b) State that the ground or grounds for administrative
365 revocation either did not exist or have been eliminated; and

366 (c) State that the foreign limited liability company's
367 name satisfies the requirements of Section 79-29-1004.

368 (2) If the Secretary of State determines that the
369 application contains the information required by subsection (1) of
370 this section and that the information is correct, the Secretary of
371 State shall reinstate the registration of the foreign limited
372 liability company, prepare a certificate of reinstatement that
373 recites this determination and the effective date of
374 reinstatement, file the original of the certificate of
375 reinstatement, and serve the foreign limited liability company
376 with a copy of the certificate of reinstatement under Section
377 79-29-111, except that the certificate may be served by first
378 class mail.

379 (3) When the reinstatement is effective:

380 (a) The reinstatement relates back to and takes effect
381 as of the effective date of the administrative revocation;

382 (b) Any liability incurred by the foreign limited
383 liability company or a member after the administrative revocation
384 and before the reinstatement shall be determined as if the
385 administrative revocation had never occurred; and

386 (c) The foreign limited liability company may resume
387 carrying on its business as if the administrative revocation had
388 never occurred.

389 **SECTION 11.** The following shall be codified as Section
390 79-29-1027, Mississippi Code of 1972:

391 79-29-1027. **Administrative revocation of registration,**
392 **denial of reinstatement; further review.** (1) If the Secretary of
393 State denies a foreign limited liability company's application for
394 reinstatement of the registration following administrative
395 revocation, the Secretary of State shall serve the foreign limited



396 liability company with a record that explains the reason or
397 reasons for denial.

398 (2) The foreign limited liability company may appeal the
399 denial of reinstatement to the Chancery Court of the First
400 Judicial District of Hinds County or the chancery court of the
401 county where the foreign limited liability company is domiciled
402 within thirty (30) days after service of the notice of denial is
403 perfected. The foreign limited liability company appeals by
404 petitioning the court to set aside the administrative revocation
405 and attaching to the petition copies of the Secretary of State's
406 certificate of administrative revocation, the foreign limited
407 liability company's application for reinstatement and the
408 Secretary of State's notice of denial.

409 (3) The court may summarily order the Secretary of State to
410 reinstate the certificate of authority of the foreign limited
411 liability company or may take other action the court considers
412 appropriate.

413 (4) The court's final decision may be appealed as in other
414 civil proceedings.

415 **SECTION 12.** Section 79-29-1203, Mississippi Code of 1972, is
416 amended as follows:

417 79-29-1203. (1) No document required to be filed under this
418 chapter shall be effective until the applicable fee required by
419 this section is paid.

420 (a) Filing of Reservation of Limited Liability Company
421 Name, Twenty-Five Dollars (\$25.00).

422 (b) Filing of Change of Address of Registered Agent,
423 Twenty-Five Dollars (\$25.00).

424 (c) Filing of Resignation of Registered Agent, Five
425 Dollars (\$5.00).

426 (d) Filing of Certificate of Formation, Fifty Dollars
427 (\$50.00).



428 (e) Filing of Amendment to Certificate of Formation,
429 Fifty Dollars (\$50.00).

430 (f) Filing of Certificate of Dissolution, Twenty-Five
431 Dollars (\$25.00).

432 (g) Filing of Certificate of Cancellation, Twenty-Five
433 Dollars (\$25.00).

434 (h) Filing of Restated Certificate of Formation or
435 Amended and Restated Certificate of Formation, Twenty-Five Dollars
436 (\$25.00).

437 (i) Filing of Certificate of Withdrawal, Twenty-Five
438 Dollars (\$25.00).

439 (j) Filing of Application for Registration of Foreign
440 Limited Liability Company, Two Hundred Fifty Dollars (\$250.00) and
441 Ten Dollars (\$10.00) for each day, not to exceed a total of One
442 Thousand Dollars (\$1,000.00), for each year the foreign limited
443 liability company transacts business in this state without
444 registration as a foreign limited liability company.

445 (k) Filing of Certificate of Correction, Fifty Dollars
446 (\$50.00).

447 (l) Filing of Certificate of Cancellation of
448 Registration of Foreign Limited Liability Company, Fifty Dollars
449 (\$50.00).

450 (m) Filing of Annual Report of Domestic Limited
451 Liability Company, Twenty-five Dollars (\$25.00).

452 (n) Filing of Annual Report of Foreign Limited
453 Liability Company, One Hundred Dollars (\$100.00).

454 (o) Certificate of Administrative Dissolution, (no
455 fee).

456 (p) Filing of Application for Reinstatement Following
457 Administrative Dissolution, Fifty Dollars (\$50.00).

458 (q) Certificate of Administrative Revocation of
459 Authority to Transact Business, (no fee).



460 (r) Filing of Application for Reinstatement Following
461 Administrative Revocation, One Hundred Dollars (\$100.00).

462 (s) Certificate of Reinstatement Following
463 Administrative Dissolution, (no fee).

464 (t) Certificate of Reinstatement Following
465 Administrative Revocation of Authority to Transact Business, (no
466 fee).

467 (u) Filing of Certificate of Revocation of Dissolution,
468 Twenty-five Dollars (\$25.00).

469 (v) Application for Certificate of Existence or
470 Authorization, Twenty-five Dollars (\$25.00).

471 (w) Any other document required or permitted to be
472 filed under this chapter, Twenty-five Dollars (\$25.00).

473 (2) The Secretary of State shall collect a fee of
474 Twenty-five Dollars (\$25.00) each time process is served on the
475 Secretary of State under Section 79-29-101 et seq.

476 (3) The Secretary of State shall collect the following fees
477 for copying and certifying the copy of any filed document relating
478 to a domestic or foreign limited liability company:

479 (a) One Dollar (\$1.00) a page for copying; and

480 (b) Ten Dollars (\$10.00) for the certificate.

481 (4) The Secretary of State may promulgate rules to:

482 (a) Reduce the filing fees set forth in this section or
483 provide for discounts of fees as set forth in this section to
484 encourage online filing of documents or for other reasons as
485 determined by the secretary; and

486 (b) Provide for documents to be filed and accepted on
487 an expedited basis upon the request of the applicant. The
488 secretary may promulgate rules to provide for an additional
489 reasonable filing fee to be paid by the applicant and collected by
490 the secretary for such expedited filing services.

491 **SECTION 13.** This act shall take effect and be in force from
492 and after July 1, 2010.

