

By: Representative Wilson

To: Apportionment and Elections

HOUSE BILL NO. 349

1 AN ACT TO AMEND SECTION 23-15-927, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE PROCEDURE FOR FILING AN ELECTION CONTEST FOR A
3 PERSON DESIRING TO CONTEST THE ELECTION OF ANOTHER PERSON RETURNED
4 AS THE NOMINEE OF THE PARTY OF ANY COUNTY OR COUNTY DISTRICT
5 OFFICE OR ANY LEGISLATIVE, STATE, CONGRESSIONAL OR JUDICIAL
6 DISTRICT; TO REMOVE THE AUTHORITY OF EXECUTIVE COMMITTEES TO HEAR
7 ELECTION CONTESTS FOR PRIMARY ELECTIONS; TO REVISE THE PETITION
8 THAT MUST BE SUBMITTED TO FILE A PRIMARY ELECTION CONTEST; TO
9 AMEND SECTION 23-15-929, MISSISSIPPI CODE OF 1972, TO AUTHORIZE
10 THE CIRCUIT CLERK TO PROVIDE NOTICE BY EMAIL UPON THE FILING OF A
11 PETITION IN A PRIMARY ELECTION CONTEST; TO AMEND SECTIONS
12 23-15-931 AND 23-15-933, MISSISSIPPI CODE OF 1972, TO REMOVE THE
13 AUTHORITY OF THE SPECIAL TRIBUNAL IN A PRIMARY ELECTION CONTEST
14 AND GIVE THAT DECISION-MAKING AUTHORITY TO THE JUDGE HEARING THE
15 CONTEST; TO AMEND SECTIONS 23-15-951, 23-15-263, 23-15-913 AND
16 23-15-939, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS
17 OF THIS ACT; TO BRING FORWARD SECTIONS 23-15-961, 23-15-963,
18 23-15-911, 23-15-937, 23-15-941 AND 23-15-953, MISSISSIPPI CODE OF
19 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO REPEAL SECTIONS
20 23-15-921 AND 23-15-923, MISSISSIPPI CODE OF 1972, WHICH PROVIDE
21 THE PROCESS FOR A PERSON DESIRING TO CONTEST THE ELECTIONS OF
22 ANOTHER PERSON RETURNED AS THE NOMINEE OF THE PARTY TO ANY COUNTY
23 OR COUNTY DISTRICT OFFICE OR AS THE NOMINEE OF A LEGISLATIVE,
24 STATE, CONGRESSIONAL OR JUDICIAL DISTRICT; TO REPEAL SECTION
25 23-15-925, MISSISSIPPI CODE OF 1972, WHICH ALLOWS THE EXECUTIVE
26 COMMITTEE TO SUBPOENA WITNESSES FOR A PRIMARY ELECTION CONTEST; TO
27 REPEAL SECTION 23-15-935, MISSISSIPPI CODE OF 1972, WHICH REQUIRES
28 ELECTION COMMISSIONERS TO ATTEND THE HEARINGS OF A PRIMARY
29 ELECTION CONTEST; AND FOR RELATED PURPOSES.

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



31 **SECTION 1.** Section 23-15-927, Mississippi Code of 1972, is
32 amended as follows:

33 23-15-927. * * * A candidate desiring to contest the
34 election of another person returned as the nominee of the party to
35 any county or county district office, municipal office, or as the
36 nominee of a legislative, statewide, or state or congressional
37 district shall have the right * * * within twenty (20) days after
38 the primary election to file in the circuit court of the county in
39 which the irregularities are charged to have occurred, or, if more
40 than one (1) county is involved, then in one (1) of the
41 counties, * * * a sworn petition, setting forth with
42 particularity * * * the grounds upon which the primary election is
43 contested. In no event shall a prayer for relief be filed in any
44 court other than the appropriate circuit court as authorized in
45 this section, and the only proper parties to the contest shall be
46 persons who qualified as candidates for election to the same
47 office.

48 **SECTION 2.** Section 23-15-929, Mississippi Code of 1972, is
49 amended as follows:

50 23-15-929. Upon the filing of the petition * * * required in
51 Section 23-15-927, the circuit clerk shall immediately notify,
52 by * * * email, telephone, or personally, * * * the Chief Justice
53 of the Supreme Court, or, in his or her absence, or disability,
54 some other judge of the Supreme Court, who shall forthwith
55 designate and notify a circuit judge or a retired judge on senior



56 status * * * from anywhere in the state for a statewide contest,
57 or from a district other than that which embraces the county or
58 any of the counties * * * otherwise involved in the contest * * *,
59 to proceed to the county in which the contest * * * has been filed
60 to hear and determine the contest * * *, and it shall be the
61 official duty of the trial judge to proceed to the discharge of
62 the designated duty at the earliest possible date to be fixed by
63 the judge and of which the contestant and contestee shall have
64 reasonable notice, to be served in such reasonable manner as the
65 judge may direct, in response to which notice the contestee shall
66 promptly file his or her answer, and also * * * the
67 cross-complaint if * * * the contestee has one * * *.

68 **SECTION 3.** Section 23-15-931, Mississippi Code of 1972, is
69 amended as follows:

70 23-15-931. When the day for the hearing has been set, the
71 circuit clerk shall issue subpoenas for witnesses as in other
72 litigated cases, and he or she shall also * * * be responsible for
73 diligently securing the ballots, papers, documents, books and the
74 like * * * against misplacement, alteration, concealment or loss
75 both in the sessions and during recesses or adjournments. The
76 judge is * * * the controlling judge both of the facts and the
77 law, and has all the power in every respect of a circuit judge in
78 termtime. The * * * hearing shall also be attended by the
79 sheriff, and clerk, each with sufficient deputies, and by a court
80 reporter. The * * * judge shall fully hear the contest * * *, and



81 the * * * contestant * * * shall have the burden of proof and the
82 burden of going forward with the evidence in the hearing before
83 the * * * judge. The * * * judge, after the contest * * * has
84 been fully heard * * *, shall make a finding dictated to the
85 reporter covering all controverted material issues of fact, * * *
86 and * * * the trial judge shall enter * * * a judgment * * * for
87 the person having the greatest number of legal votes at the
88 election, of which the election commissioners shall take judicial
89 notice, or if the matter be one within the jurisdiction of * * * a
90 county, state or municipal executive committee, the judgment shall
91 be certified and promptly forwarded to the secretary of the * * *
92 appropriate executive committee, and, in the absence of an appeal,
93 it shall be the duty of the * * * election commissioners or
94 appropriate executive committee to reassemble and revise any prior
95 decision * * * made by it so as to conform to the judicial
96 judgment * * *. However, if the will of the voters cannot be
97 ascertained, the trial judge shall find that a new election shall
98 be ordered.

99 **SECTION 4.** Section 23-15-933, Mississippi Code of 1972, is
100 amended as follows:

101 23-15-933. The contestant or contestee, or both, may file an
102 appeal in the Supreme Court within the time and under * * * the
103 conditions and procedures as are established by the Supreme Court
104 for other appeals. * * *



105 **SECTION 5.** Section 23-15-951, Mississippi Code of 1972, is
106 amended as follows:

107 23-15-951. (a) Except as otherwise provided by Section
108 23-15-955 or 23-15-961, a * * * candidate desiring to contest the
109 election of another person returned as elected to any * * * county
110 or county district office, municipal office, or statewide, state
111 or congressional district office, may, within twenty (20) days
112 after the election, file a sworn petition in the office of the
113 clerk of the circuit court of the county, setting forth with
114 particularity the grounds upon which the election is contested.
115 When * * * the petition is filed, the circuit clerk shall
116 immediately notify, by * * * email, telephone, or personally, the
117 Chief Justice of the Supreme Court or in his or her absence, or
118 disability, some other Justice of the Supreme Court, who shall
119 forthwith designate and notify a circuit judge or * * * a retired
120 judge on senior status from anywhere in the state for a statewide
121 contest, or from a district other than that which embraces
122 the * * * county or any of the counties * * * otherwise involved
123 in the contest * * *, to proceed to the county in which the
124 contest * * * has been filed to hear and determine the
125 contest * * *. The circuit clerk shall also cause a copy of * * *
126 the petition to be served upon the contestee, which shall serve as
127 notice to * * * the contestee. The only proper parties to the
128 contest shall be persons who qualified as candidates for election
129 to the same office.



130 * * * When the contestee is served, such contestee shall
131 promptly file his or her answer, and cross-complaint, if the
132 contestee has * * * one.

133 (b) When the day for the hearing has been set, the
134 circuit clerk shall issue subpoenas for witnesses as in other
135 litigated cases, and he or she shall also be responsible for
136 diligently securing the ballots, papers, documents, books and the
137 like against misplacement, alteration, concealment or loss both in
138 the sessions and during recesses or adjournments. The court
139 shall, at the first term, * * * try the issue without a jury and
140 find for the person having the greatest number of legal votes at
141 the election, or if the will of the voters cannot be ascertained,
142 find that a new election shall be ordered. If the * * * court
143 finds against the person returned elected, the clerk shall issue a
144 certificate thereof; and the person in whose favor the * * * court
145 finds shall be commissioned by the Governor, and shall qualify and
146 enter upon the duties of his or her office. * * * New trials
147 shall be granted and costs awarded as in other cases. * * *

148 (c) A person desiring to contest the election of
149 another person returned as elected to any seat in the Mississippi
150 Legislature shall comply with the provisions of Section 23-15-955.
151 A person desiring to contest the qualifications of a candidate for
152 nomination in a political party primary election shall comply with
153 the provisions of Section 23-15-961.



154 **SECTION 6.** Section 23-15-263, Mississippi Code of 1972, is
155 amended as follows:

156 23-15-263. (1) Unless otherwise provided in this chapter,
157 the county executive committee at primary elections shall perform
158 all duties that relate to the qualification of candidates for
159 primary elections, print ballots for primary elections, appoint
160 the primary election officers, * * * and perform all other duties
161 required by law to be performed by the county * * * election
162 commissioners; however, each house of the Legislature shall rule
163 on the qualifications of the membership of its respective body in
164 contests involving the qualifications of * * * those members. The
165 executive committee shall be subject to all the penalties to which
166 county election commissioners are subject, except that Section
167 23-15-217 shall not apply to members of the county executive
168 committee who seek elective office.

169 (2) A member of a county executive committee shall be
170 automatically disqualified to serve on the county executive
171 committee, and shall be considered to have resigned * * * from the
172 county executive committee, upon his or her qualification as a
173 candidate for any elective office. The provisions of this
174 subsection shall not apply to a member of a county executive
175 committee who qualifies as a candidate for a municipal elective
176 office.

177 (3) The primary election officers appointed by the executive
178 committee of the party shall have the powers and perform the



179 duties, where not otherwise provided, required of * * * the
180 officers in a general election, and any * * * act or omission
181 which by law is an offense when committed in or about or in
182 respect to * * * the general elections, shall be an offense if
183 committed in or about or in respect to a primary election; and the
184 same shall be indictable and punishable in the same way as if the
185 election was a general election for the election of state and
186 county officers, except as specially modified or otherwise
187 provided in this chapter.

188 **SECTION 7.** Section 23-15-961, Mississippi Code of 1972, is
189 brought forward as follows:

190 23-15-961. (1) Any person desiring to contest the
191 qualifications of another person as a candidate for nomination in
192 a political party primary election shall file a petition
193 specifically setting forth the grounds of the challenge within ten
194 (10) days after the qualifying deadline for the office in
195 question. The petition shall be filed with the executive
196 committee with whom the candidate in question qualified.

197 (2) Within ten (10) days of receipt of the petition
198 described in subsection (1) of this section, the appropriate
199 executive committee shall meet and rule upon the petition. At
200 least two (2) days before the hearing to consider the petition,
201 the appropriate executive committee shall give notice to both the
202 petitioner and the contested candidate of the time and place of
203 the hearing on the petition. Each party shall be given an



204 opportunity to be heard at that meeting and present evidence in
205 support of his position.

206 (3) If the appropriate executive committee fails to rule
207 upon the petition within the time required in subsection (2) of
208 this section, that inaction shall be interpreted as a denial of
209 the request for relief contained in the petition.

210 (4) Any party aggrieved by the action or inaction of the
211 appropriate executive committee may file a petition for judicial
212 review to the circuit court of the county in which the executive
213 committee whose decision is being reviewed sits. The petition
214 must be filed no later than fifteen (15) days after the date the
215 petition was originally filed with the appropriate executive
216 committee. The person filing for judicial review shall give a
217 cost bond in the sum of Three Hundred Dollars (\$300.00) with two
218 (2) or more sufficient sureties conditioned to pay all costs in
219 case his petition be dismissed, and an additional bond may be
220 required, by the court, if necessary, at any subsequent stage of
221 the proceedings.

222 (5) Upon the filing of the petition and bond, the circuit
223 clerk shall immediately, by registered letter or by telegraph or
224 by telephone, or personally, notify the Chief Justice of the
225 Supreme Court, or in his absence, or disability, some other judge
226 of the Supreme Court, who shall forthwith designate and notify a
227 circuit judge or retired judge on senior status of a district
228 other than that which embraces the district, subdistrict, county



229 or any of the counties, involved in the contest or complaint, to
230 proceed to the county in which the contest or complaint has been
231 filed to hear and determine the contest or complaint. It shall be
232 the official duty of the trial judge to proceed to the discharge
233 of the designated duty at the earliest possible date to be fixed
234 by the judge and of which the contestant and contestee shall have
235 reasonable notice. The contestant and contestee are to be served
236 in a reasonable manner as the judge may direct, in response to
237 which notice the contestee shall promptly file his answer, and
238 also his cross-complaint if he has a cross-complaint. The hearing
239 before the trial court shall be de novo. The matter shall be
240 tried to the trial judge, without a jury. After hearing the
241 evidence, the trial judge shall determine whether the candidate
242 whose qualifications have been challenged is legally qualified to
243 have his name placed upon the ballot in question. The trial judge
244 may, upon disqualification of any such candidate, order that such
245 candidate shall bear the court costs of the proceedings.

246 (6) Within three (3) days after judgment is rendered by the
247 circuit court, the contestant or contestee, or both, may file an
248 appeal in the Supreme Court upon giving a cost bond in the sum of
249 Three Hundred Dollars (\$300.00), together with a bill of
250 exceptions which shall state the point or points of law at issue
251 with a sufficient synopsis of the facts to fully disclose the
252 bearing and relevancy of such points of law. The bill of
253 exceptions shall be signed by the trial judge, or in case of his



254 absence, refusal or disability, by two (2) disinterested
255 attorneys, as is provided by law in other cases of bills of
256 exception. The filing of such appeals shall automatically suspend
257 the decision of the circuit court and the appropriate executive
258 committee is entitled to proceed based upon their decision unless
259 and until the Supreme Court, in its discretion, stays further
260 proceedings in the matter. The appeal shall be immediately
261 docketed in the Supreme Court and referred to the court en banc
262 upon briefs without oral argument unless the court shall call for
263 oral argument, and shall be decided at the earliest possible date,
264 as a preference case over all others. The Supreme Court shall
265 have the authority to grant such relief as is appropriate under
266 the circumstances.

267 (7) The procedure set forth in this section shall be the
268 sole and only manner in which the qualifications of a candidate
269 seeking public office as a party nominee may be challenged prior
270 to the time of his nomination or election. After a party nominee
271 has been elected to public office, the election may be challenged
272 as otherwise provided by law. After a party nominee assumes an
273 elective office, his qualifications to hold that office may be
274 contested as otherwise provided by law.

275 **SECTION 8.** Section 23-15-963, Mississippi Code of 1972, is
276 brought forward as follows:

277 23-15-963. (1) Any person desiring to contest the
278 qualifications of another person who has qualified pursuant to the



279 provisions of Section 23-15-359, Mississippi Code of 1972, as a
280 candidate for any office elected at a general election, shall file
281 a petition specifically setting forth the grounds of the challenge
282 not later than thirty-one (31) days after the date of the first
283 primary election set forth in Section 23-15-191, Mississippi Code
284 of 1972. Such petition shall be filed with the same body with
285 whom the candidate in question qualified pursuant to Section
286 23-15-359, Mississippi Code of 1972.

287 (2) Any person desiring to contest the qualifications of
288 another person who has qualified pursuant to the provisions of
289 Section 23-15-213, Mississippi Code of 1972, as a candidate for
290 county election commissioner elected at a general election, shall
291 file a petition specifically setting forth the grounds of the
292 challenge no later than sixty (60) days prior to the general
293 election. Such petition shall be filed with the county board of
294 supervisors, being the same body with whom the candidate in
295 question qualified pursuant to Section 23-15-213, Mississippi Code
296 of 1972.

297 (3) Any person desiring to contest the qualifications of
298 another person who has qualified pursuant to the provisions of
299 Section 23-15-361, Mississippi Code of 1972, as a candidate for
300 municipal office elected on the date designated by law for regular
301 municipal elections, shall file a petition specifically setting
302 forth the grounds of the challenge no later than thirty-one (31)
303 days after the date of the first primary election set forth in



304 Section 23-15-309, Mississippi Code of 1972. Such petition shall
305 be filed with the municipal commissioners of election, being the
306 same body with whom the candidate in question qualified pursuant
307 to Section 23-15-361, Mississippi Code of 1972.

308 (4) Within ten (10) days of receipt of the petition
309 described in subsections (1), (2) and (3) of this section, the
310 appropriate election officials shall meet and rule upon the
311 petition. At least two (2) days before the hearing to consider
312 the petition, the appropriate election officials shall give notice
313 to both the petitioner and the contested candidate of the time and
314 place of the hearing on the petition. Each party shall be given
315 an opportunity to be heard at such meeting and present evidence in
316 support of his position.

317 (5) If the appropriate election officials fail to rule upon
318 the petition within the time required above, such inaction shall
319 be interpreted as a denial of the request for relief contained in
320 the petition.

321 (6) Any party aggrieved by the action or inaction of the
322 appropriate election officials may file a petition for judicial
323 review to the circuit court of the county in which the election
324 officials whose decision is being reviewed sits. Such petition
325 must be filed no later than fifteen (15) days after the date the
326 petition was originally filed with the appropriate election
327 officials. Such person filing for judicial review shall give a
328 cost bond in the sum of Three Hundred Dollars (\$300.00) with two



329 (2) or more sufficient sureties conditioned to pay all costs in
330 case his petition be dismissed, and an additional bond may be
331 required, by the court, if necessary, at any subsequent stage of
332 the proceedings.

333 (7) The circuit court with whom such a petition for judicial
334 review has been filed shall at the earliest possible date set the
335 matter for hearing. Notice shall be given the interested parties
336 of the time set for hearing by the circuit clerk. The hearing
337 before the circuit court shall be de novo. The matter shall be
338 tried to the circuit judge, without a jury. After hearing the
339 evidence, the circuit judge shall determine whether the candidate
340 whose qualifications have been challenged is legally qualified to
341 have his name placed upon the ballot in question. The circuit
342 judge may, upon disqualification of any such candidate, order that
343 such candidate shall bear the court costs of the proceedings.

344 (8) Within three (3) days after judgment is rendered by the
345 circuit court, the contestant or contestee, or both, may file an
346 appeal in the Supreme Court upon giving a cost bond in the sum of
347 Three Hundred Dollars (\$300.00), together with a bill of
348 exceptions which shall state the point or points of law at issue
349 with a sufficient synopsis of the facts to fully disclose the
350 bearing and relevancy of such points of law. The bill of
351 exceptions shall be signed by the trial judge, or in case of his
352 absence, refusal or disability, by two (2) disinterested
353 attorneys, as is provided by law in other cases of bills of



354 exception. The filing of such appeals shall automatically suspend
355 the decision of the circuit court and the appropriate election
356 officials are entitled to proceed based upon their decision unless
357 and until the Supreme Court, in its discretion, stays further
358 proceedings in the matter. The appeal shall be immediately
359 docketed in the Supreme Court and referred to the court en banc
360 upon briefs without oral argument unless the court shall call for
361 oral argument, and shall be decided at the earliest possible date,
362 as a preference case over all others. The Supreme Court shall
363 have the authority to grant such relief as is appropriate under
364 the circumstances.

365 (9) The procedure set forth above shall be the sole and only
366 manner in which the qualifications of a candidate seeking public
367 office who qualified pursuant to the provisions of Sections
368 23-15-359, 23-15-213 and 23-15-361, Mississippi Code of 1972, may
369 be challenged prior to the time of his election. After any such
370 person has been elected to public office, the election may be
371 challenged as otherwise provided by law. After any person assumes
372 an elective office, his qualifications to hold that office may be
373 contested as otherwise provided by law.

374 **SECTION 9.** Section 23-15-911, Mississippi Code of 1972, is
375 brought forward as follows:

376 23-15-911. (1) (a) When the returns for a box and the
377 contents of the ballot box and the conduct of the election have
378 been canvassed and reviewed by the county election commission in



379 the case of general elections or the county executive committee in
380 the case of primary elections, all the contents of the box
381 required to be placed and sealed in the ballot box by the poll
382 managers shall be replaced therein by the election commission or
383 executive committee, as the case may be, and the box shall be
384 forthwith resealed and delivered to the circuit clerk, who shall
385 safely keep and secure the same against any tampering. At any
386 time within twelve (12) days after the canvass and examination of
387 the box and its contents by the election commission or executive
388 committee, as the case may be, any candidate or his or her
389 representative authorized in writing by him or her shall have the
390 right of full examination of the box and its contents upon three
391 (3) days' notice of his or her application therefor served upon
392 the opposing candidates. The service of notice shall be provided
393 to each opposing candidate by delivering a copy personally to each
394 candidate, or by performing two (2) of the following:

395 (i) By leaving a copy at each candidate's usual
396 place of residence with a family member, who shall be no less than
397 sixteen (16) years of age and, who resides in the candidate's
398 residence;

399 (ii) By email or other electronic means, with
400 receipt deemed upon transmission; or

401 (iii) By mailing a copy of the notice by
402 registered or certified mail that is addressed to each opposing



403 candidate at that candidate's residence with receipt deemed
404 mailing.

405 (b) If service of notice cannot be made to any opposing
406 candidate, then notice may be posted on the door of each
407 candidate's usual place of abode. If any candidate's usual place
408 of residence is a multi-family dwelling, a copy of the notice must
409 be mailed to the candidate or candidates by United States
410 first-class mail, postage prepaid, return receipt requested.
411 Proof of service of notice upon any opposing candidate shall be
412 made to the circuit clerk within three (3) days before a full
413 examination of the ballot box may be conducted.

414 (c) The examination shall be conducted in the presence
415 of the circuit clerk or his or her deputy who shall be charged
416 with the duty to see that none of the contents of the box are
417 removed from the presence of the clerk or in any way tampered
418 with. Upon the completion of the examination the box shall be
419 resealed with all its original contents inside. And if any
420 contest or complaint before the court shall arise over the box, it
421 shall be kept intact and sealed until the court hearing and
422 another ballot box, if necessary, shall be furnished for the
423 precinct involved.

424 (2) The provisions of this section allowing the examination
425 of ballot boxes shall apply in the case of an election contest
426 regarding the seat of a member of the state Legislature. In such
427 a case, the results of the examination shall be reported by the



428 applicable circuit clerk to the Clerk of the House of
429 Representatives or the Secretary of the Senate, as the case may
430 be.

431 **SECTION 10.** Section 23-15-913, Mississippi Code of 1972, is
432 amended as follows:

433 23-15-913. The Supreme Court shall compile a list of judges
434 throughout the state to hear any disputes arising during the
435 conduct of an election. The judges listed and selected to hear
436 election disputes, as provided in Section 23-15-951, shall be
437 available on election day to immediately hear and resolve any
438 election day disputes. The rules for filing pleadings shall be
439 relaxed to carry out the purposes of this section. The judges
440 selected shall perform no other judicial duties on election day.
441 The Supreme Court shall make judges available to hear disputes in
442 the county in which the disputes occur but no judge shall hear
443 disputes in the district or county in which he or she was elected
444 nor shall any judge hear any dispute in which any potential
445 conflict may arise. Each judge shall be fair and impartial and
446 shall be assigned on that basis.

447 **SECTION 11.** Section 23-15-937, Mississippi Code of 1972, is
448 brought forward as follows:

449 23-15-937. If more than one (1) county is involved in a
450 contest or complaint, the judge shall have the authority to
451 transfer the hearing to a more convenient county within the
452 district, if the contest or complaint involves a district office,



453 or within the state if the contest or complaint involves a state
454 office; or the judge may proceed to any county or counties in
455 which the facts complained of are charged to have transpired, and
456 there hear the evidence and make a finding of facts relating to
457 that county and any convenient neighboring county or counties,
458 but, in any event, if possible with due diligence to do so, the
459 hearing must be completed and final judgment rendered in time to
460 permit the printing and distribution of the official ballots at
461 the election for which the contested nomination is made. When any
462 judge lawfully designated to hear a contest or complaint shall not
463 promptly and diligently proceed with the hearing and final
464 determination of the contest or complaint, he shall be guilty of a
465 high misdemeanor in office unless excused by actual illness, or by
466 an equivalent excuse. When no final decision has been made by the
467 time the official ballots are required to be printed, the name of
468 the nominee declared by the party executive committee shall be
469 printed on the official ballots as the party nominee, but the
470 contest or complaint shall not thereby be dismissed but the cause
471 shall nevertheless proceed to final judgment and if the judgment
472 is in favor of the contestant, the election of the contestee shall
473 thereby be vacated and the Governor, or the Lieutenant Governor,
474 in case the Governor is a party to the contest, shall call a
475 special election for the office or offices involved. If the
476 contestee has already entered upon the term he shall vacate the



477 office upon the qualification of the person elected at the special
478 election, and may be removed by quo warranto if he fail so to do.

479 **SECTION 12.** Section 23-15-939, Mississippi Code of 1972, is
480 amended as follows:

481 23-15-939. The reasonable traveling expenses of the judge or
482 chancellor shall be paid by order of the board of supervisors of
483 the county or counties in which a contest or complaint is heard,
484 upon an itemized certificate thereof by the judge or chancellor.

485 * * *

486 **SECTION 13.** Section 23-15-941, Mississippi Code of 1972, is
487 brought forward as follows:

488 23-15-941. If upon the hearing of a primary election contest
489 or complaint, under Section 23-15-931, it shall distinctly appear
490 to the trial judge that any person, including a candidate or
491 election officer, has willfully and corruptly violated any primary
492 election statute and such violation is by said statute made a
493 criminal offense, whether a misdemeanor or a felony, it shall be
494 the duty of the trial judge to issue immediately his warrant for
495 the arrest of the guilty party, reciting in his order therefor, in
496 brief, the grounds or causes for the arrest. Such warrant and a
497 certified copy of the order shall be forthwith placed in the hands
498 of the sheriff of the county wherein the offense occurred, and the
499 sheriff shall at once, upon receipt of the warrant, arrest the
500 party and commit him to prison, unless and until the party give
501 bond in the sum of Five Hundred Dollars (\$500.00) with two (2) or



502 more good and sufficient sureties conditioned for his appearance
503 at the next term of the circuit court and from term to term until
504 discharged by law. When the arrest has been made and the bond, if
505 any, given, the sheriff shall deliver all the papers therein with
506 his return thereon to the circuit clerk who shall file, and
507 thereafter personally deliver, the same to the foreman of the next
508 grand jury.

509 **SECTION 14.** Section 23-15-953, Mississippi Code of 1972, is
510 brought forward as follows:

511 23-15-953. If the petition shall be filed more than forty
512 (40) days before the term of the circuit court next after the
513 election which is contested, the summons may be made returnable,
514 and a trial of the issue be had in vacation, in the manner
515 prescribed for a trial in vacation of an information in the nature
516 of a quo warranto; and all of the provisions in reference to a
517 trial in vacation of such proceedings shall apply to the trial of
518 issues as to contested elections in the state of case herein
519 mentioned; but this section shall not be held to include a contest
520 of the election of a justice court judge, constable, coroner,
521 surveyor, or member of a board of supervisors.

522 **SECTION 15.** Sections 23-15-921 and 23-15-923, Mississippi
523 Code of 1972, which provide the process for a person desiring to
524 contest the elections of another person returned as the nominee of
525 the party to any county or county district office or as the



526 nominee of a legislative, state, congressional or judicial
527 district, are repealed.

528 **SECTION 16.** Section 23-15-925, Mississippi Code of 1972,
529 which allows the executive committee to subpoena witnesses for a
530 primary election contest, is repealed.

531 **SECTION 17.** Section 23-15-935, Mississippi Code of 1972,
532 which requires election commissioners to attend the hearings of a
533 primary election contest, is repealed.

534 **SECTION 18.** This act shall take effect and be in force from
535 and after its passage.

