

By: Representative Perkins

To: Apportionment and  
Elections

HOUSE BILL NO. 430

1 AN ACT TO AMEND SECTION 23-15-961, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY WHICH PROVISION OF LAW REGULATES ELECTION CONTESTS OF  
3 PARTY NOMINEES.

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

5 **SECTION 1.** Section 23-15-961, Mississippi Code of 1972, is  
6 amended as follows:

7 23-15-961. (1) Any person desiring to contest the  
8 qualifications of another person as a candidate for nomination in  
9 a political party primary election shall file a petition  
10 specifically setting forth the grounds of the challenge within ten  
11 (10) days after the qualifying deadline for the office in  
12 question. The petition shall be filed with the executive  
13 committee with whom the candidate in question qualified.

14 (2) Within ten (10) days of receipt of the petition  
15 described in subsection (1) of this section, the appropriate  
16 executive committee shall meet and rule upon the petition. At  
17 least two (2) days before the hearing to consider the petition,  
18 the appropriate executive committee shall give notice to both the



19 petitioner and the contested candidate of the time and place of  
20 the hearing on the petition. Each party shall be given an  
21 opportunity to be heard at that meeting and present evidence in  
22 support of his or her position.

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

27 (4) Any party aggrieved by the action or inaction of the  
28 appropriate executive committee may file a petition for judicial  
29 review to the circuit court of the county in which the executive  
30 committee whose decision is being reviewed sits. The petition  
31 must be filed no later than fifteen (15) days after the date the  
32 petition was originally filed with the appropriate executive  
33 committee. The person filing for judicial review shall give a  
34 cost bond in the sum of Three Hundred Dollars (\$300.00) with two  
35 (2) or more sufficient sureties conditioned to pay all costs in  
36 case his or her petition \* \* \* is dismissed, and an additional  
37 bond may be required, by the court, if necessary, at any  
38 subsequent stage of the proceedings.

39 (5) Upon the filing of the petition and bond, the circuit  
40 clerk shall immediately, by registered letter or by telegraph or  
41 by telephone, or personally, notify the Chief Justice of the  
42 Supreme Court, or in his or her absence, or disability, some other  
43 judge of the Supreme Court, who shall forthwith designate and



44 notify a circuit judge or retired judge on senior status of a  
45 district other than that which embraces the district, subdistrict,  
46 county or any of the counties, involved in the contest or  
47 complaint, to proceed to the county in which the contest or  
48 complaint has been filed to hear and determine the contest or  
49 complaint. It shall be the official duty of the trial judge to  
50 proceed to the discharge of the designated duty at the earliest  
51 possible date to be fixed by the judge and of which the contestant  
52 and contestee shall have reasonable notice. The contestant and  
53 contestee are to be served in a reasonable manner as the judge may  
54 direct, in response to which notice the contestee shall promptly  
55 file his or her answer, and also his or her cross-complaint  
56 if \* \* \* a cross-complaint exists. The hearing before the trial  
57 court shall be de novo. The matter shall be tried to the trial  
58 judge, without a jury. After hearing the evidence, the trial  
59 judge shall determine whether the candidate whose qualifications  
60 have been challenged is legally qualified to have his or her name  
61 placed upon the ballot in question. The trial judge may, upon  
62 disqualification of any such candidate, order that such candidate  
63 shall bear the court costs of the proceedings.

64 (6) Within three (3) days after judgment is rendered by the  
65 circuit court, the contestant or contestee, or both, may file an  
66 appeal in the Supreme Court upon giving a cost bond in the sum of  
67 Three Hundred Dollars (\$300.00), together with a bill of  
68 exceptions which shall state the point or points of law at issue



69 with a sufficient synopsis of the facts to fully disclose the  
70 bearing and relevancy of such points of law. The bill of  
71 exceptions shall be signed by the trial judge, or in case of his  
72 or her absence, refusal or disability, by two (2) disinterested  
73 attorneys, as is provided by law in other cases of bills of  
74 exception. The filing of such appeals shall automatically suspend  
75 the decision of the circuit court and the appropriate executive  
76 committee is entitled to proceed based upon their decision \* \* \*  
77 until the Supreme Court, in its discretion, stays further  
78 proceedings in the matter. The appeal shall be immediately  
79 docketed in the Supreme Court and referred to the court en banc  
80 upon briefs without oral argument unless the court shall call for  
81 oral argument, and shall be decided at the earliest possible date,  
82 as a preference case over all others. The Supreme Court shall  
83 have the authority to grant such relief as is appropriate under  
84 the circumstances.

85 (7) The procedure set forth in this section shall be the  
86 sole and only manner in which the qualifications of a candidate  
87 seeking public office as a party nominee may be challenged \* \* \*  
88 before the time of his or her nomination \* \* \* and after the time  
89 of his or her nomination, including any time before the person  
90 assumes an elective office. After a party nominee assumes an  
91 elective office, the election may be challenged as otherwise  
92 provided by law. After a \* \* \* person has been elected \* \* \* as  
93 the party nominee in a primary election, the election may be



94 challenged as otherwise provided \* \* \* in Sections 23-15-921 and  
95 23-15-927. After a party nominee assumes an elective office, his  
96 or her qualifications to hold that office may be contested as  
97 otherwise provided by law.

98       **SECTION 2.** This act shall take effect and be in force from  
99 and after July 1, 2018.

