

By: Representatives Sanford, Tullos

To: Judiciary A

HOUSE BILL NO. 547

1 AN ACT TO AMEND SECTION 23-15-975, MISSISSIPPI CODE OF 1972,
 2 TO INCLUDE JUSTICE COURT JUDGES IN THE "NONPARTISAN JUDICIAL
 3 ELECTION ACT"; TO AMEND SECTION 23-15-197, MISSISSIPPI CODE OF
 4 1972, TO PROVIDE THE TIME FOR HOLDING AN ELECTION FOR THE OFFICE
 5 OF JUSTICE COURT JUDGE; TO AMEND SECTION 23-15-977, MISSISSIPPI
 6 CODE OF 1972, TO PROVIDE THE QUALIFYING FEE FOR ELECTION TO THE
 7 OFFICE OF JUSTICE COURT JUDGE; TO AMEND SECTIONS 9-11-2,
 8 23-15-297, 23-15-359, 23-15-973 AND 23-15-1021, MISSISSIPPI CODE
 9 OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING
 10 FORWARD SECTIONS 23-15-193, 23-15-833 AND 23-15-849, MISSISSIPPI
 11 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR
 12 RELATED PURPOSES.

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

14 **SECTION 1.** Section 23-15-975, Mississippi Code of 1972, is
 15 amended as follows:

16 23-15-975. As used in Sections 23-15-974 through 23-15-985
 17 of this subarticle, the term "judicial office" includes the office
 18 of justice of the Supreme Court, judge of the Court of Appeals,
 19 circuit judge, chancellor, justice court judge, county court judge
 20 and family court judge. Except for justice court judges, all such
 21 justices and judges shall be full-time positions and such justices
 22 and judges shall not engage in the practice of law before any
 23 court, administrative agency or other judicial or quasi-judicial



24 forum except as provided by law for finalizing pending cases after
25 election to judicial office. The position of justice court judge
26 shall be a part-time position, and persons elected to that
27 position may still practice law before any court, administrative
28 agency or other judicial or quasi-judicial forum.

29 **SECTION 2.** Section 23-15-197, Mississippi Code of 1972, is
30 amended as follows:

31 23-15-197. (1) Times for holding primary and general
32 elections for congressional offices shall be as prescribed in
33 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

34 (2) Times for holding elections for the office of judge of
35 the Supreme Court shall be as prescribed in Section 23-15-991 and
36 Sections 23-15-974 through 23-15-985, and times for holding
37 elections for the office of judge of the Court of Appeals shall be
38 as prescribed in Section 9-4-5.

39 (3) Times for holding elections for the office of circuit
40 court judge and the office of chancery court judge shall be as
41 prescribed in Sections 23-15-974 through 23-15-985, and Section
42 23-15-1015.

43 (4) Times for holding elections for the office of county
44 election commissioners shall be as prescribed in Section
45 23-15-213.

46 (5) Times for holding elections for the office of levee
47 commissioner shall be as prescribed in Chapter 12, Laws of 1928;



48 Chapter 574, Laws of 1968; Chapter 85, Laws of 1930; Chapter 317,
49 Laws of 1983; and Chapter 438, Laws of 2010.

50 (6) Times for holding elections for the office of justice
51 court judge shall be as prescribed in Section 23-15-193 and
52 Sections 23-15-973 through 23-15-985.

53 **SECTION 3.** Section 23-15-977, Mississippi Code of 1972, is
54 amended as follows:

55 23-15-977. (1) Except as otherwise provided in this
56 section, all candidates for judicial office as defined in Section
57 23-15-975 of this subarticle shall file their intent to be a
58 candidate with the proper officials not later than 5:00 p.m. on
59 the first Friday after the first Monday in May before the general
60 election for judicial office and shall pay to the proper officials
61 the following amounts:

62 (a) Candidates for Supreme Court judge and Court of
63 Appeals, the sum of Two Hundred Dollars (\$200.00).

64 (b) Candidates for circuit judge and chancellor, the
65 sum of One Hundred Dollars (\$100.00).

66 (c) Candidates for county judge * * *, family court
67 judge and justice court judge, the sum of Fifteen Dollars
68 (\$15.00).

69 Candidates for judicial office may not file their intent to
70 be a candidate and pay the proper assessment before January 1 of
71 the year in which the election for the judicial office is held.



72 (2) Candidates for judicial offices listed in paragraphs (a)
73 and (b) of subsection (1) of this section shall file their intent
74 to be a candidate with, and pay the proper assessment made
75 pursuant to subsection (1) of this section to, the State Board of
76 Election Commissioners.

77 (3) Candidates for judicial offices listed in paragraph (c)
78 of subsection (1) of this section shall file their intent to be a
79 candidate with, and pay the proper assessment made pursuant to
80 subsection (1) of this section to, the circuit clerk of the proper
81 county. The circuit clerk shall notify the county election
82 commissioners of all persons who have filed their intent to be a
83 candidate with, and paid the proper assessment to, such clerk.
84 The notification shall occur within two (2) business days and
85 shall contain all necessary information.

86 (4) If only one (1) person files his or her intent to be a
87 candidate for a judicial office and that person later dies,
88 resigns or is otherwise disqualified from holding the judicial
89 office after the deadline provided for in subsection (1) of this
90 section but more than seventy (70) days before the date of the
91 general election, the Governor, upon notification of the death,
92 resignation or disqualification of the person, shall issue a
93 proclamation authorizing candidates to file their intent to be a
94 candidate for that judicial office for a period of not less than
95 seven (7) nor more than ten (10) days from the date of the
96 proclamation.



97 (5) If only one (1) person qualifies as a candidate for a
98 judicial office and that person later dies, resigns or is
99 otherwise disqualified from holding the judicial office within
100 seventy (70) days before the date of the general election, the
101 judicial office shall be considered vacant for the new term and
102 the vacancy shall be filled as provided in by law.

103 **SECTION 4.** Section 9-11-2, Mississippi Code of 1972, is
104 amended as follows:

105 9-11-2. (1) From and after January 1, 1984, there shall be
106 a competent number of justice court judges in each county of the
107 state. The number of justice court judges for each county shall
108 be determined as follows:

109 (a) In counties with a population, according to the
110 latest federal decennial census, of thirty-five thousand (35,000)
111 and less, there shall be two (2) justice court judges unless the
112 board of supervisors, by resolution duly spread upon its minutes,
113 finds that one (1) justice court judge is a competent number to
114 adequately handle the needs of the citizens of the county.

115 (b) In counties with a population, according to the
116 latest federal decennial census, of more than thirty-five thousand
117 (35,000) and less than seventy thousand (70,000), there shall be
118 three (3) justice court judges, unless the board of supervisors,
119 by resolution duly spread upon its minutes, finds that two (2) is
120 a competent number of justice court judges to adequately handle
121 the needs of the citizens of the county.



122 (c) In counties with a population, according to the
123 latest federal decennial census, of seventy thousand (70,000) and
124 less than one hundred fifty thousand (150,000), there shall be
125 four (4) justice court judges, unless the board of supervisors, by
126 resolution duly spread upon its minutes, finds that three (3) is a
127 competent number of justice court judges to adequately handle the
128 needs of the citizens of the county.

129 (d) In counties with a population, according to the
130 latest federal decennial census, of one hundred fifty thousand
131 (150,000) and more, there shall be five (5) justice court judges,
132 unless the board of supervisors, by resolution duly spread upon
133 its minutes, finds that four (4) is a competent number of justice
134 court judges to adequately handle the needs of the citizens of the
135 county.

136 (2) The board of supervisors shall establish single member
137 election districts in the county for the nonpartisan election of
138 each of the justice court judges authorized and required to be
139 elected for the county under the provisions of subsection (1) of
140 this section, and one (1) justice court judge shall be elected for
141 each district by the electors * * * of each district. In any
142 county authorized and required under the provisions of subsection
143 (1)(a) of this section to provide for the election of two (2)
144 justice court judges for the county in which there are two (2)
145 judicial districts, the smaller of such judicial districts,
146 according to population based upon the latest federal decennial



147 census, shall comprise or shall be wholly encompassed within one
148 (1) of * * * the election districts.

149 (3) (a) Nothing in this section shall be construed to
150 authorize or require more than five (5) justice court judges in
151 any one (1) county from and after January 1, 1984, nor to
152 authorize or require an increase in the number of justice court
153 judges for any county during the term of office of any justice
154 court judge.

155 (b) Nothing in this section shall be construed to
156 authorize or require a county to decrease the number of justice
157 court judge positions in the county as of June 30, 2014.

158 **SECTION 5.** Section 23-15-297, Mississippi Code of 1972, is
159 amended as follows:

160 23-15-297. All candidates upon entering the race for party
161 nominations for office shall first pay to the proper officer as
162 provided for in Section 23-15-299 for each primary election and
163 all independent candidates and special election candidates shall
164 pay to the proper officer as provided for in Section 23-15-299 the
165 following amounts:

166 (a) Candidates for Governor, One Thousand Dollars
167 (\$1,000.00).

168 (b) Candidates for Lieutenant Governor, Attorney
169 General, Secretary of State, State Treasurer, Auditor of Public
170 Accounts, Commissioner of Insurance, Commissioner of Agriculture



171 and Commerce, State Highway Commissioner and State Public Service
172 Commissioner, Five Hundred Dollars (\$500.00).

173 (c) Candidates for district attorney, State Senator and
174 State Representative, Two Hundred Fifty Dollars (\$250.00).

175 (d) Candidates for sheriff, chancery clerk, circuit
176 clerk, tax assessor, tax collector, county attorney, county
177 superintendent of education and board of supervisors, One Hundred
178 Dollars (\$100.00).

179 (e) Candidates for county surveyor, county
180 coroner * * * and constable, One Hundred Dollars (\$100.00).

181 (f) Candidates for United States Senator, One Thousand
182 Dollars (\$1,000.00).

183 (g) Candidates for United States Representative, Five
184 Hundred Dollars (\$500.00).

185 **SECTION 6.** Section 23-15-359, Mississippi Code of 1972, is
186 amended as follows:

187 23-15-359. (1) Except as provided in this section, the
188 ballot shall contain the names of all party nominees certified by
189 the appropriate executive committee, and independent and special
190 election candidates who have timely filed petitions containing the
191 required signatures and assessments that must be paid pursuant to
192 Section 23-15-297, if the candidates and nominees meet all of the
193 qualifications to hold the office sought. A petition requesting
194 that an independent or special election candidate's name be placed
195 on the ballot for any office shall be filed as provided for in



196 subsection (3) or (4) of this section, as appropriate, and shall
197 be signed by not less than the following number of qualified
198 electors:

199 (a) For an office elected by the state at large, not
200 less than one thousand (1,000) qualified electors.

201 (b) For an office elected by the qualified electors of
202 a Supreme Court district, not less than three hundred (300)
203 qualified electors.

204 (c) For an office elected by the qualified electors of
205 a congressional district, not less than two hundred (200)
206 qualified electors.

207 (d) For an office elected by the qualified electors of
208 a circuit or chancery court district, not less than one hundred
209 (100) qualified electors.

210 (e) For an office elected by the qualified electors of
211 a senatorial or representative district, not less than fifty (50)
212 qualified electors.

213 (f) For an office elected by the qualified electors of
214 a county, not less than fifty (50) qualified electors.

215 (g) For an office elected by the qualified electors of
216 a supervisors district or justice court district, not less than
217 fifteen (15) qualified electors.

218 (h) For the Office of President of the United States, a
219 party nominee or independent candidate shall pay an assessment in
220 the amount of Two Thousand Five Hundred Dollars (\$2,500.00).



221 (2) (a) Unless the petition or fee, whichever is
222 applicable, required above shall be filed as provided for in
223 subsection (3), (4) or (5) of this section, as appropriate, the
224 name of the person requested to be a candidate, unless nominated
225 by a political party, shall not be placed upon the ballot. The
226 ballot shall contain the names of each candidate for each office,
227 and the names shall be listed under the name of the political
228 party that candidate represents as provided by law and as
229 certified to the circuit clerk by the state executive committee of
230 the political party. In the event the candidate qualifies as an
231 independent as provided in this section, he or she shall be listed
232 on the ballot as an independent candidate.

233 (b) The name of an independent or special election
234 candidate who dies before the printing of the ballots, shall not
235 be placed on the ballots.

236 (3) Petitions for offices described in paragraphs (a), (b),
237 (c), (d) and (e) of subsection (1) of this section shall be filed
238 with the Secretary of State by no later than 5:00 p.m. on the same
239 date or business day, as applicable, by which candidates are
240 required to pay the fee provided for in Section 23-15-297;
241 however, no petition may be filed before January 1 of the year in
242 which the election for the office is held.

243 (4) Petitions for offices described in paragraphs (f) and
244 (g) of subsection (1) of this section shall be filed with the
245 proper circuit clerk by no later than 5:00 p.m. on the same date



246 by which candidates are required to pay the fee provided for in
247 Section 23-15-297; however, no petition may be filed before
248 January 1 of the year in which the election for the office is
249 held. The circuit clerk shall notify the county election
250 commissioners of all persons who have filed petitions with the
251 clerk. The notification shall occur within two (2) business days
252 and shall contain all necessary information.

253 (5) The assessment for the office described in paragraph (h)
254 of subsection (1) of this section shall be paid to the Secretary
255 of State. The Secretary of State shall deposit any qualifying
256 fees received from candidates into the Elections Support Fund
257 established in Section 23-15-5.

258 (6) The election commissioners may also have printed upon
259 the ballot any local issue election matter that is authorized to
260 be held on the same date as the regular or general election
261 pursuant to Section 23-15-375; however, the ballot form of the
262 local issue must be filed with the election commissioners by the
263 appropriate governing authority not less than sixty (60) days
264 before the date of the election.

265 (7) The provisions of this section shall not apply to
266 municipal elections or to the election of the offices of justice
267 of the Supreme Court, judge of the Court of Appeals, circuit
268 judge, chancellor, county court judge * * *, family court judge
269 and justice court judge.



270 (8) Nothing in this section shall prohibit special elections
271 to fill vacancies in either house of the Legislature from being
272 held as provided in Section 23-15-851. In all elections conducted
273 under the provisions of Section 23-15-851, there shall be printed
274 on the ballot the name of any candidate who, not having been
275 nominated by a political party, shall have been requested to be a
276 candidate for any office by a petition filed with the Secretary of
277 State and signed by not less than fifty (50) qualified electors.

278 (9) The appropriate election commission shall determine
279 whether each candidate is a qualified elector of the state, state
280 district, county or county district they seek to serve, and
281 whether each candidate meets all other qualifications to hold the
282 office he or she is seeking or presents absolute proof that he or
283 she will, subject to no contingencies, meet all qualifications on
284 or before the date of the general or special election at which he
285 or she could be elected to office. The election commission shall
286 determine whether the candidate has taken the steps necessary to
287 qualify for more than one (1) office at the election. The
288 election commission also shall determine whether any candidate has
289 been convicted of any felony in a court of this state, or has been
290 convicted on or after December 8, 1992, of any offense in another
291 state which is a felony under the laws of this state, or has been
292 convicted of any felony in a federal court on or after December 8,
293 1992. Excepted from the above are convictions of manslaughter and
294 violations of the United States Internal Revenue Code or any



295 violations of the tax laws of this state, unless the offense also
296 involved misuse or abuse of his or her office or money coming into
297 his or her hands by virtue of the office. If the appropriate
298 election commission finds that a candidate either (a) is not a
299 qualified elector, (b) does not meet all qualifications to hold
300 the office he or she seeks and fails to provide absolute proof,
301 subject to no contingencies, that he or she will meet the
302 qualifications on or before the date of the general or special
303 election at which he or she could be elected, or (c) has been
304 convicted of a felony as described in this subsection, and not
305 pardoned, then the election commission shall notify the candidate
306 and give the candidate an opportunity to be heard. The election
307 commission shall mail notice to the candidate at least three (3)
308 business days before the hearing to the address provided by the
309 candidate on the qualifying forms, and the committee shall attempt
310 to contact the candidate by telephone, email and facsimile if the
311 candidate provided this information on the forms. If the
312 candidate fails to appear at the hearing or to prove that he or
313 she meets all qualifications to hold the office subject to no
314 contingencies, then the name of such candidate shall not be placed
315 upon the ballot. If the appropriate election commission
316 determines that the candidate has taken the steps necessary to
317 qualify for more than one (1) office at the election, the action
318 required by Section 23-15-905, shall be taken.



319 (10) If after the deadline to qualify as a candidate for an
320 office or after the time for holding any party primary for an
321 office, only one (1) person has duly qualified to be a candidate
322 for the office in the general election, the name of that person
323 shall be placed on the ballot; provided, however, that if not more
324 than one (1) person duly qualified to be a candidate for each
325 office on the general election ballot, the election for all
326 offices on the ballot shall be dispensed with and the appropriate
327 election commission shall declare each candidate elected without
328 opposition if the candidate meets all the qualifications to hold
329 the office as determined pursuant to a review by the election
330 commission in accordance with the provisions of subsection (9) of
331 this section and if the candidate has filed all required campaign
332 finance disclosure reports as required by Section 23-15-807.

333 (11) The petition required by this section may not be filed
334 by using the Internet.

335 **SECTION 7.** Section 23-15-973, Mississippi Code of 1972, is
336 amended as follows:

337 23-15-973. It shall be the duty of the judges of the circuit
338 court to give a reasonable time and opportunity to the candidates
339 for the office of judge of the Supreme Court, judges of the Court
340 of Appeals, circuit judge * * *, chancellor and justice court
341 judge to address the people during court terms. In order to give
342 further and every possible emphasis to the fact that the * * *
343 judicial offices are not political but are to be held without



344 favor and with absolute impartiality as to all persons, and
345 because of the jurisdiction conferred upon the courts by this
346 chapter, the judges * * * of those offices should be as far
347 removed as possible from any political affiliations or
348 obligations. It shall be unlawful for any candidate for any of
349 the offices mentioned in this section to align himself or herself
350 with any candidate or candidates for any other office or with any
351 political faction or any political party at any time during any
352 primary or general election campaign. Likewise it shall be
353 unlawful for any candidate for any other office nominated or to be
354 nominated at any primary election, wherein any candidate for any
355 of the judicial offices in this section mentioned, is or are to be
356 nominated, to align himself or herself with any one or more of the
357 candidates for * * * the offices or to take any part whatever in
358 any nomination for any one or more of * * * the judicial offices,
359 except to cast his or her individual vote. Any candidate for any
360 office, whether nominated with or without opposition, at any
361 primary wherein a candidate for any one (1) of the judicial
362 offices herein mentioned is to be nominated who shall
363 deliberately, knowingly and willfully violate the provisions of
364 this section shall forfeit his or her nomination, or if elected at
365 the following general election by virtue of * * * the nomination,
366 his or her election shall be void.

367 **SECTION 8.** Section 23-15-1021, Mississippi Code of 1972, is
368 amended as follows:



369 23-15-1021. It shall be unlawful for any individual or
370 political action committee not affiliated with a political party
371 to give, donate, appropriate or furnish directly or indirectly,
372 any money, security, funds or property in excess of Two Thousand
373 Five Hundred Dollars (\$2,500.00) for the purpose of aiding any
374 candidate or candidate's political committee for judge of a
375 county, justice, circuit or chancery court or in excess of Five
376 Thousand Dollars (\$5,000.00) for the purpose of aiding any
377 candidate or candidate's political committee for judge of the
378 Court of Appeals or justice of the Supreme Court, or to give,
379 donate, appropriate or furnish directly or indirectly, any money,
380 security, funds or property in excess of Two Thousand Five Hundred
381 Dollars (\$2,500.00) to any candidate or the candidate's political
382 committee for judge of a county, justice, circuit or chancery
383 court or in excess of Five Thousand Dollars (\$5,000.00) for the
384 purpose of aiding any candidate or candidate's political committee
385 for judge of the Court of Appeals or justice of the Supreme Court,
386 as a contribution to the expense of a candidate for judicial
387 office.

388 **SECTION 9.** Section 23-15-193, Mississippi Code of 1972, is
389 brought forward as follows:

390 23-15-193. At the election in 1995, and every four (4) years
391 thereafter, there shall be elected a Governor, Lieutenant
392 Governor, Secretary of State, Auditor of Public Accounts, State
393 Treasurer, Attorney General, three (3) public service



394 commissioners, three (3) Mississippi Transportation Commissioners,
395 Commissioner of Insurance, Commissioner of Agriculture and
396 Commerce, Senators and members of the House of Representatives in
397 the Legislature, district attorneys for the several districts,
398 clerks of the circuit and chancery courts of the several counties,
399 as well as sheriffs, coroners, assessors, surveyors and members of
400 the boards of supervisors, justice court judges and constables,
401 and all other officers to be elected by the people at the general
402 state election. All such officers shall hold their offices for a
403 term of four (4) years, and until their successors are elected and
404 qualified. The state officers shall be elected in the manner
405 prescribed in Section 140 of the Constitution.

406 **SECTION 10.** Section 23-15-833, Mississippi Code of 1972, is
407 brought forward as follows:

408 23-15-833. Except as otherwise provided by law, the first
409 Tuesday after the first Monday in November of each year shall be
410 designated the regular special election day, and on that day an
411 election shall be held to fill any vacancy in county, county
412 district, and district attorney elective offices, and any vacancy
413 in the office of circuit judge or chancellor.

414 All special elections, or elections to fill vacancies, shall
415 in all respects be held, conducted and returned in the same manner
416 as general elections, except that where no candidate receives a
417 majority of the votes cast in the election, a runoff election
418 shall be held three (3) weeks after the election. The two (2)



419 candidates who receive the highest popular votes for the office
420 shall have their names submitted as the candidates to the runoff
421 and the candidate who leads in the runoff election shall be
422 elected to the office. When there is a tie in the first election
423 of those receiving the next highest vote, these two (2) and the
424 one receiving the highest vote, none having received a majority,
425 shall go into the runoff election and whoever leads in the runoff
426 election shall be entitled to the office.

427 In those years when the regular special election day shall
428 occur on the same day as the general election, the names of
429 candidates in any special election and the general election shall
430 be placed on the same ballot, but shall be clearly distinguished
431 as general election candidates or special election candidates. At
432 any time a special election is held on the same day as a party
433 primary election, the names of the candidates in the special
434 election may be placed on the same ballot, but shall be clearly
435 distinguished as special election candidates or primary election
436 candidates.

437 **SECTION 11.** Section 23-15-849, Mississippi Code of 1972, is
438 brought forward as follows:

439 23-15-849. (1) Vacancies in the office of circuit judge or
440 chancellor shall be filled for the unexpired term by the qualified
441 electors at the next regular special election occurring more than
442 nine (9) months after the vacancy to be filled occurred, and the
443 term of office of the person elected to fill a vacancy shall



444 commence on the first Monday in January following the election.
445 Upon the occurrence of a vacancy, the Governor shall appoint a
446 qualified person from the district in which the vacancy exists to
447 hold the office and discharge the duties thereof until the vacancy
448 is filled by election as provided in this subsection.

449 (2) (a) If half or more than half of the term remains,
450 vacancies in the office of justice of the Supreme Court or judge
451 of the Court of Appeals shall be filled for the unexpired term by
452 the qualified electors at the next regular election for state
453 officers or for representatives in Congress occurring more than
454 nine (9) months after the vacancy to be filled occurred, and the
455 term of office of the person elected to fill a vacancy shall
456 commence on the first Monday in January following the election.
457 If less than half of the term remains, vacancies in the office of
458 justice of the Supreme Court or judge of the Court of Appeals
459 shall be filled for the remaining unexpired term solely by
460 appointment as provided in this subsection.

461 (b) Upon occurrence of a vacancy, the Governor shall
462 appoint a qualified person from the district in which the vacancy
463 exists to hold the office and discharge the duties thereof as
464 follows:

465 (i) If less than half of the term remains, the
466 appointee shall serve until expiration of the term;

467 (ii) If half or more than half of the term
468 remains, the appointee shall serve until the vacancy is filled by



469 election as provided in subsection (1) of this section for judges
470 of the circuit and chancery courts. Elections to fill vacancies
471 in the office of justice of the Supreme Court or judge of the
472 Court of Appeals shall be held, conducted, returned and the
473 persons elected commissioned in accordance with the law governing
474 regular elections for justices of the Supreme Court or judges of
475 the Court of Appeals to the extent applicable.

476 **SECTION 12.** This act shall take effect and be in force from
477 and after July 1, 2018.

