

By: Representative Haney

To: Apportionment and Elections

HOUSE BILL NO. 1008

1 AN ACT TO AMEND SECTION 23-15-361, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT IF ONLY ONE PERSON HAS DULY QUALIFIED TO BE A
 3 CANDIDATE FOR A MUNICIPAL OFFICE IN THE GENERAL ELECTION, THE
 4 MUNICIPAL ELECTION COMMISSION SHALL DECLARE THAT PERSON ELECTED
 5 WITHOUT OPPOSITION AND THE NAME OF THAT PERSON SHALL NOT BE PLACED
 6 ON THE BALLOT; TO AMEND SECTION 23-15-309, MISSISSIPPI CODE OF
 7 1972, TO MAKE A MINOR, NONSUBSTANTIVE CHANGE; TO BRING FORWARD
 8 SECTION 23-15-333, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE
 9 FORM OF THE BALLOT IN COUNTY PRIMARY ELECTIONS, FOR THE PURPOSE OF
 10 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 23-15-359,
 11 MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE FORM OF THE BALLOT IN
 12 COUNTY GENERAL ELECTIONS, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
 13 AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 23-15-361, Mississippi Code of 1972, is
 16 amended as follows:

17 23-15-361. (1) The municipal general election ballot shall
 18 contain the names of all opposed candidates who have been put in
 19 nomination by the municipal primary election of any political
 20 party. There shall be printed on the ballots the names of all
 21 persons so nominated and opposed, whether the nomination be
 22 otherwise known or not, upon the written request of one or more of
 23 the candidates so nominated, or of any qualified elector who will



24 make oath that he or she was a participant in the primary
25 election, and that the person whose name is presented by him or
26 her was nominated by such primary election. The municipal
27 election commissioners who are required to have the ballots
28 printed, shall also have printed on the ballot in any municipal
29 general election the name of any candidate who, not having been
30 nominated by a political party, shall have been requested to be a
31 candidate for any office by a petition filed with the clerk of the
32 municipality no later than 5:00 p.m. on the same date by which
33 candidates for nomination in the municipal primary elections are
34 required to pay the fee provided for in Section 23-15-309, and
35 signed by not less than the following number of qualified
36 electors:

37 (a) For an office elected by the qualified electors of
38 a municipality or a municipal district having a population of one
39 thousand (1,000) or more, not less than fifty (50) qualified
40 electors.

41 (b) For an office elected by the qualified electors of
42 a municipality or a municipal district having a population of less
43 than one thousand (1,000), not less than fifteen (15) qualified
44 electors.

45 (2) Unless the petition required above shall be filed no
46 later than 5:00 p.m. on the same date by which candidates for
47 nomination in the municipal primary election are required to pay
48 the fee provided for in Section 23-15-309, the name of the person



49 requested to be a candidate, unless nominated by a political
50 party, shall not be placed upon the ballot. The ballot shall
51 contain the names of each opposed candidate for each municipal
52 office, and the names shall be listed under the name of the
53 political party the candidate represents as provided by law and as
54 certified to the municipal clerk by the municipal executive
55 committee of such political party. In the event such candidate
56 qualifies as an independent as herein provided, he or she shall be
57 listed on the ballot as an independent candidate.

58 (3) The clerk of the municipality shall notify the municipal
59 election commissioners of all persons who have filed petitions
60 pursuant to subsection (1) of this section within two (2) business
61 days of the date of filing.

62 (4) The ballot in elections to fill vacancies in municipal
63 elective office shall contain the names of all persons who have
64 qualified as required by Section 23-15-857.

65 (5) The municipal election commission shall determine
66 whether each party candidate in the municipal general election is
67 a qualified elector of the municipality, and of the ward if the
68 office sought is a ward office, and shall determine whether each
69 candidate either meets all other qualifications to hold the office
70 he or she is seeking or presents absolute proof that he or she
71 will, subject to no contingencies, meet all qualifications on or
72 before the date of the general or special election at which he or
73 she could be elected to office. The municipal election commission



74 also shall determine whether any candidate has been convicted of
75 any felony in a court of this state, or has been convicted on or
76 after December 8, 1992, of any offense in another state which is a
77 felony under the laws of this state, or has been convicted of any
78 felony in a federal court on or after December 8, 1992. Excepted
79 from the above are convictions of manslaughter and violations of
80 the United States Internal Revenue Code or any violations of the
81 tax laws of this state unless such offense also involved misuse or
82 abuse of his or her office or money coming into his or her hands
83 by virtue of the office. If the municipal election commission
84 finds that a candidate either (a) is not a qualified elector, (b)
85 does not meet all qualifications to hold the office he or she
86 seeks and fails to provide absolute proof, subject to no
87 contingencies, that he or she will meet the qualifications on or
88 before the date of the general or special election at which he or
89 she could be elected, or (c) has been convicted of a felony as
90 described above and not pardoned, then the election commission
91 shall notify the candidate and give the candidate an opportunity
92 to be heard. The election commission shall mail notice to the
93 candidate at least three (3) business days before the hearing to
94 the address provided by the candidate on the qualifying forms, and
95 the committee shall attempt to contact the candidate by telephone,
96 email and facsimile if the candidate provided this information on
97 the forms. If the candidate fails to appear at the hearing or to
98 prove he or she meets all qualifications to hold the office



99 subject to no contingencies, then the name of the candidate shall
100 not be placed upon the ballot.

101 (6) If after the deadline to qualify as a candidate for an
102 office or after the time for holding any party primary election
103 for an office, only one (1) person has duly qualified to be a
104 candidate for the office in the general election, the municipal
105 election commission shall declare that person elected without
106 opposition if the candidate meets all the qualifications to hold
107 the office as determined pursuant to a review by the election
108 commission in accordance with the provisions of subsection (5) of
109 this section and if the candidate has filed all required campaign
110 finance disclosure reports as required by Section 23-15-807 and
111 the name of that person shall not be placed on the ballot * * *.
112 If not more than one (1) person has duly qualified to be a
113 candidate for each office on the general election ballot, the
114 election for all offices on the ballot shall be dispensed with and
115 the municipal election commission shall declare each candidate
116 elected without opposition if the candidate meets all the
117 qualifications to hold the office as determined pursuant to a
118 review by the election commission in accordance with the
119 provisions of subsection (5) of this section and if the candidate
120 has filed all required campaign finance disclosure reports as
121 required by Section 23-15-807.

122 **SECTION 2.** Section 23-15-309, Mississippi Code of 1972, is
123 amended as follows:



124 23-15-309. (1) Nominations for all municipal officers which
125 are elective shall be made at a primary election, or elections, to
126 be held in the manner prescribed by law. All persons desiring to
127 be candidates for the nomination in the primary elections shall
128 first pay Ten Dollars (\$10.00) to the clerk of the municipality,
129 at least sixty (60) days before the first primary election, no
130 later than 5:00 p.m. on such deadline day. If the sixtieth day to
131 file the fee and written statement before an election falls on a
132 Sunday or legal holiday, the fees and written statements submitted
133 on the business day immediately following the Sunday or legal
134 holiday shall be accepted.

135 (2) The fee paid pursuant to subsection (1) of this section
136 shall be accompanied by a written statement containing the name
137 and address of the candidate, the party with which he or she is
138 affiliated, the email address of the candidate, if any, and the
139 office for which he or she is a candidate.

140 (3) The clerk shall promptly receipt the payment, stating
141 the office for which the person making the payment is running and
142 the political party with which such person is affiliated. The
143 clerk shall keep an itemized account in detail showing the time
144 and date of the receipt of such payment received by him or her,
145 from whom such payment was received, the party with which such
146 person is affiliated and for what office the person paying the fee
147 is a candidate. No candidate may attempt to qualify with any
148 political party that does not have a duly organized municipal



149 executive committee, and the municipal clerk shall not accept any
150 assessments made pursuant to subsection (1) if the municipal clerk
151 does not have contact information for the secretary of the
152 municipal executive committee for that political party. The clerk
153 shall promptly supply all necessary information and pay over all
154 fees so received to the secretary of the proper municipal
155 executive committee. The funds may be used and disbursed in the
156 same manner as is allowed in Section 23-15-299 in regard to other
157 executive committees.

158 (4) Upon receipt of the above information, the proper
159 municipal executive committee shall then determine, at the time of
160 the qualifying deadline, whether each candidate is a qualified
161 elector of the municipality, and of the ward if the office sought
162 is a ward office, and shall determine whether each candidate
163 either meets all other qualifications to hold the office he or she
164 is seeking or presents absolute proof that he or she will, subject
165 to no contingencies, meet all qualifications on or before the date
166 of the general or special election at which he or she could be
167 elected to office. The executive committee shall determine
168 whether the candidate has taken the steps necessary to qualify for
169 more than one (1) office at the election. The committee also
170 shall determine whether any candidate has been convicted of any
171 felony in a court of this state, or has been convicted on or after
172 December 8, 1992, of any offense in another state which is a
173 felony under the laws of this state, or has been convicted of any



174 felony in a federal court on or after December 8, 1992. Excepted
175 from the above are convictions of manslaughter and violations of
176 the United States Internal Revenue Code or any violations of the
177 tax laws of this state unless such offense also involved misuse or
178 abuse of his or her office or money coming into his or her hands
179 by virtue of the office. If the proper municipal executive
180 committee finds that a candidate either (a) does not meet all
181 qualifications to hold the office he or she seeks and fails to
182 provide absolute proof, subject to no contingencies, that he or
183 she will meet the qualifications on or before the date of the
184 general or special election at which he or she could be elected,
185 or (b) has been convicted of a felony as described in this
186 subsection and not pardoned, then the executive committee shall
187 notify the candidate and give the candidate an opportunity to be
188 heard. The executive committee shall mail notice to the candidate
189 at least three (3) business days before the hearing to the address
190 provided by the candidate on the qualifying forms, and the
191 committee shall attempt to contact the candidate by telephone,
192 email and facsimile if the candidate provided this information on
193 the forms. If the candidate fails to appear at the hearing or to
194 prove he or she meets all qualifications to hold the office
195 subject to no contingencies, then the name of such candidate shall
196 not be placed upon the ballot. If the executive committee
197 determines that the candidate has taken the steps necessary to



198 qualify for more than one (1) office at the election, the action
199 required by Section 23-15-905, shall be taken.

200 (5) Where there is but one (1) candidate, the proper
201 municipal executive committee when the time has expired within
202 which the names of candidates shall be furnished shall declare
203 such candidate the nominee.

204 **SECTION 3.** Section 23-15-333, Mississippi Code of 1972, is
205 brought forward as follows:

206 23-15-333. (1) The county executive committee shall have
207 printed all necessary ballots, for use in primary elections. The
208 county executive committee shall have printed all necessary
209 absentee ballots forty-five (45) days before the election as
210 required by law. The ballots shall contain the names of all the
211 candidates to be voted for at the election, and there shall be
212 left on each ballot one (1) blank space under the title of each
213 office for which a nominee is to be elected; and in the event of
214 the death of any candidate whose name shall have been printed on
215 the ballot, the name of the candidate duly substituted in the
216 place of the deceased candidate may be written in such blank space
217 by the voter. Except as otherwise provided in subsection (2) of
218 this section, the order in which the titles to the various offices
219 shall be printed, and the size, print and quality of the paper of
220 the ballot is left to the discretion of the county executive
221 committee. Provided, however, that in all cases the arrangement



222 of the names of the candidates for each office shall be
223 alphabetical. No ballot shall be used except those so printed.

224 (2) The titles for the various offices shall be listed in
225 the following order:

226 (a) Candidates, electors or delegates for the following
227 national offices:

228 (i) President of the United States of America;

229 (ii) United States Senator or United States
230 Representative;

231 (b) Candidates for the following statewide offices:

232 Governor, Lieutenant Governor, Secretary of State, Attorney
233 General, State Treasurer, Auditor of Public Accounts, Commissioner
234 of Agriculture and Commerce, Commissioner of Insurance;

235 (c) Candidates for the following state district
236 offices: Mississippi Transportation Commissioner, Public Service
237 Commissioner, District Attorney;

238 (d) Candidates for the following legislative offices:
239 Senator and House of Representatives;

240 (e) Candidates for countywide office;

241 (f) Candidates for county district office.

242 The order in which the titles for the various offices are
243 listed within each of the categories listed in paragraphs (e) and
244 (f) are left to the discretion of the county executive committee.
245 Candidates' names shall be listed alphabetically under each office
246 by the candidate's last name.



247 (3) If after the deadline to qualify as a candidate for an
248 office, only one (1) person has duly qualified to be a candidate
249 for the office in the primary election, the name of that person
250 shall be placed on the ballot; provided, however, that if not more
251 than one (1) person has duly qualified to be a candidate for each
252 office on the primary election ballot, the election for all
253 offices on the ballot shall be dispensed with and the appropriate
254 executive committee shall declare each candidate as the party
255 nominee if the candidate meets all the qualifications to hold the
256 office.

257 (4) (a) If it is eligible under Section 23-15-266, the
258 county executive committee may enter into a written agreement with
259 the circuit clerk or the county election commission authorizing
260 the circuit clerk or the county election commission to perform any
261 of the duties required of the county executive committee pursuant
262 to this section. Any agreement entered into pursuant to this
263 subsection shall be signed by the chair of the county executive
264 committee and the circuit clerk or the chair of the county
265 election commission, as appropriate. The county executive
266 committee shall notify the state executive committee and the
267 Secretary of State of the existence of such agreement.

268 (b) If it is eligible under Section 23-15-266, the
269 municipal executive committee may enter into a written agreement
270 with the municipal clerk or the municipal election commission
271 authorizing the municipal clerk or the municipal election



272 commission to perform any of the duties required of the municipal
273 executive committee pursuant to this section. Any agreement
274 entered into pursuant to this subsection shall be signed by the
275 chair of the municipal executive committee and the municipal clerk
276 or the chair of the municipal election commission, as appropriate.
277 The municipal executive committee shall notify the state executive
278 committee and the Secretary of State of the existence of such
279 agreement.

280 **SECTION 4.** Section 23-15-359, Mississippi Code of 1972, is
281 brought forward as follows:

282 23-15-359. (1) Except as provided in this section, the
283 ballot shall contain the names of all party nominees certified by
284 the appropriate executive committee, and independent and special
285 election candidates who have timely filed petitions containing the
286 required signatures and assessments that must be paid pursuant to
287 Section 23-15-297, if the candidates and nominees meet all of the
288 qualifications to hold the office sought. A petition requesting
289 that an independent or special election candidate's name be placed
290 on the ballot for any office shall be filed as provided for in
291 subsection (3) or (4) of this section, as appropriate, and shall
292 be signed by not less than the following number of qualified
293 electors:

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



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

299 (c) For an office elected by the qualified electors of
300 a congressional district, not less than two hundred (200)
301 qualified electors.

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

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

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

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

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

316 (2) (a) Unless the petition or fee, whichever is
317 applicable, required above shall be filed as provided for in
318 subsection (3), (4) or (5) of this section, as appropriate, the
319 name of the person requested to be a candidate, unless nominated
320 by a political party, shall not be placed upon the ballot. The



321 ballot shall contain the names of each candidate for each office,
322 and the names shall be listed under the name of the political
323 party that candidate represents as provided by law and as
324 certified to the circuit clerk by the state executive committee of
325 the political party. In the event the candidate qualifies as an
326 independent as provided in this section, he or she shall be listed
327 on the ballot as an independent candidate.

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

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

338 (4) Petitions for offices described in paragraphs (f) and
339 (g) of subsection (1) of this section shall be filed with the
340 proper circuit clerk by no later than 5:00 p.m. on the same date
341 by which candidates are required to pay the fee provided for in
342 Section 23-15-297; however, no petition may be filed before
343 January 1 of the year in which the election for the office is
344 held. The circuit clerk shall notify the county election
345 commissioners of all persons who have filed petitions with the



346 clerk. The notification shall occur within two (2) business days
347 and shall contain all necessary information.

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

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

360 (7) The provisions of this section shall not apply to
361 municipal elections or to the election of the offices of justice
362 of the Supreme Court, judge of the Court of Appeals, circuit
363 judge, chancellor, county court judge and family court judge.

364 (8) Nothing in this section shall prohibit special elections
365 to fill vacancies in either house of the Legislature from being
366 held as provided in Section 23-15-851. In all elections conducted
367 under the provisions of Section 23-15-851, there shall be printed
368 on the ballot the name of any candidate who, not having been
369 nominated by a political party, shall have been requested to be a



370 candidate for any office by a petition filed with the Secretary of
371 State and signed by not less than fifty (50) qualified electors.

372 (9) The appropriate election commission shall determine
373 whether each candidate is a qualified elector of the state, state
374 district, county or county district they seek to serve, and
375 whether each candidate meets all other qualifications to hold the
376 office he or she is seeking or presents absolute proof that he or
377 she will, subject to no contingencies, meet all qualifications on
378 or before the date of the general or special election at which he
379 or she could be elected to office. The election commission shall
380 determine whether the candidate has taken the steps necessary to
381 qualify for more than one (1) office at the election. The
382 election commission also shall determine whether any candidate has
383 been convicted of any felony in a court of this state, or has been
384 convicted on or after December 8, 1992, of any offense in another
385 state which is a felony under the laws of this state, or has been
386 convicted of any felony in a federal court on or after December 8,
387 1992. Excepted from the above are convictions of manslaughter and
388 violations of the United States Internal Revenue Code or any
389 violations of the tax laws of this state, unless the offense also
390 involved misuse or abuse of his or her office or money coming into
391 his or her hands by virtue of the office. If the appropriate
392 election commission finds that a candidate either (a) is not a
393 qualified elector, (b) does not meet all qualifications to hold
394 the office he or she seeks and fails to provide absolute proof,



395 subject to no contingencies, that he or she will meet the
396 qualifications on or before the date of the general or special
397 election at which he or she could be elected, or (c) has been
398 convicted of a felony as described in this subsection, and not
399 pardoned, then the election commission shall notify the candidate
400 and give the candidate an opportunity to be heard. The election
401 commission shall mail notice to the candidate at least three (3)
402 business days before the hearing to the address provided by the
403 candidate on the qualifying forms, and the committee shall attempt
404 to contact the candidate by telephone, email and facsimile if the
405 candidate provided this information on the forms. If the
406 candidate fails to appear at the hearing or to prove that he or
407 she meets all qualifications to hold the office subject to no
408 contingencies, then the name of such candidate shall not be placed
409 upon the ballot. If the appropriate election commission
410 determines that the candidate has taken the steps necessary to
411 qualify for more than one (1) office at the election, the action
412 required by Section 23-15-905, shall be taken.

413 (10) If after the deadline to qualify as a candidate for an
414 office or after the time for holding any party primary for an
415 office, only one (1) person has duly qualified to be a candidate
416 for the office in the general election, the name of that person
417 shall be placed on the ballot; provided, however, that if not more
418 than one (1) person duly qualified to be a candidate for each
419 office on the general election ballot, the election for all



420 offices on the ballot shall be dispensed with and the appropriate
421 election commission shall declare each candidate elected without
422 opposition if the candidate meets all the qualifications to hold
423 the office as determined pursuant to a review by the election
424 commission in accordance with the provisions of subsection (9) of
425 this section and if the candidate has filed all required campaign
426 finance disclosure reports as required by Section 23-15-807.

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

429 **SECTION 5.** This act shall take effect and be in force from
430 and after July 1, 2018.

