

By: Senator(s) DeBar

To: Elections;
Accountability, Efficiency,
Transparency

SENATE BILL NO. 2680

1 AN ACT TO CREATE THE "NONPARTISAN COUNTY ELECTIONS ACT"; TO
2 PROVIDE THAT THE COUNTY OFFICES OF CHANCERY CLERK, CIRCUIT CLERK,
3 TAX ASSESSOR, TAX COLLECTOR, COUNTY SURVEYOR AND COUNTY CORONER
4 SHALL BE NONPARTISAN; TO PROVIDE DEFINITIONS FOR SUCH ACT; TO
5 PROVIDE WHEN A CANDIDATE SHALL FILE THEIR INTENT AND THE AMOUNT OF
6 FEES APPLICABLE FOR SUCH OFFICE; TO PROVIDE HOW THE NAMES OF THE
7 CANDIDATES SHALL BE GROUPED ON A BALLOT; TO PROVIDE THE PROCEDURE
8 WHEN TWO OR MORE CANDIDATES QUALIFY FOR COUNTY OFFICE; TO AMEND
9 SECTION 23-15-297, MISSISSIPPI CODE OF 1972, TO REMOVE COUNTY
10 OFFICES FROM FEE REQUIREMENTS FOR PARTY NOMINATION; TO AMEND
11 SECTIONS 23-15-297, 23-15-291, 23-15-153, 23-15-411, 23-15-21,
12 23-15-31, 23-15-507 AND 23-15-911, MISSISSIPPI CODE OF 1972, TO
13 CONFORM; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** (1) This act shall be known and may be cited as
16 the "Nonpartisan County Elections Act."

17 (2) The purpose of this act is to provide that the following
18 county offices shall be nonpartisan: chancery clerk, circuit
19 clerk, tax assessor, tax collector, county surveyor and county
20 coroner.

21 **SECTION 2.** (1) A county office listed in Section 1 of this
22 act shall be a nonpartisan office and a candidate for election to
23 a county office is prohibited from campaigning or qualifying for



24 such an office based on party affiliation. No committee,
25 political party, or political committee affiliated with a
26 political party shall engage in fund-raising, make any
27 contribution, nor endorse any candidate or officeholder of a
28 nonpartisan county office, or the political committee of a
29 candidate or officeholder of a nonpartisan county office. No
30 candidate, candidate's political committee, nor officeholder of a
31 nonpartisan county office shall accept a contribution from any
32 committee, political party, nor political committee affiliated
33 with a political party.

34 (2) Except as otherwise provided by this act, the general
35 laws for election in this state shall apply to and govern the
36 election for county offices.

37 **SECTION 3.** (1) For purposes of this act, the following
38 words shall have the meanings provided herein, unless the context
39 clearly indicates otherwise:

40 (a) "Preferential county election" means an election
41 held for the purpose of determining those candidates for county
42 offices listed in Section 1 of this act whose names will be placed
43 on the general or regular election ballot. Any person who meets
44 the qualifications as a candidate for a county office may be a
45 candidate in the preferential county election without regard to
46 party affiliation or lack of party affiliation.

47 (b) "General election" or "regular election" means an
48 election held as provided by law in Chapter 15, Title 23,



Mississippi Code of 1972, for the purpose of determining which candidate shall be elected to office.

(c) "County office" means an office listed in Section 1 of this act.

(d) "Candidate" means a person who enters the race for an office listed in Section 1 of this act.

(2) All qualified electors of the State of Mississippi, without regard to party affiliation or lack of party affiliation, shall be qualified to vote for candidates for nomination for county office.

SECTION 4. (1) All candidates for county office listed in Section 1 of this act shall file their intent to be a candidate with the proper officials not later than 5:00 p.m. sixty (60) days before any general or regular election and pay the proper officials One Hundred Dollars (\$100.00).

(2) No person shall be denied a place upon the ballot for any office for which he desires to be a candidate because of his inability to pay the assessment above set out.

(3) Candidates for county office shall file their intent to be a candidate with, and pay the proper assessment made pursuant to subsection (1) of this section to the circuit clerk of the county. The circuit clerk shall notify the county commissioners of election of all persons who have filed their intent to be a candidate with, and paid the proper assessment to, such clerk, within two (2) business days.



SECTION 5.

(1) The names of candidates for county office which appear on the ballot at the general election shall be grouped together on a separate portion of the ballot, clearly identified as nonpartisan county elections.

(2) The names of all candidates for county office shall be listed in alphabetical order on any ballot and no reference to political party affiliation shall appear on any ballot with respect to any nonpartisan county office or candidate.

(3) The name of an unopposed candidate for county office shall be placed on the general election ballot.

SECTION 6.

If two (2) or more candidates qualify for county office, the names of those candidates shall be placed on the general election ballot. If any candidate for such an office receives a majority of the votes cast for such office in the general election, he shall be declared elected. If no candidate for such office receives a majority of the votes cast for such office in the general election, the names of the two (2) candidates receiving the highest number of votes for such office shall be placed on the ballot for a second election to be held three (3) weeks later in accordance with appropriate procedures followed in other runoff elections.

SECTION 7.

Section 23-15-297, Mississippi Code of 1972, is amended as follows:

23-15-297. All candidates upon entering the race for party nominations for office shall first pay to the proper officer as



provided for in Section 23-15-299 for each primary election and all independent candidates and special election candidates shall pay to the proper officer as provided for in Section 23-15-299 the following amounts:

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

(b) Candidates for Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, Auditor of Public Accounts, Commissioner of Insurance, Commissioner of Agriculture and Commerce, State Highway Commissioner and State Public Service Commissioner, Five Hundred Dollars (\$500.00).

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

(d) Candidates for sheriff, * * * county attorney, county superintendent of education and board of supervisors, One Hundred Dollars (\$100.00).

(e) Candidates for * * * justice court judge and constable, One Hundred Dollars (\$100.00).

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

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

SECTION 8. Section 23-15-291, Mississippi Code of 1972, is amended as follows:



23-15-291. Except as provided in Sections 1 and 3 of this act, all nominations for state, district, county and county district officers made by the different parties of this state shall be made by primary elections. All primary elections shall be governed and regulated by the election laws of the state in force at the time the primary election is held.

SECTION 9. Section 23-15-153, Mississippi Code of 1972, is amended as follows:

23-15-153. (1) At least during the following times, the election commissioners shall meet at the office of the registrar or the office of the election commissioners to carefully revise the county voter roll as electronically maintained by the Statewide Elections Management System and remove from the roll the names of all voters who have requested to be purged from the voter roll, died, received an adjudication of non compos mentis, been convicted of a disenfranchising crime, or otherwise become disqualified as electors for any cause, and shall register the names of all persons who have duly applied to be registered but have been illegally denied registration:

(a) On the Tuesday after the second Monday in January 1987 and every following year;

(b) On the first Tuesday in the month immediately preceding the first primary election for members of Congress in the years when members of Congress are elected;



147 (c) (i) On the first Monday in the month immediately
148 preceding the first primary election for state, state district
149 legislative, county and county district offices in the years in
150 which those offices are elected; and

151 (ii) On the first Monday in the month immediately
152 preceding the first county preferential election for nonpartisan
153 county offices in the years in which those offices are elected;
154 and

155 (d) On the second Monday of September preceding the
156 general election or regular special election day in years in which
157 a general election is not conducted.

158 Except for the names of those voters who are duly qualified
159 to vote in the election, no name shall be permitted to remain in
160 the Statewide Elections Management System; however, no name shall
161 be purged from the Statewide Elections Management System based on
162 a change in the residence of an elector except in accordance with
163 procedures provided for by the National Voter Registration Act of
164 1993. Except as otherwise provided by Section 23-15-573, no
165 person shall vote at any election whose name is not in the county
166 voter roll electronically maintained by the Statewide Elections
167 Management System.

168 (2) Except as provided in this section, and subject to the
169 following annual limitations, the election commissioners shall be
170 entitled to receive a per diem in the amount of Eighty-four
171 Dollars (\$84.00), to be paid from the county general fund, for



every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the county voter roll as electronically maintained by the Statewide Elections Management System as required in subsection (1) of this section:

(a) In counties having less than fifteen thousand (15,000) residents according to the latest federal decennial census, not more than fifty (50) days per year, with no more than fifteen (15) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(b) In counties having fifteen thousand (15,000) residents according to the latest federal decennial census but less than thirty thousand (30,000) residents according to the latest federal decennial census, not more than seventy-five (75) days per year, with no more than twenty-five (25) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(c) In counties having thirty thousand (30,000) residents according to the latest federal decennial census but less than seventy thousand (70,000) residents according to the latest federal decennial census, not more than one hundred (100) days per year, with no more than thirty-five (35) additional days



196 allowed for the conduct of each election in excess of one (1)
197 occurring in any calendar year;

198 (d) In counties having seventy thousand (70,000)
199 residents according to the latest federal decennial census but
200 less than ninety thousand (90,000) residents according to the
201 latest federal decennial census, not more than one hundred
202 twenty-five (125) days per year, with no more than forty-five (45)
203 additional days allowed for the conduct of each election in excess
204 of one (1) occurring in any calendar year;

205 (e) In counties having ninety thousand (90,000)
206 residents according to the latest federal decennial census but
207 less than one hundred seventy thousand (170,000) residents
208 according to the latest federal decennial census, not more than
209 one hundred fifty (150) days per year, with no more than
210 fifty-five (55) additional days allowed for the conduct of each
211 election in excess of one (1) occurring in any calendar year;

212 (f) In counties having one hundred seventy thousand
213 (170,000) residents according to the latest federal decennial
214 census but less than two hundred thousand (200,000) residents
215 according to the latest federal decennial census, not more than
216 one hundred seventy-five (175) days per year, with no more than
217 sixty-five (65) additional days allowed for the conduct of each
218 election in excess of one (1) occurring in any calendar year;

219 (g) In counties having two hundred thousand (200,000)
220 residents according to the latest federal decennial census but



less than two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census, not more than one hundred ninety (190) days per year, with no more than seventy-five (75) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(h) In counties having two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census but less than two hundred fifty thousand (250,000) residents according to the latest federal decennial census, not more than two hundred fifteen (215) days per year, with no more than eighty-five (85) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(i) In counties having two hundred fifty thousand (250,000) residents according to the latest federal decennial census but less than two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census, not more than two hundred thirty (230) days per year, with no more than ninety-five (95) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(j) In counties having two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census or more, not more than two hundred forty (240) days per year, with no more than one hundred five (105) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year.



246 (3) In addition to the number of days authorized in
247 subsection (2) of this section, the board of supervisors of a
248 county may authorize, in its discretion, the election
249 commissioners to receive a per diem in the amount provided for in
250 subsection (2) of this section, to be paid from the county general
251 fund, for every day or period of no less than five (5) hours
252 accumulated over two (2) or more days actually employed in the
253 performance of their duties in the conduct of an election or
254 actually employed in the performance of their duties for the
255 necessary time spent in the revision of the county voter roll as
256 electronically maintained by the Statewide Elections Management
257 System as required in subsection (1) of this section, for not to
258 exceed five (5) days.

259 (4) (a) The election commissioners shall be entitled to
260 receive a per diem in the amount of Eighty-four Dollars (\$84.00),
261 to be paid from the county general fund, not to exceed ten (10)
262 days for every day or period of no less than five (5) hours
263 accumulated over two (2) or more days actually employed in the
264 performance of their duties for the necessary time spent in the
265 revision of the county voter roll as electronically maintained by
266 the Statewide Elections Management System before any special
267 election. For purposes of this paragraph, the regular special
268 election day shall not be considered a special election. The
269 annual limitations set forth in subsection (2) of this section
270 shall not apply to this paragraph.



271 (b) The election commissioners shall be entitled to
272 receive a per diem in the amount of One Hundred Fifty Dollars
273 (\$150.00), to be paid from the county general fund, for the
274 performance of their duties on the day of any general or special
275 election. The annual limitations set forth in subsection (2) of
276 this section shall apply to this paragraph.

277 (5) The election commissioners shall be entitled to receive
278 a per diem in the amount of Eighty-four Dollars (\$84.00), to be
279 paid from the county general fund, not to exceed fourteen (14)
280 days for every day or period of no less than five (5) hours
281 accumulated over two (2) or more days actually employed in the
282 performance of their duties for the necessary time spent in the
283 revision of the county voter roll as electronically maintained by
284 the Statewide Elections Management System and in the conduct of a
285 runoff election following either a general or special election.

286 (6) The election commissioners shall be entitled to receive
287 only one (1) per diem payment for those days when the election
288 commissioners discharge more than one (1) duty or responsibility
289 on the same day.

290 (7) In preparation for a municipal primary, runoff, general
291 or special election, the county registrar shall generate and
292 distribute the master voter roll and pollbooks from the Statewide
293 Elections Management System for the municipality located within
294 the county. The municipality shall pay the county registrar for
295 the actual cost of preparing and printing the municipal master



voter roll pollbooks. A municipality may secure "read only" access to the Statewide Elections Management System and print its own pollbooks using this information.

(8) County election commissioners who perform the duties of an executive committee with regard to the conduct of a primary election under a written agreement authorized by law to be entered into with an executive committee shall receive per diem as provided for in subsection (2) of this section. The days that county election commissioners are employed in the conduct of a primary election shall be treated the same as days county election commissioners are employed in the conduct of other elections.

(9) In addition to any per diem authorized by this section, any election commissioner shall be entitled to the mileage reimbursement rate allowable to federal employees for the use of a privately owned vehicle while on official travel on election day.

(10) Every election commissioner shall sign personally a certification setting forth the number of hours actually worked in the performance of the commissioner's official duties and for which the commissioner seeks compensation. The certification must be on a form as prescribed in this subsection. The commissioner's signature is, as a matter of law, made under the commissioner's oath of office and under penalties of perjury.

The certification form shall be as follows:

COUNTY ELECTION COMMISSIONER

PER DIEM CLAIM FORM



321 NAME: _____ COUNTY: _____

322 ADDRESS: _____ DISTRICT: _____

323 CITY: _____ ZIP: _____

324 PURPOSE APPLICABLE ACTUAL PER DIEM

325 DATE BEGINNING ENDING OF MS CODE HOURS DAYS

326 WORKED TIME TIME WORK SECTION WORKED EARNED

327 _____

328 _____

329 _____

330 TOTAL NUMBER OF PER DIEM DAYS EARNED

331 EXCLUDING ELECTION DAYS _____

332 PER DIEM RATE PER DAY EARNED X \$84.00

333 TOTAL NUMBER PER DIEM DAYS EARNED

334 FOR ELECTION DAYS _____

335 PER DIEM RATE PER DAY EARNED X \$150.00

336 TOTAL AMOUNT OF PER DIEM CLAIMED \$ _____

337 I understand that I am signing this document under my oath as
338 an election commissioner and under penalties of perjury.

339 I understand that I am requesting payment from taxpayer funds
340 and that I have an obligation to be specific and truthful as to
341 the amount of hours worked and the compensation I am requesting.

342 Signed this the _____ day of _____, ____.

343 _____

344 Commissioner's Signature



345 When properly completed and signed, the certification must be
346 filed with the clerk of the county board of supervisors before any
347 payment may be made. The certification will be a public record
348 available for inspection and reproduction immediately upon the
349 oral or written request of any person.

350 Any person may contest the accuracy of the certification in
351 any respect by notifying the chair of the commission, any member
352 of the board of supervisors or the clerk of the board of
353 supervisors of the contest at any time before or after payment is
354 made. If the contest is made before payment is made, no payment
355 shall be made as to the contested certificate until the contest is
356 finally disposed of. The person filing the contest shall be
357 entitled to a full hearing, and the clerk of the board of
358 supervisors shall issue subpoenas upon request of the contestor
359 compelling the attendance of witnesses and production of documents
360 and things. The contestor shall have the right to appeal de novo
361 to the circuit court of the involved county, which appeal must be
362 perfected within thirty (30) days from a final decision of the
363 commission, the clerk of the board of supervisors or the board of
364 supervisors, as the case may be.

365 Any contestor who successfully contests any certification
366 will be awarded all expenses incident to his or her contest,
367 together with reasonable attorney's fees, which will be awarded
368 upon petition to the chancery court of the involved county upon
369 final disposition of the contest before the election commission,



board of supervisors, clerk of the board of supervisors, or, in case of an appeal, final disposition by the court. The commissioner against whom the contest is decided shall be liable for the payment of the expenses and attorney's fees, and the county shall be jointly and severally liable for same.

(11) Any election commissioner who has not received a certificate issued by the Secretary of State pursuant to Section 23-15-211 indicating that the election commissioner has received the required elections seminar instruction and that the election commissioner is fully qualified to conduct an election, shall not receive any compensation authorized by this section or Section 23-15-239.

SECTION 10. Section 23-15-411, Mississippi Code of 1972, is amended as follows:

23-15-411. The officer who furnishes the official ballots for any polling place where a voting machine is to be used, shall also provide two (2) sample ballots or instruction ballots, which sample or instruction ballots shall be arranged in the form of a diagram showing such portion of the front of the voting machine as it will appear after the official ballots are arranged thereon or therein for voting on election day. Such sample ballots shall be open to the inspection of all voters on election day, in all * * * elections where voting machines are used.

SECTION 11. Section 23-15-21, Mississippi Code of 1972, is amended as follows:



23-15-21. It shall be unlawful for any person who is not a citizen of the United States or the State of Mississippi to register or to vote in any * * * election in the state.

SECTION 12. Section 23-15-31, Mississippi Code of 1972, is amended as follows:

23-15-31. All of the provisions of this subarticle shall be applicable, insofar as possible, to municipal, primary, county preferential, general and special elections; and wherever therein any duty is imposed or any power or authority is conferred upon the county registrar, county election commissioners or county executive committee with reference to a state and county election, such duty shall likewise be conferred upon the municipal registrar, municipal election commission or municipal executive committee with reference to any municipal election.

SECTION 13. Section 23-15-507, Mississippi Code of 1972, is amended as follows:

23-15-507. No OMR equipment shall be acquired or used in accordance with this chapter unless it shall:

(a) Permit eligible voters to vote at any election for all persons for whom they are lawfully entitled to vote; to vote for as many persons for an office as they are lawfully entitled to vote; to vote for or against any ballot initiative, measure or other local issue upon which they are lawfully entitled to vote;

(b) The OMR equipment shall be capable of rejecting choices marked on the ballot if the number of choices exceeds the



420 number that the voter is entitled to vote for the office or on the
421 measure;

422 (c) Permit each voter, in presidential elections, by
423 one (1) mark to vote for the candidates of that party for
424 President, Vice President, and their presidential electors, or to
425 vote individually for the electors of their choice when permitted
426 by law;

427 (d) Permit each voter, in other than primary elections,
428 to vote for the * * * candidates of one or more parties and for
429 independent candidates;

430 (e) Permit each voter to vote for candidates only in
431 the primary in which he or she is qualified to vote;

432 (f) Permit each voter to vote for persons whose names
433 are not on the printed ballot;

434 (g) Be suitably designed for the purpose used, of
435 durable construction, and may be used safely, efficiently and
436 accurately in the conduct of elections and the counting of
437 ballots;

438 (h) Be provided with means for sealing the ballots
439 after the close of the polls;

440 (i) When properly operated, record correctly and count
441 accurately all votes cast; and

442 (j) Provide the voter with a set of instructions that
443 will be displayed in such a way that a voter may readily learn the
444 method of voting.



445 **SECTION 14.** Section 23-15-911, Mississippi Code of 1972, is
446 amended as follows:

447 23-15-911. (1) (a) When the returns for a box and the
448 contents of the ballot box and the conduct of the election have
449 been canvassed and reviewed by the county election commission in
450 the case of general and preferential elections or the county
451 executive committee in the case of primary elections, all the
452 contents of the box required to be placed and sealed in the ballot
453 box by the poll managers shall be replaced therein by the election
454 commission or executive committee, as the case may be, and the box
455 shall be forthwith resealed and delivered to the circuit clerk,
456 who shall safely keep and secure the same against any tampering.
457 At any time within twelve (12) days after the canvass and
458 examination of the box and its contents by the election commission
459 or executive committee, as the case may be, any candidate or his
460 or her representative authorized in writing by him or her shall
461 have the right of full examination of the box and its contents
462 upon three (3) days' notice of his or her application therefor
463 served upon the opposing candidates. The service of notice shall
464 be provided to each opposing candidate by delivering a copy
465 personally to each candidate, or by performing two (2) of the
466 following:

467 (i) By leaving a copy at each candidate's usual
468 place of residence with a family member, who shall be no less than



469 sixteen (16) years of age and, who resides in the candidate's
470 residence;

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

473 (iii) By mailing a copy of the notice by
474 registered or certified mail that is addressed to each opposing
475 candidate at that candidate's residence with receipt deemed
476 mailing.

477 (b) If service of notice cannot be made to any opposing
478 candidate, then notice may be posted on the door of each
479 candidate's usual place of abode. If any candidate's usual place
480 of residence is a multi-family dwelling, a copy of the notice must
481 be mailed to the candidate or candidates by United States
482 first-class mail, postage prepaid, return receipt requested.
483 Proof of service of notice upon any opposing candidate shall be
484 made to the circuit clerk within three (3) days before a full
485 examination of the ballot box may be conducted.

486 (c) The examination shall be conducted in the presence
487 of the circuit clerk or his or her deputy who shall be charged
488 with the duty to see that none of the contents of the box are
489 removed from the presence of the clerk or in any way tampered
490 with. Upon the completion of the examination the box shall be
491 resealed with all its original contents inside. And if any
492 contest or complaint before the court shall arise over the box, it
493 shall be kept intact and sealed until the court hearing and



494 another ballot box, if necessary, shall be furnished for the
495 precinct involved.

496 (2) The provisions of this section allowing the examination
497 of ballot boxes shall apply in the case of an election contest
498 regarding the seat of a member of the state Legislature. In such
499 a case, the results of the examination shall be reported by the
500 applicable circuit clerk to the Clerk of the House of
501 Representatives or the Secretary of the Senate, as the case may
502 be.

503 **SECTION 15.** This act shall take effect and be in force from
504 and after July 1, 2018.

