

By: Representative Massengill

To: Apportionment and  
Elections

HOUSE BILL NO. 36

1 AN ACT TO PROVIDE THAT THE OFFICE OF ELECTION COMMISSIONER  
2 SHALL BE A NONPARTISAN OFFICE; TO PROVIDE THAT THE NAMES OF  
3 CANDIDATES FOR THE OFFICE OF ELECTION COMMISSIONER SHALL BE LISTED  
4 AS NONPARTISAN ON A BALLOT; TO AMEND SECTIONS 23-15-213, 23-15-367  
5 AND 23-15-511, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE  
6 PROVISIONS OF THIS ACT; TO BRING FORWARD SECTION 23-15-531.3,  
7 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;  
8 AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** The office of election commissioner is a  
11 nonpartisan office and a candidate for election to the office is  
12 prohibited from campaigning or qualifying for the office based on  
13 party affiliation. To ensure that campaigns for the nonpartisan  
14 office of election commissioner remain nonpartisan and without any  
15 connection to a political party, political parties and any  
16 committee or political committee affiliated with a political party  
17 shall not engage in fundraising on behalf of a candidate or  
18 officeholder of the nonpartisan office of election commissioner,  
19 and a political party or any committee or political committee  
20 affiliated with a political party shall not make any contribution  
21 to a candidate for the nonpartisan office of election commissioner



22 or the political committee of a candidate for the nonpartisan  
23 office of election commissioner. A political party or any  
24 committee or political committee affiliated with a political party  
25 shall not publicly endorse a candidate for the nonpartisan office  
26 of election commissioner. A candidate or the political committee  
27 of a candidate for the nonpartisan office of election commissioner  
28 shall not accept a contribution from a political party or any  
29 committee or political committee affiliated with a political  
30 party.

31 **SECTION 2.** (1) The names of candidates for the office of  
32 election commissioner which appear on the ballot at the general  
33 election shall be grouped together on a separate portion of the  
34 ballot and clearly identified as nonpartisan.

35 (2) The names of all candidates for the office of election  
36 commissioner shall be listed in alphabetical order on any ballot,  
37 and no reference to political party affiliation shall appear on  
38 any ballot with respect to the nonpartisan office of election  
39 commissioner or the candidate for the nonpartisan office of  
40 election commissioner.

41 **SECTION 3.** Section 23-15-213, Mississippi Code of 1972, is  
42 amended as follows:

43 **[Until December 31, 2022, this section shall read as**  
44 **follows:]**

45 23-15-213. (1) At the general election in 2020, there shall  
46 be elected five (5) election commissioners for each county whose



47 terms of office shall commence on the first Monday of January  
48 following their election. Each of the commissioners shall be  
49 required to attend a training seminar provided by the Secretary of  
50 State and satisfactorily complete a skills assessment, and before  
51 acting, shall take and subscribe the oath of office prescribed by  
52 the Constitution. The oath shall be filed in the office of the  
53 clerk of the chancery court. Upon filing the oath of office, the  
54 election commissioner may be provided access to the Statewide  
55 Elections Management System for the purpose of performing his or  
56 her duties. While engaged in their duties, the commissioners  
57 shall be conservators of the peace in the county, with all the  
58 duties and powers of such.

59 (2) The qualified electors of each supervisors district  
60 shall elect, at the general election in 2020, in their district  
61 one (1) election commissioner. The election commissioners from  
62 board of supervisors' Districts One, Three and Five shall serve  
63 for a term of four (4) years. The election commissioners from  
64 board of supervisors' Districts Two and Four shall serve for a  
65 term of three (3) years. No more than one (1) commissioner shall  
66 be a resident of and reside in each supervisors district of the  
67 county; it being the purpose of this section that the county board  
68 of election commissioners shall consist of one (1) person from  
69 each supervisors district of the county and that each commissioner  
70 be elected from the supervisors district in which he or she  
71 resides.



72 (3) Candidates for county election commissioner shall  
73 qualify by filing with the clerk of the board of supervisors of  
74 their respective counties a petition personally signed by not less  
75 than fifty (50) qualified electors of the supervisors district in  
76 which they reside, requesting that they be a candidate, by 5:00  
77 p.m. not later than the first Monday in June of the year in which  
78 the election occurs and unless the petition is filed within the  
79 required time, their names shall not be placed upon the  
80 ballot. \* \* \*

81 (4) The petition shall have attached thereto a certificate  
82 of the county registrar showing the number of qualified electors  
83 on each petition, which shall be furnished by the registrar on  
84 request. The board shall determine the sufficiency of the  
85 petition, and if the petition contains the required number of  
86 signatures and is filed within the time required, the president of  
87 the board shall verify that the candidate is a resident of the  
88 supervisors district in which he or she seeks election and that  
89 the candidate is otherwise qualified as provided by law, and shall  
90 certify that the candidate is qualified to the chair or secretary  
91 of the county election commission and the names of the candidates  
92 shall be placed upon the ballot for the ensuing election. No  
93 county election commissioner shall serve or be considered as  
94 elected until he or she has received a majority of the votes cast  
95 for the position or post for which he or she is a candidate. If a  
96 majority vote is not received in the first election, then the two



97 (2) candidates receiving the most votes for each position or post  
98 shall be placed upon the ballot for a second election to be held  
99 three (3) weeks later in accordance with appropriate procedures  
100 followed in other elections involving runoff candidates.

101 (5) Upon taking office, the county election commissioners  
102 shall organize by electing a chair and a secretary.

103 (6) It shall be the duty of the chair to have the official  
104 ballot printed and distributed at each general or special  
105 election.

106 **[From and after January 1, 2023, this section shall read as**  
107 **follows:]**

108 23-15-213. (1) There shall be elected five (5) election  
109 commissioners for each county whose terms of office shall commence  
110 on the first Monday of January following their election and who  
111 shall serve for a term of four (4) years. Each of the  
112 commissioners shall be required to attend a training seminar  
113 provided by the Secretary of State and satisfactorily complete a  
114 skills assessment, and before acting, shall take and subscribe the  
115 oath of office prescribed by the Constitution. The oath shall be  
116 filed in the office of the clerk of the chancery court. Upon  
117 filing the oath of office, the election commissioner may be  
118 provided access to the Statewide Elections Management System for  
119 the purpose of performing his or her duties. While engaged in  
120 their duties, the commissioners shall be conservators of the peace  
121 in the county, with all the duties and powers of such.



122           (2)   (a)   At the general election in 2024 and every four (4)  
123 years thereafter, the qualified electors of the board of  
124 supervisors' Districts One, Three and Five shall elect in their  
125 district one (1) election commissioner.

126           (b)   At the general election in 2023 and every four (4)  
127 years thereafter, the qualified electors of the board of  
128 supervisors' Districts Two and Four shall elect in their district  
129 one (1) election commissioner.

130           (c)   No more than one (1) commissioner shall be a  
131 resident of and reside in each supervisors district of the county;  
132 it being the purpose of this section that the county board of  
133 election commissioners shall consist of one (1) person from each  
134 supervisors district of the county and that each commissioner be  
135 elected from the supervisors district in which he or she resides.

136           (3)   Candidates for county election commissioner shall  
137 qualify by filing with the clerk of the board of supervisors of  
138 their respective counties a petition personally signed by not less  
139 than fifty (50) qualified electors of the supervisors district in  
140 which they reside, requesting that they be a candidate, by 5:00  
141 p.m. not later than the first Monday in June of the year in which  
142 the election occurs and unless the petition is filed within the  
143 required time, their names shall not be placed upon the  
144 ballot. \* \* \*

145           (4)   The petition shall have attached thereto a certificate  
146 of the county registrar showing the number of qualified electors



147 on each petition, which shall be furnished by the registrar on  
148 request. The board shall determine the sufficiency of the  
149 petition, and if the petition contains the required number of  
150 signatures and is filed within the time required, the president of  
151 the board shall verify that the candidate is a resident of the  
152 supervisors district in which he or she seeks election and that  
153 the candidate is otherwise qualified as provided by law, and shall  
154 certify that the candidate is qualified to the chair or secretary  
155 of the county election commission and the names of the candidates  
156 shall be placed upon the ballot for the ensuing election. No  
157 county election commissioner shall serve or be considered as  
158 elected until he or she has received a majority of the votes cast  
159 for the position or post for which he or she is a candidate. If a  
160 majority vote is not received in the first election, then the two  
161 (2) candidates receiving the most votes for each position or post  
162 shall be placed upon the ballot for a second election to be held  
163 three (3) weeks later in accordance with appropriate procedures  
164 followed in other elections involving runoff candidates.

165 (5) In the first meeting in January of each year, the county  
166 election commissioners shall organize by electing a chair and a  
167 secretary, who shall serve a one \* \* \*  -year term. The county  
168 election commissioners shall provide the names of the chair and  
169 secretary to the Secretary of State and provide notice of any  
170 change in officers which may occur during the year.



171 (6) It shall be the duty of the chair to have the official  
172 ballot printed and distributed at each general or special  
173 election.

174 **SECTION 4.** Section 23-15-367, Mississippi Code of 1972, is  
175 amended as follows:

176 23-15-367. (1) Except as otherwise provided by Sections  
177 23-15-974 through 23-15-985 \* \* \*, subsection (2) of this section  
178 and the provisions of Sections 1 and 2 of this act, the size,  
179 print and quality of paper of the official ballot is left to the  
180 discretion of the officer charged with printing the official  
181 ballot.

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

184 (a) Candidates, electors or delegates for the following  
185 national offices:

186 (i) President;

187 (ii) United States Senator or United States  
188 Representative;

189 (b) Candidates for the following statewide office:  
190 Governor, Lieutenant Governor, Secretary of State, Attorney  
191 General, State Treasurer, Auditor of Public Accounts, Commissioner  
192 of Agriculture and Commerce, Commissioner of Insurance;

193 (c) Candidates for the following state district  
194 offices: Mississippi Transportation Commissioner, Public Service  
195 Commissioner, District Attorney;





- 196 (d) Candidates for the following legislative offices:  
197 Senate and House of Representatives;  
198 (e) Candidates for countywide office;  
199 (f) Candidates for county district office.

200 The order in which the titles for the various offices are  
201 listed within paragraphs (e) and (f) is left to the discretion of  
202 the county election commissioners. Nominees of the political  
203 parties, qualified to conduct primary elections as defined in  
204 Section 23-15-291, shall be listed first alphabetically by the  
205 candidate's last name, followed by any other candidates listed  
206 alphabetically by last name.

207 (3) It is the duty of the Secretary of State, with the  
208 approval of the Governor, to furnish the designated election  
209 commissioner of each county a sample of the official ballot, not  
210 less than fifty-five (55) days before the election, the general  
211 form of which shall be followed as nearly as practicable.

212 **SECTION 5.** Section 23-15-511, Mississippi Code of 1972, is  
213 amended as follows:

214 23-15-511. The ballots shall, as far as practicable, be in  
215 the same order of arrangement as provided for paper ballots that  
216 are to be counted manually, except that the information may be  
217 printed in vertical or horizontal rows. Nothing in this chapter  
218 shall \* \* \* prohibit the information being presented to the voters  
219 from being printed on both sides of a single ballot. In those  
220 years when a special election \* \* \* occurs on the same day as the



221 general election, the names of candidates in any special election  
222 and the general election shall be placed on the same ballot by the  
223 election commissioners or officials in charge of the election, but  
224 the general election candidates shall be clearly distinguished  
225 from the special election candidates. At any time a special  
226 election is held on the same day as a party primary election, the  
227 names of the candidates in the special election may be placed on  
228 the same ballot by the officials in charge of the election, but  
229 shall be clearly distinguished as special election candidates or  
230 primary election candidates.

231 Ballots shall be printed in plain clear type in black ink and  
232 upon clear white materials of such size and arrangement as to be  
233 compatible with the OMR equipment. Absentee ballots shall be  
234 prepared and printed in the same form and shall be on the same  
235 size and texture as the regular official ballots, except that they  
236 shall be printed on tinted paper; or the ink used to print the  
237 ballots shall be of a color different from that of the ink used to  
238 print the regular official ballots. Arrows may be printed on the  
239 ballot to indicate the place to mark the ballot, which may be to  
240 the right or left of the names of candidates and propositions.  
241 Except as otherwise provided in Sections 1 and 2 of this act, the  
242 titles of offices may be arranged in vertical columns on the  
243 ballot and shall be printed above or at the side of the names of  
244 candidates so as to indicate clearly the candidates for each  
245 office and the number to be elected. In case there are more



246 candidates for an office than can be printed in one (1) column,  
247 the ballot shall be clearly marked that the list of candidates is  
248 continued on the following column. Except as otherwise provided  
249 in Sections 1 and 2 of this act, the names of candidates for each  
250 office shall be printed in vertical columns, grouped by the  
251 offices that they seek. In partisan elections, the party  
252 designation of each candidate, which may be abbreviated, shall be  
253 printed following his or her name.

254 One (1) sample ballot, which shall be a facsimile of the  
255 official ballot and instructions to the voters, shall be provided  
256 for each precinct and shall be posted in each polling place on  
257 election day.

258 A separate ballot security envelope or suitable equivalent in  
259 which the voter can place his or her ballot after voting, shall be  
260 provided to conceal the choices the voter has made. Absentee  
261 voters will receive a similar ballot security envelope provided by  
262 the county in which the absentee voter will insert their voted  
263 ballot, which then can be inserted into a return envelope to be  
264 mailed back to the election official. Absentee ballots will not  
265 be required to be folded when a ballot security envelope is  
266 provided.

267 **SECTION 6.** Section 23-15-531.3, Mississippi Code of 1972, is  
268 brought forward as follows:

269 23-15-531.3. (1) The ballots for DRE units shall be of such  
270 size and arrangement as will suit the construction of the DRE



271 screen and shall be in plain, clear type that is easily readable  
272 by persons with normal vision.

273 (2) (a) If the DRE unit has the capacity for color display,  
274 the names of all candidates in a particular race shall be  
275 displayed in the same color, font and size, and the political  
276 party or affiliation of candidates may be displayed in a color  
277 different from that used to display the names of the candidates,  
278 but all political parties or affiliations shall be displayed in  
279 the same color. All political party names shall be displayed in  
280 the same size and font.

281 (b) All ballot questions, local options, referenda and  
282 constitutional amendments shall be displayed in the same color.

283 **SECTION 7.** Sections 1 and 2 of this act shall be codified as  
284 new sections in Chapter 15, Title 23, Mississippi Code of 1972.

285 **SECTION 8.** This act shall take effect and be in force from  
286 and after July 1, 2020.

