

By: Representative Sanford

To: Apportionment and  
Elections; Judiciary A

## HOUSE BILL NO. 871

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



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

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

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

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

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

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

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



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

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

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

23-15-977. (1) Except as otherwise provided in this section, all candidates for judicial office as defined in Section 23-15-975 of this subarticle shall file their intent to be a candidate with the proper officials and pay the proper assessment by not later than 5:00 p.m. on March 1 of the year in which the general election for the judicial office is held. If March 1 occurs on a Saturday, Sunday or legal holiday, candidates shall file their intent to be a candidate and pay the proper assessment by 5:00 p.m. on the business day immediately following the Saturday, Sunday or legal holiday. Candidates shall pay to the proper officials the following amounts:

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

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

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



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

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

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

90 (4) If only one (1) person files his or her intent to be a  
91 candidate for a judicial office and that person later dies,  
92 resigns or is otherwise disqualified from holding the judicial  
93 office after the deadline provided for in subsection (1) of this  
94 section but more than seventy (70) days before the date of the  
95 general election, the Governor, upon notification of the death,  
96 resignation or disqualification of the person, shall issue a  
97 proclamation authorizing candidates to file their intent to be a



candidate for that judicial office for a period of not less than seven (7) nor more than ten (10) days from the date of the proclamation.

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

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

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

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

(b) In counties with a population, according to the latest federal decennial census, of more than thirty-five thousand (35,000) and less than seventy thousand (70,000), there shall be three (3) justice court judges, unless the board of supervisors,



by resolution duly spread upon its minutes, finds that two (2) is a competent number of justice court judges to adequately handle the needs of the citizens of the county.

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

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

(2) The board of supervisors shall establish single member election districts in the county for the nonpartisan election of each of the justice court judges authorized and required to be elected for the county under the provisions of subsection (1) of this section, and one (1) justice court judge shall be elected for each district by the electors \* \* \* of each district. In any county authorized and required under the provisions of subsection (1)(a) of this section to provide for the election of two (2)



justice court judges for the county in which there are two (2) judicial districts, the smaller of such judicial districts, according to population based upon the latest federal decennial census, shall comprise or shall be wholly encompassed within one (1) of \* \* \* the election districts.

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

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

**SECTION 5.** 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, chancery clerk, circuit clerk, tax assessor, tax collector, county attorney, county superintendent of education and board of supervisors, One Hundred Dollars (\$100.00).

(e) Candidates for county surveyor, county coroner \* \* \* 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 6.** Section 23-15-359, Mississippi Code of 1972, is amended as follows:

23-15-359. (1) Except as provided in this section, the ballot shall contain the names of all party nominees certified by the appropriate executive committee, and independent and special election candidates who have timely filed petitions containing the required signatures and assessments that must be paid pursuant to Section 23-15-297, if the candidates and nominees meet all of the





197 qualifications to hold the office sought. A petition requesting  
198 that an independent or special election candidate's name be placed  
199 on the ballot for any office shall be filed as provided for in  
200 subsection (3) or (4) of this section, as appropriate, and shall  
201 be signed by not less than the following number of qualified  
202 electors:

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

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

208 (c) For an office elected by the qualified electors of  
209 a congressional district, not less than two hundred (200)  
210 qualified electors.

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

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

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

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



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

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

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

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



247           (4) Petitions for offices described in paragraphs (f) and  
248           (g) of subsection (1) of this section shall be filed with the  
249           proper circuit clerk by no later than 5:00 p.m. on the same date  
250           by which candidates are required to pay the fee provided for in  
251           Section 23-15-297; however, no petition may be filed before  
252           January 1 of the year in which the election for the office is  
253           held. The circuit clerk shall notify the county election  
254           commissioners of all persons who have filed petitions with the  
255           clerk. The notification shall occur within two (2) business days  
256           and shall contain all necessary information.

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

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

269           (7) The provisions of this section shall not apply to  
270           municipal elections or to the election of the offices of justice  
271           of the Supreme Court, judge of the Court of Appeals, circuit



judge, chancellor, county court judge \* \* \*, family court judge  
and justice court judge.

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

(9) (a) The appropriate election commission shall determine whether each candidate is a qualified elector of the state, state district, county or county district they seek to serve, and whether each candidate meets all other qualifications to hold the office he or she is seeking or presents absolute proof that he or she will, subject to no contingencies, meet all qualifications on or before the date of the general or special election at which he or she could be elected to office. The election commission shall determine whether the candidate has taken the steps necessary to qualify for more than one (1) office at the election. The election commission also shall determine whether any candidate has been convicted (i) of any felony in a court of this state, (ii) on or after December 8, 1992, of any offense in another state which is a felony under the laws of this state, (iii) of any felony in a federal court on or after December 8, 1992, or (iv) of any offense



297 that involved the misuse or abuse of his or her office or money  
298 coming into his or her hands by virtue of the office. Excepted  
299 from the above are convictions of manslaughter and violations of  
300 the United States Internal Revenue Code or any violations of the  
301 tax laws of this state.

302 (b) If the appropriate election commission finds that a  
303 candidate either (i) is not a qualified elector, (ii) does not  
304 meet all qualifications to hold the office he or she seeks and  
305 fails to provide absolute proof, subject to no contingencies, that  
306 he or she will meet the qualifications on or before the date of  
307 the general or special election at which he or she could be  
308 elected, or (iii) has been convicted of a felony or other  
309 disqualifying offense as described in paragraph (a) of this  
310 subsection, and not pardoned, then the election commission shall  
311 notify the candidate and give the candidate an opportunity to be  
312 heard. The election commission shall mail notice to the candidate  
313 at least three (3) business days before the hearing to the address  
314 provided by the candidate on the qualifying forms, and the  
315 committee shall attempt to contact the candidate by telephone,  
316 email and facsimile if the candidate provided this information on  
317 the forms. If the candidate fails to appear at the hearing or to  
318 prove that he or she meets all qualifications to hold the office  
319 subject to no contingencies, then the name of such candidate shall  
320 not be placed upon the ballot. If the appropriate election  
321 commission determines that the candidate has taken the steps



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

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

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

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

23-15-973. It shall be the duty of the judges of the circuit  
court to give a reasonable time and opportunity to the candidates  
for the office of judge of the Supreme Court, judges of the Court  
of Appeals, circuit judge \* \* \*, chancellor and justice court  
judge to address the people during court terms. In order to give



347 further and every possible emphasis to the fact that the \* \* \*  
348 judicial offices are not political but are to be held without  
349 favor and with absolute impartiality as to all persons, and  
350 because of the jurisdiction conferred upon the courts by this  
351 chapter, the judges \* \* \* of those offices should be as far  
352 removed as possible from any political affiliations or  
353 obligations. It shall be unlawful for any candidate for any of  
354 the offices mentioned in this section to align himself or herself  
355 with any candidate or candidates for any other office or with any  
356 political faction or any political party at any time during any  
357 primary or general election campaign. Likewise it shall be  
358 unlawful for any candidate for any other office nominated or to be  
359 nominated at any primary election, wherein any candidate for any  
360 of the judicial offices in this section mentioned, is or are to be  
361 nominated, to align himself or herself with any one or more of the  
362 candidates for \* \* \* the offices or to take any part whatever in  
363 any nomination for any one or more of \* \* \* the judicial offices,  
364 except to cast his or her individual vote. Any candidate for any  
365 office, whether nominated with or without opposition, at any  
366 primary wherein a candidate for any one (1) of the judicial  
367 offices herein mentioned is to be nominated who shall  
368 deliberately, knowingly and willfully violate the provisions of  
369 this section shall forfeit his or her nomination, or if elected at  
370 the following general election by virtue of \* \* \* the nomination,  
371 his or her election shall be void.



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

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

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

395           23-15-193. At the election in 1995, and every four (4) years  
396 thereafter, there shall be elected a Governor, Lieutenant





Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, three (3) public service commissioners, three (3) Mississippi Transportation Commissioners, Commissioner of Insurance, Commissioner of Agriculture and Commerce, Senators and members of the House of Representatives in the Legislature, district attorneys for the several districts, clerks of the circuit and chancery courts of the several counties, as well as sheriffs, coroners, assessors, surveyors and members of the boards of supervisors, justice court judges and constables, and all other officers to be elected by the people at the general state election. All such officers shall hold their offices for a term of four (4) years, and until their successors are elected and qualified. The state officers shall be elected in the manner prescribed in Section 140 of the Constitution.

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

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

All special elections, or elections to fill vacancies, shall in all respects be held, conducted and returned in the same manner as general elections, except that where no candidate receives a



majority of the votes cast in the election, a runoff election shall be held three (3) weeks after the election. The two (2) candidates who receive the highest popular votes for the office shall have their names submitted as the candidates to the runoff and the candidate who leads in the runoff election shall be elected to the office. When there is a tie in the first election of those receiving the next highest vote, these two (2) and the one receiving the highest vote, none having received a majority, shall go into the runoff election and whoever leads in the runoff election shall be entitled to the office.

In those years when the regular special election day shall occur on the same day as the general election, the names of candidates in any special election and the general election shall be placed on the same ballot, but shall be clearly distinguished as general election candidates or special election candidates. At any time a special election is held on the same day as a party primary election, the names of the candidates in the special election may be placed on the same ballot, but shall be clearly distinguished as special election candidates or primary election candidates.

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

23-15-849. (1) Vacancies in the office of circuit judge or chancellor shall be filled for the unexpired term by the qualified electors at the next regular special election occurring more than



447 nine (9) months after the vacancy to be filled occurred, and the  
448 term of office of the person elected to fill a vacancy shall  
449 commence on the first Monday in January following the election.  
450 Upon the occurrence of a vacancy, the Governor shall appoint a  
451 qualified person from the district in which the vacancy exists to  
452 hold the office and discharge the duties thereof until the vacancy  
453 is filled by election as provided in this subsection.

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

466       (b) Upon occurrence of a vacancy, the Governor shall  
467 appoint a qualified person from the district in which the vacancy  
468 exists to hold the office and discharge the duties thereof as  
469 follows:

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



472                   (ii) If half or more than half of the term  
473 remains, the appointee shall serve until the vacancy is filled by  
474 election as provided in subsection (1) of this section for judges  
475 of the circuit and chancery courts. Elections to fill vacancies  
476 in the office of justice of the Supreme Court or judge of the  
477 Court of Appeals shall be held, conducted, returned and the  
478 persons elected commissioned in accordance with the law governing  
479 regular elections for justices of the Supreme Court or judges of  
480 the Court of Appeals to the extent applicable.

481           **SECTION 12.** This act shall take effect and be in force from  
482 and after July 1, 2020.

