

By: Representative Haney

To: Apportionment and
Elections

HOUSE BILL NO. 1235

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 IN CERTAIN SITUATIONS; TO AMEND SECTION 23-15-309,
 7 MISSISSIPPI CODE OF 1972, TO MAKE A MINOR, NONSUBSTANTIVE CHANGE;
 8 TO BRING FORWARD SECTION 23-15-333, MISSISSIPPI CODE OF 1972,
 9 WHICH PROVIDES THE FORM OF THE BALLOT IN COUNTY PRIMARY ELECTIONS,
 10 FOR THE PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION
 11 23-15-359, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE FORM OF
 12 THE BALLOT IN COUNTY GENERAL ELECTIONS, FOR THE PURPOSE OF
 13 POSSIBLE AMENDMENT; 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 be placed on the ballot * * * if an
112 election is otherwise being held at that precinct. If the
113 election is only for the unopposed candidates, the election for
114 that precinct shall be dispensed with and the person declared
115 elected. If not more than one (1) person has duly qualified to be
116 a candidate for each office on the general election ballot, the
117 election for all offices on the ballot shall be dispensed with and
118 the municipal election commission shall declare each candidate
119 elected without opposition if the candidate meets all the
120 qualifications to hold the office as determined pursuant to a
121 review by the election commission in accordance with the
122 provisions of subsection (5) of this section and if the candidate



123 has filed all required campaign finance disclosure reports as
124 required by Section 23-15-807.

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

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

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

143 (3) The clerk shall promptly receipt the payment, stating
144 the office for which the person making the payment is running and
145 the political party with which such person is affiliated. The
146 clerk shall keep an itemized account in detail showing the time
147 and date of the receipt of such payment received by him or her,



148 from whom such payment was received, the party with which such
149 person is affiliated and for what office the person paying the fee
150 is a candidate. No candidate may attempt to qualify with any
151 political party that does not have a duly organized municipal
152 executive committee, and the municipal clerk shall not accept any
153 assessments made pursuant to subsection (1) if the municipal clerk
154 does not have contact information for the secretary of the
155 municipal executive committee for that political party. The clerk
156 shall promptly supply all necessary information and pay over all
157 fees so received to the secretary of the proper municipal
158 executive committee. The funds may be used and disbursed in the
159 same manner as is allowed in Section 23-15-299 in regard to other
160 executive committees.

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



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



198 subject to no contingencies, then the name of such candidate shall
199 not be placed upon the ballot. If the executive committee
200 determines that the candidate has taken the steps necessary to
201 qualify for more than one (1) office at the election, the action
202 required by Section 23-15-905, shall be taken.

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

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

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



223 the ballot is left to the discretion of the county executive
224 committee. Provided, however, that in all cases the arrangement
225 of the names of the candidates for each office shall be
226 alphabetical. No ballot shall be used except those so printed.

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

229 (a) Candidates, electors or delegates for the following
230 national offices:

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

232 (ii) United States Senator or United States
233 Representative;

234 (b) Candidates for the following statewide offices:
235 Governor, Lieutenant Governor, Secretary of State, Attorney
236 General, State Treasurer, Auditor of Public Accounts, Commissioner
237 of Agriculture and Commerce, Commissioner of Insurance;

238 (c) Candidates for the following state district
239 offices: Mississippi Transportation Commissioner, Public Service
240 Commissioner, District Attorney;

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

243 (e) Candidates for countywide office;

244 (f) Candidates for county district office.

245 The order in which the titles for the various offices are
246 listed within each of the categories listed in paragraphs (e) and
247 (f) are left to the discretion of the county executive committee.



248 Candidates' names shall be listed alphabetically under each office
249 by the candidate's last name.

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

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

271 (b) If it is eligible under Section 23-15-266, the
272 municipal executive committee may enter into a written agreement



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

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

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



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

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

302 (c) For an office elected by the qualified electors of
303 a congressional district, not less than two hundred (200)
304 qualified electors.

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

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

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

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

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

319 (2) (a) Unless the petition or fee, whichever is
320 applicable, required above shall be filed as provided for in
321 subsection (3), (4) or (5) of this section, as appropriate, the



322 name of the person requested to be a candidate, unless nominated
323 by a political party, shall not be placed upon the ballot. The
324 ballot shall contain the names of each candidate for each office,
325 and the names shall be listed under the name of the political
326 party that candidate represents as provided by law and as
327 certified to the circuit clerk by the state executive committee of
328 the political party. In the event the candidate qualifies as an
329 independent as provided in this section, he or she shall be listed
330 on the ballot as an independent candidate.

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

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

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



347 held. The circuit clerk shall notify the county election
348 commissioners of all persons who have filed petitions with the
349 clerk. The notification shall occur within two (2) business days
350 and shall contain all necessary information.

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

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

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

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



372 nominated by a political party, shall have been requested to be a
373 candidate for any office by a petition filed with the Secretary of
374 State and signed by not less than fifty (50) qualified electors.

375 (9) (a) The appropriate election commission shall determine
376 whether each candidate is a qualified elector of the state, state
377 district, county or county district they seek to serve, and
378 whether each candidate meets all other qualifications to hold the
379 office he or she is seeking or presents absolute proof that he or
380 she will, subject to no contingencies, meet all qualifications on
381 or before the date of the general or special election at which he
382 or she could be elected to office. The election commission shall
383 determine whether the candidate has taken the steps necessary to
384 qualify for more than one (1) office at the election. The
385 election commission also shall determine whether any candidate has
386 been convicted (i) of any felony in a court of this state, (ii) on
387 or after December 8, 1992, of any offense in another state which
388 is a felony under the laws of this state, (iii) of any felony in a
389 federal court on or after December 8, 1992, or (iv) of any offense
390 that involved the misuse or abuse of his or her office or money
391 coming into his or her hands by virtue of the office. Excepted
392 from the above are convictions of manslaughter and violations of
393 the United States Internal Revenue Code or any violations of the
394 tax laws of this state.

395 (b) If the appropriate election commission finds that a
396 candidate either (i) is not a qualified elector, (ii) does not



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

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



422 than one (1) person duly qualified to be a candidate for each
423 office on the general election ballot, the election for all
424 offices on the ballot shall be dispensed with and the appropriate
425 election commission shall declare each candidate elected without
426 opposition if the candidate meets all the qualifications to hold
427 the office as determined pursuant to a review by the election
428 commission in accordance with the provisions of subsection (9) of
429 this section and if the candidate has filed all required campaign
430 finance disclosure reports as required by Section 23-15-807.

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

433 **SECTION 5.** This act shall take effect and be in force from
434 and after July 1, 2022.

