

By: Representative Massengill

To: Apportionment and Elections

HOUSE BILL NO. 16

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; AND FOR RELATED PURPOSES.

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

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



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

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

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

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

41 **[Until December 31, 2022, this section shall read as**
42 **follows:]**

43 23-15-213. (1) At the general election in 2020, there shall
44 be elected five (5) election commissioners for each county whose
45 terms of office shall commence on the first Monday of January



46 following their election. Each of the commissioners shall be
47 required to attend a training seminar provided by the Secretary of
48 State and satisfactorily complete a skills assessment, and before
49 acting, shall take and subscribe the oath of office prescribed by
50 the Constitution. The oath shall be filed in the office of the
51 clerk of the chancery court. Upon filing the oath of office, the
52 election commissioner may be provided access to the Statewide
53 Elections Management System for the purpose of performing his or
54 her duties. Such skills assessment shall only be required once
55 every four (4) years. While engaged in their duties, the
56 commissioners shall be conservators of the peace in the county,
57 with all the duties and powers of such.

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



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

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



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

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

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

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

107 23-15-213. (1) There shall be elected five (5) election
108 commissioners for each county whose terms of office shall commence
109 on the first Monday of January following their election and who
110 shall serve for a term of four (4) years. Each of the
111 commissioners shall be required to attend a training seminar
112 provided by the Secretary of State and satisfactorily complete a
113 skills assessment, and before acting, shall take and subscribe the
114 oath of office prescribed by the Constitution. The oath shall be
115 filed in the office of the clerk of the chancery court. Upon
116 filing the oath of office, the election commissioner may be
117 provided access to the Statewide Elections Management System for
118 the purpose of performing his or her duties. Such skills
119 assessment shall only be required once every four (4) years.
120 While engaged in their duties, the commissioners shall be



121 conservators of the peace in the county, with all the duties and
122 powers of such.

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

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

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

138 (3) Candidates for county election commissioner shall
139 qualify by filing with the clerk of the board of supervisors of
140 their respective counties a petition personally signed by not less
141 than fifty (50) qualified electors of the supervisor's district in
142 which they reside, requesting that they be a candidate, by 5:00
143 p.m. not later than February 1 of the year in which the election
144 occurs and unless the petition is filed within the required time,
145 their names shall not be placed upon the ballot. * * *



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

166 (5) In the first meeting in January of each year, the county
167 election commissioners shall organize by electing a chair and a
168 secretary, who shall serve a one-year term. The county election
169 commissioners shall provide the names of the chair and secretary



170 to the Secretary of State and provide notice of any change in
171 officers which may occur during the year.

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

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

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

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

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

187 (i) President;

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

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



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

197 (d) Candidates for the following legislative offices:
198 Senate and House of Representatives;

199 (e) Candidates for countywide office;

200 (f) Candidates for county district office.

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

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

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

215 23-15-511. The ballots shall, as far as practicable, be in
216 the same order of arrangement as provided for paper ballots that
217 are to be counted manually, except that the information may be
218 printed in vertical or horizontal rows. Nothing in this chapter



219 shall * * * prohibit the information being presented to the voters
220 from being printed on both sides of a single ballot. In those
221 years when a special election * * * occursu on the same day as the
222 general election, the names of candidates in any special election
223 and the general election shall be placed on the same ballot by the
224 election commissioners or officials in charge of the election, but
225 the general election candidates shall be clearly distinguished
226 from the special election candidates. At any time a special
227 election is held on the same day as a party primary election, the
228 names of the candidates in the special election may be placed on
229 the same ballot by the officials in charge of the election, but
230 shall be clearly distinguished as special election candidates or
231 primary election candidates.

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



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

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

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



268 **SECTION 6.** Sections 1 and 2 of this act shall be codified as
269 new sections in Chapter 15, Title 23, Mississippi Code of 1972.

270 **SECTION 7.** This act shall take effect and be in force from
271 and after July 1, 2023.

