

By: Representative Scott

To: Apportionment and
Elections; Municipalities

HOUSE BILL NO. 1451

1 AN ACT TO AMEND SECTION 23-15-221, MISSISSIPPI CODE OF 1972,
 2 TO REVISE THE PROCESS FOR MAKING APPOINTMENTS TO MUNICIPAL
 3 ELECTION COMMISSIONS; TO PROVIDE A TIMELINE OF WHEN EACH GOVERNING
 4 AUTHORITY MUST MAKE APPOINTMENTS TO THE MUNICIPAL ELECTION
 5 COMMISSION; TO PROVIDE THAT EACH MUNICIPAL ELECTION COMMISSIONER
 6 MUST ACCEPT HIS OR HER APPOINTMENT BY SUBMITTING A LETTER TO THE
 7 SECRETARY OF STATE; TO PROVIDE THAT MUNICIPAL ELECTION
 8 COMMISSIONERS SHALL BE REQUIRED TO COMPLETE A TRAINING SEMINAR AND
 9 COMPLETE A SKILLS ASSESSMENT; TO AMEND SECTION 23-15-211,
 10 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO
 11 BRING FORWARD SECTIONS 23-15-611, 23-15-361 AND 21-9-19,
 12 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
 13 AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 23-15-221, Mississippi Code of 1972, is
 16 amended as follows:

17 23-15-221. (1) (a) The governing authorities of
 18 municipalities having a population of less than twenty thousand
 19 (20,000) inhabitants according to the last federal decennial
 20 census shall appoint three (3) election commissioners; the
 21 governing authorities of municipalities having a population of
 22 twenty thousand (20,000) inhabitants or more and less than one
 23 hundred thousand (100,000) inhabitants according to the last



24 federal decennial census shall appoint five (5) election
25 commissioners; and the governing authorities of municipalities
26 having a population of one hundred thousand (100,000) or more
27 according to the last federal decennial census shall appoint seven
28 (7) election commissioners. No more than one (1) commissioner may
29 be appointed from a ward of a municipality. The governing
30 authority of each municipality shall make their appointments to
31 the municipal election commission at least one (1) year before the
32 year in which a municipal election is held. If any municipal
33 election commissioner appointment remains vacant on January 31 of
34 the year in which a municipal election is held, the State Board of
35 Election Commissioners shall make the appointment, and such
36 appointed commissioner shall remain in office as otherwise
37 provided by law. Every person appointed to a municipal election
38 commission shall submit a letter to the Secretary of State
39 accepting the municipal election position and affirming that he or
40 she will fulfill the duties of the position. Such letter shall be
41 signed by the municipal election commissioner under penalty of
42 perjury.

43 (b) The municipal election commissioners, in
44 conjunction with the municipal clerk, shall perform all the duties
45 in respect to the municipal election prescribed by law to be
46 performed by the county election commissioners where not otherwise
47 provided. The election commissioners shall, in case there be but
48 one (1) election precinct in the municipality, act as poll



49 managers themselves. Each of the commissioners shall be required
50 to attend a training seminar provided by the Secretary of State
51 and satisfactorily complete a skills assessment.

52 (2) The city council or board of aldermen or other governing
53 authority of any municipality desiring to avail itself of the
54 provisions of the Mississippi Election Code regarding the duties
55 of municipal election commissioners shall adopt an ordinance
56 declaring its intention to enter into an agreement with the
57 municipality's county to have the county election commissioners
58 conduct municipal elections and other functions that are performed
59 by municipal election commissioners for the benefit of the
60 efficiency and conformity of elections, to be effective on and
61 after a date fixed in the ordinance which must be at least thirty
62 (30) days after the ordinance is adopted and on the first day of a
63 month. If the municipality is located in more than one (1)
64 county, the municipality shall choose which county it wants to
65 conduct its elections and other duties of its municipal election
66 commissioners and enter into an agreement with that county to have
67 that county's election commissioners conduct the municipal
68 elections and other functions that are performed by municipal
69 election commissioners for the benefit of the efficiency and
70 conformity of elections, to be effective on and after a date fixed
71 in the ordinance which must be at least thirty (30) days after the
72 ordinance is adopted and on the first day of a month. A certified
73 copy of this ordinance shall be immediately forwarded to the Chair



74 of the State Board of Election Commissioners. The municipal
75 authorities shall have a copy of the ordinance published once a
76 week for three (3) consecutive weeks in at least one (1) newspaper
77 published in the municipality and having a general circulation
78 therein. The first publication shall be not less than
79 twenty-eight (28) days before the effective date fixed in the
80 ordinance, and the last publication shall be made not less than
81 seven (7) days before such date. If no newspaper is published in
82 the municipality, then notice shall be given by publishing the
83 ordinance for the required time in some newspaper published in the
84 same or an adjoining county having a general circulation in the
85 municipality. A copy of the ordinance shall also be posted at
86 three (3) public places in the municipality for a period of at
87 least twenty-one (21) days during the time of its publication in a
88 newspaper. The publication of the ordinance may be made as
89 provided in Section 21-17-19. Proof of publication must also be
90 furnished to the Chair of the State Board of Election
91 Commissioners.

92 (3) If a city council or board of aldermen or other
93 governing authority of any municipality adopts an ordinance to
94 abolish municipal election commissioners in the municipality's
95 county and authorize county election commissioners to conduct the
96 municipal election commissioners' duties, the county election
97 commissioners shall conduct all of the duties of the municipal
98 election commissioners including, but not limited to:



99 (a) Canvass the results of bond elections in a
100 municipality;

101 (b) Canvass the returns of special and general
102 elections for mayor and councilmen and within five (5) days after
103 any special or general election, deliver to each person receiving
104 the highest number of votes a certificate of election;

105 (c) Certify to the Secretary of State the name or names
106 of the person or persons elected at special and general elections
107 within ten (10) days after any special or general election;

108 (d) Revise the primary pollbooks for municipalities at
109 the time and in the manner and in accordance with the laws now
110 fixed and in force for revising pollbooks, except they shall not
111 remove from the pollbook any person who is qualified to
112 participate in primary elections;

113 (e) Print the pollbooks that are to be used in
114 municipal elections;

115 (f) Print and distribute the "official ballots";

116 (g) Perform the duties of poll managers in the event
117 there is only one (1) election precinct in the municipality;

118 (h) Perform any of the duties required of the municipal
119 executive committee pursuant to Section 23-15-239 if the municipal
120 executive committee has entered into a written agreement with the
121 municipal clerk or the municipal or county election commission
122 that gives such authorization;



123 (i) Determine whether each party candidate in the
124 municipal general election is a qualified elector of the
125 municipality, and of the ward if the office sought is a ward
126 office, whether each candidate either meets all other
127 qualifications to hold the office he or she is seeking or presents
128 absolute proof that he or she will, subject to no contingencies,
129 meet all qualifications on or before the date of the general or
130 special election at which he or she could be elected to office,
131 and whether any candidate has been convicted of any felony in a
132 court of this state, or has been convicted on or after December 8,
133 1992, of any offense in another state which is a felony under the
134 laws of this state, or has been convicted of any felony in a
135 federal court on or after December 8, 1992;

136 (j) Declare each candidate elected without opposition,
137 if the candidate meets all the qualifications to hold the office
138 as determined pursuant to a review by the commission in accordance
139 with the provisions of paragraph (i) of this subsection (3);

140 (k) Canvass the returns for municipal elections
141 received from all voting precincts and within ten (10) days after
142 the election, deliver to each person receiving the highest number
143 of votes a certificate of election. If it shall appear that any
144 two (2) or more of the candidates receiving the highest number of
145 votes shall have received an equal number of votes, the election
146 shall be decided by the toss of a coin or by lot, fairly and
147 publicly drawn by the election commissioners;



148 (1) Transmit the statement provided in Section
149 23-15-611 to the Secretary of State certifying the name or names
150 of the person or persons elected at municipal elections, and such
151 person or persons shall be issued commissions by the Governor;

152 (m) Receiving the filed document by any person desiring
153 to contest the qualifications of another person who has qualified
154 pursuant to the provisions of Section 23-15-361 as a candidate for
155 municipal office elected on the date designated by law for regular
156 municipal elections that specifically sets forth the grounds of
157 the challenge no later than thirty-one (31) days after the date of
158 the first primary election set forth in Section 23-15-309; and

159 (n) Perform all other duties with respect to the
160 municipal election prescribed by law.

161 (4) If the city council or board of aldermen or other
162 governing authority of any municipality does not desire to avail
163 itself of the provisions of the Mississippi Election Code
164 regarding the duties of municipal election commissioners, then
165 nothing in this section shall be construed in any way to affect,
166 alter or modify the existence of those municipal election
167 commissioners now operating under the laws relating to municipal
168 election commissioners provided in the Mississippi Code of 1972.
169 Those municipalities shall continue to enjoy the form of election
170 commissions and the conduct of the respective elections that are
171 now enjoyed by them, and each shall possess all rights, powers,
172 privileges and immunities granted and conferred under the laws



173 relating to municipal election commissioners provided in the
174 Mississippi Code of 1972.

175 **SECTION 2.** Section 23-15-211, Mississippi Code of 1972, is
176 amended as follows:

177 23-15-211. (1) There shall be a State Board of Election
178 Commissioners to consist of the following members:

179 (a) The Governor, who shall serve as chair;

180 (b) The Secretary of State, who shall serve as
181 secretary, maintain minutes of all meetings and accept service of
182 process on behalf of the board; and

183 (c) The Attorney General.

184 Any two (2) of the members of the State Board of Election
185 Commissioners may perform the duties required of the board.

186 (2) The duties of the board shall include, but not be
187 limited to, the following:

188 (a) Ruling on a candidate's qualifications to run for
189 statewide, Supreme Court, Court of Appeals, congressional
190 district, circuit and chancery court district, and other state
191 district offices;

192 (b) Approving the state ballot for the offices stated
193 in paragraph (a) of this subsection (2);

194 (c) Removing the names of candidates from the ballot
195 for failure to comply with campaign finance filing requirements
196 for the offices stated in paragraph (a) of this subsection (2) in
197 previous election cycles; * * *



198 (d) Appointing members of a municipal election
199 commission, if necessary, as provided in Section 23-15-221; and

200 (* * *e) Adopting any administrative rules and
201 regulations as are necessary to carry out the statutory duties of
202 the board.

203 (3) The board of supervisors of each county shall pay
204 members of the county election commission for attending training
205 events a per diem in the amount provided in Section 23-15-153;
206 however, except as otherwise provided in this section, the per
207 diem shall not be paid to an election commissioner for more than
208 twelve (12) days of training per year and shall only be paid to
209 election commissioners who actually attend and complete a training
210 event and obtain a training certificate.

211 (4) Included in this twelve (12) days shall be an elections
212 seminar, conducted and sponsored by the Secretary of State.
213 Election commissioners and chairpersons of each political party
214 executive committee, or their designee, shall be required to
215 attend. An election commissioner shall be certified by the
216 Secretary of State only after attending the annual elections
217 seminar and satisfactorily completing the skills assessment
218 provided for in Section 23-15-213. Such skills assessment shall
219 only be required once every four (4) years.

220 (5) Each participant shall receive a certificate from the
221 Secretary of State indicating that the named participant has
222 received the elections training seminar instruction and



223 satisfactorily completed the skills assessment provided for in
224 Section 23-15-213. Election commissioners shall annually file the
225 certificate with the chancery clerk. If any election commissioner
226 shall fail to file the certificate by April 30 of each year, his
227 or her office shall be vacated, absent exigent circumstances as
228 determined by the board of supervisors and consistent with the
229 facts. The vacancy shall be declared by the board of supervisors
230 and the vacancy shall be filled in the manner described by law.
231 Before declaring the office vacant, the board of supervisors shall
232 give the election commissioner notice and the opportunity for a
233 hearing.

234 (6) The Secretary of State, upon approval of the board of
235 supervisors, may authorize not more than eight (8) additional
236 training days per year for election commissioners in one or more
237 counties. The board of supervisors of each county shall pay
238 members of the county election commission for attending training
239 on these days a per diem in the amount provided in Section
240 23-15-153.

241 **SECTION 3.** Section 23-15-611, Mississippi Code of 1972, is
242 brought forward as follows:

243 23-15-611. (1) In municipal elections, poll managers shall,
244 immediately upon the closing of the polls, count the ballots and
245 ascertain the number of votes cast in each voting precinct for
246 each of the candidates or ballot measures and make a return
247 thereof to the municipal election commissioners. On the day



248 following the election, the election commissioners shall canvass
249 the returns so received from all voting precincts and shall,
250 within six (6) days after the election, deliver to each person
251 receiving the highest number of votes a certificate of election.
252 If it shall appear that any two (2) or more of the candidates
253 receiving the highest number of votes shall have received an equal
254 number of votes, the election shall be decided by a toss of a coin
255 or by lot fairly and publicly drawn under the direction of the
256 election commissioners.

257 (2) (a) Within six (6) days after any election, the
258 municipal election commissioners shall transmit a statement to the
259 Secretary of State certifying the name or names of the person or
260 persons elected, and such person or persons shall be issued
261 commissions by the Governor. The statement shall also include
262 vote totals for each candidate for each office and vote totals for
263 and against ballot measures, if any, including the vote totals for
264 each candidate and ballot measure in each precinct in the
265 municipality.

266 (b) The statements required by this subsection (2)
267 shall contain a certification, signed and dated by a majority of
268 the municipal election commissioners, which shall read as follows:

269 "We, the undersigned municipal election commissioners, do
270 hereby certify that this statement contains the official vote for
271 the election reflected therein."



272 (c) The statements required by this subsection (2)
273 shall be transmitted to the Secretary of State on such forms and
274 by such methods as may be required by rules and regulations
275 promulgated by the Secretary of State.

276 (d) If the statement certifying the names of the
277 persons elected is not transmitted to the Secretary of State as
278 required by this subsection (2), the Secretary of State may issue
279 a show cause order directing the municipal election commissioners
280 to provide to the Secretary of State written response containing
281 the reasons for their failure to transmit the statement. The
282 municipal election commissioners shall file their response to the
283 show cause order with the Secretary of State within five (5)
284 working days after the issuance of the show cause order. If the
285 statement certifying the names of the persons elected is not
286 transmitted to the Secretary of State within five (5) working days
287 after the issuance of the show cause order, the Secretary of State
288 may petition a court of competent jurisdiction to compel the
289 municipal election commissioners to comply with this subsection
290 (2). If the statement certifying the names of the persons elected
291 is received by the Secretary of State within five (5) days after
292 the issuance of the show cause order, a response to the show cause
293 order shall not be required.

294 **SECTION 4.** Section 23-15-361, Mississippi Code of 1972, is
295 brought forward as follows:



296 23-15-361. (1) The municipal general election ballot shall
297 contain the names of all candidates who have been put in
298 nomination by the municipal primary election of any political
299 party. There shall be printed on the ballots the names of all
300 persons so nominated, whether the nomination be otherwise known or
301 not, upon the written request of one or more of the candidates so
302 nominated, or of any qualified elector who will make oath that he
303 or she was a participant in the primary election, and that the
304 person whose name is presented by him or her was nominated by such
305 primary election. The municipal election commissioners who are
306 required to have the ballots printed, shall also have printed on
307 the ballot in any municipal general election the name of any
308 candidate who, not having been nominated by a political party,
309 shall have been requested to be a candidate for any office by a
310 petition filed with the clerk of the municipality no later than
311 5:00 p.m. on the same date by which candidates for nomination in
312 the municipal primary elections are required to pay the fee
313 provided for in Section 23-15-309, and signed by not less than the
314 following number of qualified electors:

315 (a) For an office elected by the qualified electors of
316 a municipality or a municipal district having a population of one
317 thousand (1,000) or more, not less than fifty (50) qualified
318 electors.

319 (b) For an office elected by the qualified electors of
320 a municipality or a municipal district having a population of less



321 than one thousand (1,000), not less than fifteen (15) qualified
322 electors.

323 (2) Unless the petition required above shall be filed no
324 later than 5:00 p.m. on the same date by which candidates for
325 nomination in the municipal primary election are required to pay
326 the fee provided for in Section 23-15-309, the name of the person
327 requested to be a candidate, unless nominated by a political
328 party, shall not be placed upon the ballot. The ballot shall
329 contain the names of each candidate for each municipal office, and
330 the names shall be listed under the name of the political party
331 the candidate represents as provided by law and as certified to
332 the municipal clerk by the municipal executive committee of such
333 political party. In the event such candidate qualifies as an
334 independent as herein provided, he or she shall be listed on the
335 ballot as an independent candidate.

336 (3) The clerk of the municipality shall notify the municipal
337 election commissioners of all persons who have filed petitions
338 pursuant to subsection (1) of this section within two (2) business
339 days of the date of filing.

340 (4) The ballot in elections to fill vacancies in municipal
341 elective office shall contain the names of all persons who have
342 qualified as required by Section 23-15-857.

343 (5) The municipal election commission shall determine
344 whether each party candidate in the municipal general election is
345 a qualified elector of the municipality, and of the ward if the



346 office sought is a ward office and shall determine whether each
347 candidate either meets all other qualifications to hold the office
348 he or she is seeking or presents absolute proof that he or she
349 will, subject to no contingencies, meet all qualifications on or
350 before the date of the general or special election at which he or
351 she could be elected to office. The municipal election commission
352 also shall determine whether any candidate has been convicted of
353 any felony in a court of this state, or has been convicted on or
354 after December 8, 1992, of any offense in another state which is a
355 felony under the laws of this state, or has been convicted of any
356 felony in a federal court on or after December 8, 1992. Excepted
357 from the above are convictions of manslaughter and violations of
358 the United States Internal Revenue Code or any violations of the
359 tax laws of this state unless such offense also involved misuse or
360 abuse of his or her office or money coming into his or her hands
361 by virtue of the office. If the municipal election commission
362 finds that a candidate either (a) is not a qualified elector, (b)
363 does not meet all qualifications to hold the office he or she
364 seeks and fails to provide absolute proof, subject to no
365 contingencies, that he or she will meet the qualifications on or
366 before the date of the general or special election at which he or
367 she could be elected, or (c) has been convicted of a felony as
368 described above and not pardoned, then the election commission
369 shall notify the candidate and give the candidate an opportunity
370 to be heard. The election commission shall mail notice to the



371 candidate at least three (3) business days before the hearing to
372 the address provided by the candidate on the qualifying forms, and
373 the committee shall attempt to contact the candidate by telephone,
374 email and facsimile if the candidate provided this information on
375 the forms. If the candidate fails to appear at the hearing or to
376 prove he or she meets all qualifications to hold the office
377 subject to no contingencies, then the name of the candidate shall
378 not be placed upon the ballot.

379 (6) If after the deadline to qualify as a candidate for an
380 office or after the time for holding any party primary election
381 for an office, only one (1) person has duly qualified to be a
382 candidate for the office in the general election the name of that
383 person shall be placed on the ballot; provided, however, that if
384 not more than one (1) person has duly qualified to be a candidate
385 for each office on the general election ballot, the election for
386 all offices on the ballot shall be dispensed with and the
387 municipal election commission shall declare each candidate elected
388 without opposition if the candidate meets all the qualifications
389 to hold the office as determined pursuant to a review by the
390 election commission in accordance with the provisions of
391 subsection (5) of this section and if the candidate has filed all
392 required campaign finance disclosure reports as required by
393 Section 23-15-807.

394 **SECTION 5.** Section 21-9-19, Mississippi Code of 1972, is
395 brought forward as follows:



396 21-9-19. At all elections held to choose a mayor and
397 councilmen, or any of them, the choice of the person or persons
398 voting shall be indicated and the ballots shall be marked in like
399 manner as is provided by law for general state and county
400 elections.

401 The poll managers at all special and general elections for
402 mayor and councilmen, or any of them, shall immediately, upon the
403 closing of the polls, count the ballots and ascertain the number
404 of votes cast in each voting precinct for each of the candidates
405 and make return thereof to the municipal election commissioners.
406 On the day following any special or general election, the
407 municipal election commissioners shall canvass the returns so
408 received from all the voting precincts, and shall within six (6)
409 business days after such special or general election, deliver to
410 each person receiving the highest number of votes a certificate of
411 election. If it shall appear by the returns that any two (2)
412 candidates for mayor or councilmen, have received an equal number
413 of votes, the election shall be decided by a toss of a coin or by
414 lot, fairly and publicly drawn under the direction of the election
415 commissioners, with the aid of a friend of each such candidates,
416 and a certificate of election shall be given accordingly.

417 The election commissioners shall, within ten (10) business
418 days after any special or general election, certify to the
419 Secretary of State the name or names of the person or persons
420 elected at such special or general election, and the Secretary of



421 State shall, immediately upon receiving such certificates, deliver
422 the same to the Governor, who shall immediately issue commissions
423 to the persons mentioned in certificate.

424 **SECTION 6.** This act shall take effect and be in force from
425 and after July 1, 2023.

