

By: Senator(s) McCaughn, Boyd, Suber

To: Accountability,  
Efficiency, Transparency

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2638

1 AN ACT TO AMEND SECTIONS 23-17-1, 23-17-3, 23-17-5, 23-17-8,  
2 23-17-9, 23-17-11, 23-17-17, 23-17-19, 23-17-21, 23-17-29,  
3 23-17-35, 23-17-37, 23-17-39, 23-17-42, 23-17-43 AND 23-17-45,  
4 MISSISSIPPI CODE OF 1972, TO REVISE THE INITIATIVE MEASURE PROCESS  
5 TO PROVIDE THAT AMENDMENTS TO THE MISSISSIPPI CONSTITUTION MAY  
6 ONLY BE PROPOSED BY THE LEGISLATURE, BUT THAT THE PEOPLE SHALL  
7 HAVE THE RIGHT TO PROPOSE NEW LAWS AND TO AMEND OR REPEAL EXISTING  
8 LAWS BY INITIATIVE, AND TO APPROVE OR REJECT THE SAME IN AN  
9 ELECTION INDEPENDENT OF THE LEGISLATURE; TO CREATE NEW SECTION  
10 23-17-4, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE SECRETARY  
11 OF STATE SHALL SUBMIT ANY PROPOSED INITIATIVE MEASURE THAT IT  
12 RECEIVES TO THE CHIEF LEGISLATIVE BUDGET OFFICER FOR THE  
13 PREPARATION OF A FISCAL ANALYSIS; TO CREATE NEW SECTION 23-17-20,  
14 MISSISSIPPI CODE OF 1972, TO PROVIDE THE DUTIES OF A PETITION  
15 CIRCULATOR; TO REPEAL SECTIONS 23-17-31 AND 23-17-33, MISSISSIPPI  
16 CODE OF 1972, WHICH PROVIDE FOR A LEGISLATIVE ALTERNATIVE TO AN  
17 INITIATIVE MEASURE; TO BRING FORWARD SECTION 23-17-60, MISSISSIPPI  
18 CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR  
19 RELATED PURPOSES.

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

21 **SECTION 1.** Section 23-17-1, Mississippi Code of 1972, is  
22 amended as follows:

23 23-17-1. (1) For purposes of this chapter, the following  
24 term shall have the meaning ascribed herein:

25 "Initiative measure" means \* \* \* a petition \* \* \* for  
26 legislation.



27 (2) If any qualified elector of the state desires to  
28 initiate a proposed \* \* \* initiative measure as authorized  
29 by \* \* \* Section \* \* \* 33 of the Mississippi Constitution of 1890,  
30 he or she shall first file with the Secretary of State a  
31 typewritten copy of the proposed initiative measure, which shall  
32 only contain a single subject, accompanied by an affidavit that  
33 the sponsor is a qualified elector of this state.

34 (3) The sponsor of \* \* \* the measure shall identify in the  
35 text of the initiative the amount and source of revenue required  
36 to implement the initiative. If the initiative requires a  
37 reduction in any source of government revenue, or a reallocation  
38 of funding from currently funded programs, the sponsor shall  
39 identify in the text of the initiative the program or programs  
40 whose funding must be reduced or eliminated to implement the  
41 initiative.

42 (4) The amount, source of revenue and reallocation of  
43 funding required by the initiative measure shall be verified by  
44 the chief legislative budget officer. No initiative measure shall  
45 propose, amend or repeal any local or special law or dedicate any  
46 revenues or make or repeal any appropriations.

47 ( \* \* \* 5) The person proposing the measure shall also  
48 include all the information required under Section 273,  
49 Mississippi Constitution of 1890.

50 **SECTION 2.** Section 23-17-3, Mississippi Code of 1972, is  
51 amended as follows:



52           23-17-3. The petition for a proposed initiative measure must  
53 be filed with the Secretary of State not less than ninety (90)  
54 days before the first day of the regular session of the  
55 Legislature at which it is to be submitted. A petition is valid  
56 for a period of \* \* \* nine (9) months. An initiative measure that  
57 has already been submitted to voters shall not be filed with the  
58 Secretary of State in identical or substantially similar form  
59 within five (5) years after the date of the election on such  
60 measure.

61           **SECTION 3.** The following shall be codified as Section  
62 23-17-4, Mississippi Code of 1972:

63           23-17-4. Upon receipt of any proposed initiative measure,  
64 the Secretary of State shall submit a copy of the proposed measure  
65 to the chief legislative budget officer and give notice to the  
66 person filing the proposed measure of such transmittal. Upon  
67 receipt of the measure, the chief legislative budget officer  
68 shall, within ten (10) working days from receipt of the measure,  
69 prepare a fiscal analysis of the proposed initiative measure. The  
70 analysis shall review and evaluate the accuracy of the amount and  
71 source of revenue potentially required to implement the initiative  
72 and provide any other pertinent information regarding the cost to  
73 taxpayers. If the initiative requires a reduction in any source  
74 of government revenue, or a reallocation of funding from currently  
75 funded programs, the chief legislative budget officer shall  
76 determine whether any proposed reductions or eliminations are



77 reasonably accurate. The analysis provided by the chief  
78 legislative budget officer shall be provided to the Secretary of  
79 State and posted on the Legislature's website for the public to  
80 review at the same time it is provided to the person filing the  
81 proposed measure.

82 **SECTION 4.** Section 23-17-5, Mississippi Code of 1972, is  
83 amended as follows:

84 23-17-5. Upon receipt of \* \* \* the fiscal analysis from the  
85 state budget officer, the Secretary of State shall submit a copy  
86 of the proposed measure, with the fiscal analysis, to the Attorney  
87 General and give notice to the person filing the proposed measure  
88 of such transmittal. Upon receipt of the measure, the Attorney  
89 General may confer with the person filing the proposed measure and  
90 shall, within ten (10) working days from receipt \* \* \* of the  
91 measure, review the proposal for matters of form and style, and  
92 such matters of substantive import as may be agreeable to the  
93 person filing the proposed measure, and shall recommend such  
94 revision or alteration of the measure as may be deemed necessary  
95 and appropriate, including enforcing the requirement that the  
96 initiative only contain a single subject. Except for the single  
97 subject rule, the recommendations of the Attorney General shall be  
98 advisory only, and the person filing the proposed measure may  
99 accept or reject them in whole or in part. The Attorney General  
100 shall issue a certificate of review certifying that he has  
101 reviewed the measure for form and style and that the



102 recommendations thereon, if any, have been communicated to the  
103 person filing the proposed measure, and such certificate shall  
104 issue whether or not the person filing the proposed measure  
105 accepts such recommendations. Within fifteen (15) working days  
106 after notification of submittal of the proposed initiative measure  
107 to the Attorney General, the person filing the proposed measure,  
108 if he desires to proceed with his sponsorship, shall file the  
109 measure together with the certificate of review with the Secretary  
110 of State for assignment of a serial number and the Secretary of  
111 State shall thereupon submit to the Attorney General a certified  
112 copy of the measure filed. Upon submitting the proposal to the  
113 Secretary of State for assignment of a serial number the Secretary  
114 of State shall refuse to make such assignment unless the proposal  
115 is accompanied by a certificate of review.

116       **SECTION 5.** Section 23-17-8, Mississippi Code of 1972, is  
117 amended as follows:

118       23-17-8. When an \* \* \* initiative measure is proposed \* \* \*  
119 under the voter initiative procedure set forth in Section 23-17-1  
120 et seq., the Secretary of State, with the approval of the Attorney  
121 General, may make a nonsubstantive clerical or technical  
122 correction in the section number reference or designation of the  
123 proposed amendment contained in an initiative measure, as may be  
124 appropriate or necessary in order to prevent the use of an  
125 existing section number or the possibility of the initiative being  
126 declared invalid only because of an error in the section number



127 designation. Such a correction may be made at any time after the  
128 Attorney General's certificate of review with regard to the  
129 initiative measure has been issued, and before the ballot for the  
130 initiative measure is printed. The provisions of this section do  
131 not authorize the Secretary of State to make any change other than  
132 a nonsubstantive correction in the section number reference or  
133 designation of the proposed \* \* \* initiative measure.

134 **SECTION 6.** Section 23-17-9, Mississippi Code of 1972, is  
135 amended as follows:

136 23-17-9. Within seven (7) calendar days after the receipt of  
137 an initiative measure, the Attorney General shall formulate and  
138 transmit to the Secretary of State a concise statement posed as a  
139 question and not to exceed twenty (20) words, bearing the serial  
140 number of the measure and a summary of the measure, not to exceed  
141 seventy-five (75) words, to follow the statement. The statement  
142 shall give a true and impartial statement of the purpose of the  
143 measure. Neither the statement nor the summary may intentionally  
144 be an argument, nor likely to create prejudice, either for or  
145 against the measure. Such concise statement shall constitute the  
146 ballot title. The ballot title formulated by the Attorney General  
147 shall be the ballot title of the measure unless changed on appeal.  
148 If any recommendations of the Attorney General have not been  
149 accepted by the person filing the proposed measure, the ballot  
150 summary may be accompanied by a statement that reads: "The form  
151 and style of this proposal is not approved by the Attorney General



152 of Mississippi." When practicable, the question posed by the  
153 ballot title shall be written in such a way that an affirmative  
154 answer to such question and an affirmative vote on the measure  
155 would result in a change in then current law, and a negative  
156 answer to the question and a negative vote on the measure would  
157 result in no change to then current law. The ballot summary shall  
158 be followed by a fiscal analysis, not to exceed fifty (50) words,  
159 indicating the amount, source of revenue and reallocation of  
160 funding potentially required by the initiative measure, as  
161 provided by the chief budget officer.

162 **SECTION 7.** Section 23-17-11, Mississippi Code of 1972, is  
163 amended as follows:

164 23-17-11. Upon the filing of the ballot title and summary  
165 for an initiative measure in his or her office, the Secretary of  
166 State shall forthwith notify by certified mail return receipt  
167 requested, the person proposing the measure and any other  
168 individuals who have made written request for such notification of  
169 the exact language of the ballot title. The Secretary of State  
170 shall publish the title and summary for an initiative measure  
171 within ten (10) days after filing such title and summary in a  
172 newspaper or newspapers of general circulation throughout the  
173 State of Mississippi. The title and summary shall also be posted  
174 on the Secretary of State's website and other appropriate  
175 electronic forums that are easily accessible by the public.







201 the proposed measure known as Initiative Measure No. \_\_\_\_\_,  
202 entitled (here insert the established ballot title of the  
203 measure), a full, true and correct copy of which is printed or  
204 attached on the reverse side of this petition, be transmitted to  
205 the Legislature of the State of Mississippi at its next ensuing  
206 regular session, and we respectfully petition the Legislature  
207 to \* \* \* place this measure on its legislative calendar; and each  
208 of us for himself or herself says: I have personally signed this  
209 petition, I am a qualified elector of the State of Mississippi in  
210 the city (or town), county and congressional district written  
211 after my name, my residence address is correctly stated and I have  
212 knowingly signed this petition only once."

213 Each sheet shall also provide adequate space for the  
214 following information: Petitioner's signature; print name for  
215 positive identification; residence address, street and number, if  
216 any; city or town; county; precinct; congressional district; and  
217 driver's license number.

218 **SECTION 10.** The following shall be codified as Section  
219 23-17-20, Mississippi Code of 1972:

220 23-17-20. Before gathering signatures, each petition  
221 circulator must register with and complete a training course with  
222 the Secretary of State that outlines the duties of a petition  
223 circulator. A petition circulator must:

224 (a) Be a qualified elector of the State of Mississippi;



225 (b) Not have been convicted of any crime of fraud or  
226 any felony offense;

227 (c) Be a certified notary public of the State of  
228 Mississippi; and

229 (d) Sign an affidavit in front of a public notary  
230 attesting, under penalty of perjury, to meeting the qualifications  
231 of a petition circulator outlined in this section and that he or  
232 she witnessed all signatures in front of a third-party witness and  
233 has no reasonable cause to believe any submitted signature is  
234 fraudulent.

235 A person who willfully submits a fraudulent petition  
236 signature shall be guilty of a misdemeanor and, upon conviction,  
237 shall be subject to thirty (30) days in jail or a fine of Five  
238 Hundred Dollars (\$500.00) for each offense.

239 **SECTION 11.** Section 23-17-21, Mississippi Code of 1972, is  
240 amended as follows:

241 23-17-21. Before a person may file a petition with the  
242 Secretary of State, the petition must be certified by the circuit  
243 clerk of each county in which the petition was circulated. The  
244 circuit clerk shall certify the signatures of qualified electors  
245 of that county and shall state the total number of qualified  
246 electors signing the petition in that county. The circuit clerk  
247 shall verify the name of each qualified elector signing on each  
248 petition by comparing the signature against signatures found in  
249 readily available databases or other sources. A circuit clerk may



250 not receive any fee, salary or compensation from any private  
251 person or private legal entity, whether or not the entity is  
252 operated for profit, for the clerk's duties in certifying an  
253 initiative petition. A petition circulator may not receive any  
254 fee, salary or other compensation based on the number of  
255 signatures he or she obtains. When the person proposing any  
256 initiative measure has secured upon the petition a number of  
257 signatures of qualified electors equal to or exceeding the minimum  
258 number required by Section \* \* \* 33 of the Mississippi  
259 Constitution of 1890 for the proposed measure, and such signatures  
260 have been certified by the circuit clerks of the various counties,  
261 he may submit the petition to the Secretary of State for filing.  
262 The Secretary of State shall collect a fee of Five Hundred Dollars  
263 (\$500.00) from the person filing the petition to pay part of the  
264 administrative and publication costs.

265 **SECTION 12.** Section 23-17-29, Mississippi Code of 1972, is  
266 amended as follows:

267 23-17-29. The Secretary of State shall file with the Clerk  
268 of the House and the Secretary of the Senate on the first day of  
269 the regular legislative session the complete text of each  
270 initiative for which a petition has been certified and filed with  
271 him or her. \* \* \* The proposed certified initiative may be  
272 adopted or adopted as amended by a two-thirds (2/3) vote of each  
273 house of the Legislature. If the initiative is adopted \* \* \* or  
274 adopted as amended \* \* \* by the Legislature; or if no action is



275 taken within four (4) months of the date that the initiative is  
276 filed with the Legislature, the Secretary of State shall place the  
277 initiative on the ballot for the next statewide general  
278 election. \* \* \*

279 **SECTION 13.** Sections 23-17-31 and 23-17-33, Mississippi Code  
280 of 1972, which provide for a legislative alternative to an  
281 initiative measure, are repealed.

282 **SECTION 14.** Section 23-17-35, Mississippi Code of 1972, is  
283 amended as follows:

284 23-17-35. \* \* \* Each measure submitted to the people for  
285 approval or rejection shall be so printed on the ballot, under the  
286 proper heading, that a voter can, by making one (1) choice,  
287 express his or her approval or rejection of such measure.  
288 Substantially the following form shall be a compliance with this  
289 section:

290 INITIATIVE MEASURE NO. \_\_\_\_\_

291 (Here insert the ballot title of the measure.)

292 YES . . . . . ( )

293 NO . . . . . ( )

294 **SECTION 15.** Section 23-17-37, Mississippi Code of 1972, is  
295 amended as follows:

296 23-17-37. \* \* \* The Secretary of State shall file with the  
297 Clerk of the House and the Secretary of the Senate on the first  
298 day of the next regular legislative session the complete text of  
299 each initiative adopted by two-thirds (2/3) of qualified electors



300 at the last statewide general election. The text, as formatted in  
301 the proper manner either as an act or a resolution, shall be  
302 placed on the legislative calendar of each house of the  
303 Legislature no later than two (2) days after being filed with the  
304 Clerk of the House and the Secretary of the Senate. An initiative  
305 measure adopted or amended by a two-thirds (2/3) vote of each  
306 house of the Legislature shall become law. An initiative measure  
307 that is a proposed constitutional amendment adopted by a  
308 two-thirds (2/3) vote of each house of the Legislature as outlined  
309 in Section 33 of the Mississippi Constitution of 1890 shall be  
310 submitted to the people for final approval or rejection at the  
311 next statewide general election following the form required by  
312 Section 23-17-35.

313       **SECTION 16.** Section 23-17-39, Mississippi Code of 1972, is  
314 amended as follows:

315           23-17-39. No more than \* \* \* two (2) initiative proposals  
316 shall be submitted to the voters on a single ballot, and the  
317 first \* \* \* two (2) initiative proposals submitted to the  
318 Secretary of State with sufficient petitions shall be the  
319 proposals which are submitted to the voters.

320       **SECTION 17.** Section 23-17-42, Mississippi Code of 1972, is  
321 amended as follows:

322           23-17-42. When a proposed change, alteration or amendment  
323 proposed to the Constitution \* \* \* receives the required number of  
324 votes as provided in Section 273 \* \* \*, Mississippi Constitution



325 of 1890, the Secretary of State shall insert the proposed change,  
326 alteration or amendment into the Constitution by proclamation of  
327 his or her office certifying that the proposed change, alteration  
328 or amendment to the Constitution received the required number of  
329 votes as provided in Section 273 \* \* \*, Mississippi Constitution  
330 of 1890. The Secretary of State shall also designate the article  
331 number and section number or numbers for the proposed change,  
332 alteration or amendment in the Constitution if the article number  
333 and section number or numbers are not provided \* \* \*.

334 **SECTION 18.** Section 23-17-43, Mississippi Code of 1972, is  
335 amended as follows:

336 23-17-43. If any amendment to the Constitution \* \* \* adopted  
337 as provided in Section 273, Mississippi Constitution of 1890, is  
338 rejected by a majority of the qualified electors voting thereon,  
339 no initiative petition proposing the same, or substantially the  
340 same, amendment shall be submitted to the electors for at  
341 least \* \* \* five (5) years after the date of the election on such  
342 amendment.

343 **SECTION 19.** Section 23-17-45, Mississippi Code of 1972, is  
344 amended as follows:

345 23-17-45. (1) A pamphlet containing a copy of all  
346 initiative measures \* \* \*, including the ballot title and ballot  
347 summary, arguments or explanations for and against each  
348 measure \* \* \* and the fiscal analysis prepared by the chief  
349 legislative budget officer shall be compiled by the Secretary of



350 State. The sponsor may prepare the argument or explanation on the  
351 measure. If the sponsor does not prepare the argument or  
352 explanation, then the Secretary of State shall do so. Each  
353 argument or explanation shall not exceed three hundred (300)  
354 words. The Secretary of State shall publish the ballot title,  
355 ballot summary, full text of each measure and arguments or  
356 explanations for and against each measure \* \* \* once a week for  
357 three (3) consecutive weeks immediately preceding the election in  
358 at least one (1) newspaper of general circulation in each county  
359 of the state. The costs of such printing and publication shall be  
360 borne by the Secretary of State from funds appropriated by the  
361 Legislature.

362 (2) The Secretary of State shall conduct at least one (1)  
363 public hearing in each \* \* \* of the five (5) most populous  
364 counties in the state according to the latest federal decennial  
365 census on each measure to be placed on the ballot and shall give  
366 public notice thereof at least thirty (30) days before a hearing.

367 **SECTION 20.** Section 23-17-60, Mississippi Code of 1972, is  
368 brought forward as follows:

369 23-17-60. Any person who alleges that his or her signature  
370 on an initiative petition was obtained as the result of fraud or  
371 coercion, or that the person was intentionally misled as to the  
372 substance or effect of the petition, may have his or her signature  
373 removed from the initiative petition upon filing an affidavit to  
374 such effect with the Secretary of State anytime before the



375 Secretary of State has accepted and filed the petition under  
376 Section 23-17-23.

377         **SECTION 21.** This act shall take effect and be in force from  
378 and after July 1 in the year following the year in which the  
379 Secretary of State certifies the passage of the constitutional  
380 amendment proposed in Senate Concurrent Resolution No. 533, 2023  
381 Regular Session, and shall stand repealed on June 30, 2023

