

By: Senator(s) McCaughn, Boyd, Suber

To: Accountability,
Efficiency, Transparency

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) * * * and county * * * written after my name,
211 my residence address is correctly stated and I have knowingly
212 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; and * * * driver's license
217 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 by a two-thirds (2/3) vote of each house of the
306 Legislature shall become law. An initiative measure that is a
307 proposed constitutional amendment adopted by a two-thirds (2/3)
308 vote of each house of the Legislature as outlined in Section 33 of
309 the Mississippi Constitution of 1890 shall be submitted to the
310 people for final approval or rejection at the next statewide
311 general election following the form required by Section 23-17-35.

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

314 23-17-39. No more than * * * two (2) initiative proposals
315 shall be submitted to the voters on a single ballot, and the
316 first * * * two (2) initiative proposals submitted to the
317 Secretary of State with sufficient petitions shall be the
318 proposals which are submitted to the voters.

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

321 23-17-42. When a proposed change, alteration or amendment
322 proposed to the Constitution * * * receives the required number of
323 votes as provided in Section 273 * * *, Mississippi Constitution
324 of 1890, the Secretary of State shall insert the proposed change,



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

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

335 23-17-43. If any amendment to the Constitution * * * adopted
336 as provided in Section 273, Mississippi Constitution of 1890, is
337 rejected by a majority of the qualified electors voting thereon,
338 no initiative petition proposing the same, or substantially the
339 same, amendment shall be submitted to the electors for at
340 least * * * five (5) years after the date of the election on such
341 amendment.

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

344 23-17-45. (1) A pamphlet containing a copy of all
345 initiative measures * * *, including the ballot title and ballot
346 summary, arguments or explanations for and against each
347 measure * * * and the fiscal analysis prepared by the chief
348 legislative budget officer shall be compiled by the Secretary of
349 State. The sponsor may prepare the argument or explanation on the



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

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

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

368 23-17-60. Any person who alleges that his or her signature
369 on an initiative petition was obtained as the result of fraud or
370 coercion, or that the person was intentionally misled as to the
371 substance or effect of the petition, may have his or her signature
372 removed from the initiative petition upon filing an affidavit to
373 such effect with the Secretary of State anytime before the



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

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

