

By: Senator(s) Harkins

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2639

1 AN ACT TO BRING FORWARD SECTIONS 23-17-1, 23-17-3, 23-17-5,
2 23-17-8, 23-17-9, 23-17-11, 23-17-17, 23-17-19, 23-17-21,
3 23-17-29, SECTION 23-17-35, 23-17-37, 23-17-39, 23-17-42,
4 23-17-43, 23-17-45 AND 23-17-60, MISSISSIPPI CODE OF 1972, FOR
5 POSSIBLE AMENDMENT TO THE BALLOT INITIATIVE PROVISIONS; AND FOR
6 RELATED PURPOSES.

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

8 **SECTION 1.** Section 23-17-1, Mississippi Code of 1972, is
9 brought forward as follows:

10 23-17-1. (1) For purposes of this chapter, the following
11 term shall have the meaning ascribed herein:

12 "Measure" means an amendment to the Mississippi Constitution
13 proposed by a petition of qualified electors under Section 273,
14 Mississippi Constitution of 1890.

15 (2) If any qualified elector of the state desires to
16 initiate a proposed amendment to the Constitution of this state as
17 authorized by subsections (3) through (13) of Section 273 of the
18 Mississippi Constitution of 1890, he shall first file with the
19 Secretary of State a typewritten copy of the proposed initiative



20 measure, accompanied by an affidavit that the sponsor is a
21 qualified elector of this state.

22 (3) The sponsor of an initiative shall identify in the text
23 of the initiative the amount and source of revenue required to
24 implement the initiative. If the initiative requires a reduction
25 in any source of government revenue, or a reallocation of funding
26 from currently funded programs, the sponsor shall identify in the
27 text of the initiative the program or programs whose funding must
28 be reduced or eliminated to implement the initiative.

29 (4) The person proposing the measure shall also include all
30 the information required under Section 273, Mississippi
31 Constitution of 1890.

32 **SECTION 2.** Section 23-17-3, Mississippi Code of 1972, is
33 brought forward as follows:

34 23-17-3. The petition for a proposed initiative measure must
35 be filed with the Secretary of State not less than ninety (90)
36 days before the first day of the regular session of the
37 Legislature at which it is to be submitted. A petition is valid
38 for a period of twelve (12) months.

39 **SECTION 3.** Section 23-17-5, Mississippi Code of 1972, is
40 brought forward as follows:

41 23-17-5. Upon receipt of any proposed initiative measure,
42 the Secretary of State shall submit a copy of the proposed measure
43 to the Attorney General and give notice to the person filing the
44 proposed measure of such transmittal. Upon receipt of the



45 measure, the Attorney General may confer with the person filing
46 the proposed measure and shall within ten (10) working days from
47 receipt thereof review the proposal for matters of form and style,
48 and such matters of substantive import as may be agreeable to the
49 person filing the proposed measure, and shall recommend such
50 revision or alteration of the measure as may be deemed necessary
51 and appropriate. The recommendations of the Attorney General
52 shall be advisory only, and the person filing the proposed measure
53 may accept or reject them in whole or in part. The Attorney
54 General shall issue a certificate of review certifying that he has
55 reviewed the measure for form and style and that the
56 recommendations thereon, if any, have been communicated to the
57 person filing the proposed measure, and such certificate shall
58 issue whether or not the person filing the proposed measure
59 accepts such recommendations. Within fifteen (15) working days
60 after notification of submittal of the proposed initiative measure
61 to the Attorney General, the person filing the proposed measure,
62 if he desires to proceed with his sponsorship, shall file the
63 measure together with the certificate of review with the Secretary
64 of State for assignment of a serial number and the Secretary of
65 State shall thereupon submit to the Attorney General a certified
66 copy of the measure filed. Upon submitting the proposal to the
67 Secretary of State for assignment of a serial number the Secretary
68 of State shall refuse to make such assignment unless the proposal
69 is accompanied by a certificate of review.



70 **SECTION 4.** Section 23-17-8, Mississippi Code of 1972, is
71 brought forward as follows:

72 23-17-8. When an amendment to the Mississippi Constitution
73 of 1890 is proposed to the qualified electors of the state under
74 the voter initiative procedure set forth in Section 23-17-1 et
75 seq., the Secretary of State, with the approval of the Attorney
76 General, may make a nonsubstantive clerical or technical
77 correction in the section number reference or designation of the
78 proposed amendment contained in an initiative measure, as may be
79 appropriate or necessary in order to prevent the use of an
80 existing section number or the possibility of the initiative being
81 declared invalid only because of an error in the section number
82 designation. Such a correction may be made at any time after the
83 Attorney General's certificate of review with regard to the
84 initiative measure has been issued, and before the ballot for the
85 initiative measure is printed. The provisions of this section do
86 not authorize the Secretary of State to make any change other than
87 a nonsubstantive correction in the section number reference or
88 designation of the proposed amendment contained in the initiative
89 measure.

90 **SECTION 5.** Section 23-17-9, Mississippi Code of 1972, is
91 brought forward as follows:

92 23-17-9. Within seven (7) calendar days after the receipt of
93 an initiative measure, the Attorney General shall formulate and
94 transmit to the Secretary of State a concise statement posed as a



95 question and not to exceed twenty (20) words, bearing the serial
96 number of the measure and a summary of the measure, not to exceed
97 seventy-five (75) words, to follow the statement. The statement
98 shall give a true and impartial statement of the purpose of the
99 measure. Neither the statement nor the summary may intentionally
100 be an argument, nor likely to create prejudice, either for or
101 against the measure. Such concise statement shall constitute the
102 ballot title. The ballot title formulated by the Attorney General
103 shall be the ballot title of the measure unless changed on appeal.
104 When practicable, the question posed by the ballot title shall be
105 written in such a way that an affirmative answer to such question
106 and an affirmative vote on the measure would result in a change in
107 then current law, and a negative answer to the question and a
108 negative vote on the measure would result in no change to then
109 current law.

110 **SECTION 6.** Section 23-17-11, Mississippi Code of 1972, is
111 brought forward as follows:

112 23-17-11. Upon the filing of the ballot title and summary
113 for an initiative measure in his office, the Secretary of State
114 shall forthwith notify by certified mail return receipt requested,
115 the person proposing the measure and any other individuals who
116 have made written request for such notification of the exact
117 language of the ballot title. The Secretary of State shall
118 publish the title and summary for an initiative measure within ten
119 (10) days after filing such title and summary in a newspaper or



120 newspapers of general circulation throughout the State of
121 Mississippi.

122 **SECTION 7.** Section 23-17-17, Mississippi Code of 1972, is
123 brought forward as follows:

124 23-17-17. (1) The person proposing an initiative measure
125 shall print blank petitions upon single sheets of paper of good
126 writing quality not less than eight and one-half (8-1/2) inches in
127 width and not less than fourteen (14) inches in length. Each
128 sheet shall have a full, true and correct copy of the proposed
129 measure referred to therein printed on the reverse side of the
130 petition or attached thereto.

131 (2) Only a person who is a qualified elector of this state
132 may circulate a petition or obtain signatures on a petition.

133 **SECTION 8.** Section 23-17-19, Mississippi Code of 1972, is
134 brought forward as follows:

135 23-17-19. The Secretary of State shall design the form each
136 sheet of which shall contain the following:

137 **"WARNING**

138 **EVERY PERSON WHO SIGNS THIS PETITION WITH ANY OTHER THAN HIS**
139 **OR HER TRUE NAME, KNOWINGLY SIGNS MORE THAN ONE OF THESE PETITIONS**
140 **RELATING TO THE SAME INITIATIVE MEASURE, SIGNS THIS PETITION WHEN**
141 **HE OR SHE IS NOT A QUALIFIED ELECTOR OR MAKES ANY FALSE STATEMENT**
142 **ON THIS PETITION MAY BE PUNISHED BY FINE, IMPRISONMENT, OR BOTH.**

143 **PETITION FOR INITIATIVE MEASURE**



144 To the Honorable _____, Secretary of State of
145 the State of Mississippi:

146 We, the undersigned citizens and qualified electors of the
147 State of Mississippi, respectfully direct that this petition and
148 the proposed measure known as Initiative Measure No. _____,
149 entitled (here insert the established ballot title of the
150 measure), a full, true and correct copy of which is printed or
151 attached on the reverse side of this petition, be transmitted to
152 the Legislature of the State of Mississippi at its next ensuing
153 regular session, and we respectfully petition the Legislature to
154 adopt the proposed measure; and each of us for himself or herself
155 says: I have personally signed this petition, I am a qualified
156 elector of the State of Mississippi in the city (or town), county
157 and congressional district written after my name, my residence
158 address is correctly stated and I have knowingly signed this
159 petition only once."

160 Each sheet shall also provide adequate space for the
161 following information: Petitioner's signature; print name for
162 positive identification; residence address, street and number, if
163 any; city or town; county; precinct; and congressional district.

164 **SECTION 9.** Section 23-17-21, Mississippi Code of 1972, is
165 brought forward as follows:

166 23-17-21. Before a person may file a petition with the
167 Secretary of State, the petition must be certified by the circuit
168 clerk of each county in which the petition was circulated. The



169 circuit clerk shall certify the signatures of qualified electors
170 of that county and shall state the total number of qualified
171 electors signing the petition in that county. The circuit clerk
172 shall verify the name of each qualified elector signing on each
173 petition. A circuit clerk may not receive any fee, salary or
174 compensation from any private person or private legal entity for
175 the clerk's duties in certifying an initiative petition. When the
176 person proposing any initiative measure has secured upon the
177 petition a number of signatures of qualified electors equal to or
178 exceeding the minimum number required by Section 273(3) of the
179 Mississippi Constitution of 1890 for the proposed measure, and
180 such signatures have been certified by the circuit clerks of the
181 various counties, he may submit the petition to the Secretary of
182 State for filing. The Secretary of State shall collect a fee of
183 Five Hundred Dollars (\$500.00) from the person filing the petition
184 to pay part of the administrative and publication costs.

185 **SECTION 10.** Section 23-17-29, Mississippi Code of 1972, is
186 brought forward as follows:

187 23-17-29. The Secretary of State shall file with the Clerk
188 of the House and the Secretary of the Senate on the first day of
189 the regular legislative session the complete text of each
190 initiative for which a petition has been certified and filed with
191 him. A constitutional initiative may be adopted or amended by a
192 majority vote of each house of the Legislature. If the initiative
193 is adopted, amended or rejected by the Legislature; or if no



194 action is taken within four (4) months of the date that the
 195 initiative is filed with the Legislature, the Secretary of State
 196 shall place the initiative on the ballot for the next statewide
 197 general election. If the Legislature amends an initiative, the
 198 amended version and the original initiative shall be submitted to
 199 the electors. An initiative or legislative alternative must
 200 receive a majority of the votes thereon and not less than forty
 201 percent (40%) of the total votes cast at the election at which the
 202 measure was submitted to be approved. If conflicting initiatives
 203 or legislative alternatives are approved at the same election, the
 204 initiative or legislative alternative receiving the highest number
 205 of affirmative votes shall prevail.

206 **SECTION 11.** Section 23-17-35, Mississippi Code of 1972, is
 207 brought forward as follows:

208 23-17-35. Except in the case of alternative voting on a
 209 measure initiated by petition, each measure submitted to the
 210 people for approval or rejection shall be so printed on the
 211 ballot, under the proper heading, that a voter can, by making one
 212 (1) choice, express his approval or rejection of such measure.
 213 Substantially the following form shall be a compliance with this
 214 section:

INITIATIVE MEASURE NO. _____

(Here insert the ballot title of the measure.)

217 YES ()
 218 NO ()



219 **SECTION 12.** Section 23-17-37, Mississippi Code of 1972, is
220 brought forward as follows:

221 23-17-37. If an initiative measure proposed to the
222 Legislature has been rejected by the Legislature and an
223 alternative measure is passed by the Legislature in lieu thereof,
224 the serial numbers and ballot titles of both such measures shall
225 be printed on the official ballots so that a voter can express
226 separately two (2) preferences: First, by voting for the approval
227 of either measure or against both measures, and, secondly, by
228 voting for one measure or the other measure. If the majority of
229 those voting on the first issue is against both measures, then
230 both measures fail, but in that case the votes on the second issue
231 nevertheless shall be carefully counted and made public. If a
232 majority voting on the first issue is for the approval of either
233 measure, then the measure receiving a majority of the votes on the
234 second issue and also receiving not less than forty percent (40%)
235 of the total votes cast at the election at which the measure was
236 submitted for approval shall be law. Any person who votes against
237 both measures on the first issue may vote but shall not be
238 required to vote for any of the measures on the second issue in
239 order for the ballot to be valid. Substantially the following
240 form shall be a compliance with this section:

241 INITIATED BY PETITION AND ALTERNATIVE
242 BY LEGISLATURE



243 Initiative Measure No. _____, entitled (here insert the ballot
244 title of the initiative measure).

245 Alternative Measure No. _____ A, entitled (here insert the
246 ballot title of the alternative measure).

247 VOTE FOR APPROVAL OF EITHER, OR AGAINST BOTH:

248 FOR APPROVAL OF EITHER Initiative No. _____

249 OR Alternative No. _____ A..... ()

250 AGAINST BOTH Initiative No. _____

251 AND Alternative No. _____ A..... ()

252 AND VOTE FOR ONE:

253 FOR Initiative Measure No. _____..... ()

254 FOR Alternative Measure No. _____ A..... ()

255 **SECTION 13.** Section 23-17-39, Mississippi Code of 1972, is
256 brought forward as follows:

257 23-17-39. No more than five (5) initiative proposals shall
258 be submitted to the voters on a single ballot, and the first five
259 (5) initiative proposals submitted to the Secretary of State with
260 sufficient petitions shall be the proposals which are submitted to
261 the voters.

262 **SECTION 14.** Section 23-17-42, Mississippi Code of 1972, is
263 brought forward as follows:

264 23-17-42. When a proposed change, alteration or amendment
265 proposed to the Constitution by initiative of the people or
266 legislative alternative receives the required number of votes as
267 provided in Section 273(8), Mississippi Constitution of 1890, the



268 Secretary of State shall insert the proposed change, alteration or
269 amendment into the Constitution by proclamation of his or her
270 office certifying that the proposed change, alteration or
271 amendment to the Constitution received the required number of
272 votes as provided in Section 273(8), Mississippi Constitution of
273 1890. The Secretary of State shall also designate the article
274 number and section number or numbers for the proposed change,
275 alteration or amendment in the Constitution if the article number
276 and section number or numbers are not provided in the initiative
277 of the people or legislative alternative.

278 **SECTION 15.** Section 23-17-43, Mississippi Code of 1972, is
279 brought forward as follows:

280 23-17-43. If any amendment to the Constitution proposed by
281 initiative petition is rejected by a majority of the qualified
282 electors voting thereon, no initiative petition proposing the
283 same, or substantially the same, amendment shall be submitted to
284 the electors for at least two (2) years after the date of the
285 election on such amendment.

286 **SECTION 16.** Section 23-17-45, Mississippi Code of 1972, is
287 brought forward as follows:

288 23-17-45. (1) A pamphlet containing a copy of all
289 initiative measures and legislative alternatives, including the
290 ballot title and ballot summary, arguments or explanations for and
291 against each measure and alternative and the fiscal analysis
292 prepared by the chief legislative budget officer shall be compiled



293 by the Secretary of State. The sponsor may prepare the argument
294 or explanation on the measure. If the sponsor does not prepare
295 the argument or explanation, then the Secretary of State shall do
296 so. Each argument or explanation shall not exceed three hundred
297 (300) words. The Secretary of State shall publish the ballot
298 title, ballot summary, full text of each measure and arguments or
299 explanations for and against each measure and alternative once a
300 week for three (3) consecutive weeks immediately preceding the
301 election in at least one (1) newspaper of general circulation in
302 each county of the state. The costs of such printing and
303 publication shall be borne by the Secretary of State from funds
304 appropriated by the Legislature.

305 (2) The Secretary of State shall conduct at least one (1)
306 public hearing in each congressional district on each measure to
307 be placed on the ballot and shall give public notice thereof at
308 least thirty (30) days before a hearing.

309 **SECTION 17.** Section 23-17-60, Mississippi Code of 1972, is
310 brought forward as follows:

311 23-17-60. Any person who alleges that his or her signature
312 on an initiative petition was obtained as the result of fraud or
313 coercion, or that the person was intentionally misled as to the
314 substance or effect of the petition, may have his or her signature
315 removed from the initiative petition upon filing an affidavit to
316 such effect with the Secretary of State anytime before the



317 Secretary of State has accepted and filed the petition under
318 Section 23-17-23.

319 **SECTION 18.** Amendments to this act shall take effect and be
320 in force from and after its passage.

