

By: Representatives Sanford, Anthony

To: Apportionment and Elections

HOUSE BILL NO. 1404

1 AN ACT TO AMEND SECTIONS 23-15-171, 23-15-191, 23-15-193,
2 23-15-213, 23-15-833, 23-15-857, 23-15-981, 23-15-1031,
3 23-15-1083, 37-5-9, 37-7-215, 37-7-217, 37-7-227 AND 37-7-711,
4 MISSISSIPPI CODE OF 1972, TO REVISE THE TIME FOR HOLDING RUNOFF
5 ELECTIONS TO FOUR WEEKS AFTER THE FIRST ELECTION INSTEAD OF THREE
6 WEEKS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 23-15-171, Mississippi Code of 1972, is
9 amended as follows:

10 23-15-171. (1) Municipal primary elections shall be held on
11 the first Tuesday in April preceding the general municipal
12 election and, in the event a second primary shall be necessary,
13 such second primary shall be held * * * four (4) weeks preceding
14 such general municipal election. The candidate receiving a
15 majority of the votes cast in the election shall be the party
16 nominee. If no candidate shall receive a majority vote at the
17 election, the two (2) candidates receiving the highest number of
18 votes shall have their names placed on the ballot for the second
19 primary election. The candidate receiving the most votes cast in
20 the second primary election shall be the party nominee. However,



21 if no candidate shall receive a majority vote at the first
22 primary, and there is a tie in the election of those receiving the
23 next highest vote, those candidates receiving the next highest
24 vote and the candidate receiving the highest vote shall have their
25 names placed on the ballot for the second primary election, and
26 whoever receives the most votes cast in the second primary
27 election shall be the party nominee. At the primary election the
28 municipal executive committee shall perform the same duties as are
29 specified by law and performed by members of the county executive
30 committee with regard to state and county primary elections. Each
31 municipal executive committee shall have as many members as there
32 are elective officers of the municipality, and the members of the
33 municipal executive committee of each political party shall be
34 elected in the primary elections held for the nomination of
35 candidates for municipal offices. The provisions of this section
36 shall govern all municipal primary elections as far as applicable,
37 but the officers to prepare the ballots and the poll managers and
38 other officials of the primary election shall be appointed by the
39 municipal executive committee of the party holding the primary,
40 and the returns of such election shall be made to such municipal
41 executive committee. Vacancies in the executive committee shall
42 be filled by it.

43 (2) Provided, however, that in municipalities operating
44 under a special or private charter which fixes a time for holding
45 elections, other than the time fixed by Chapter 491, Laws of 1950,



46 the first primary election shall be held on the first Tuesday, two
47 (2) months before the time for holding the general election, as
48 fixed by the charter, and the second primary election, where
49 necessary, shall be held * * * four (4) weeks after the first
50 primary election, unless the charter of any such municipality
51 provides otherwise, in which event the provisions of the special
52 or private charter shall prevail as to the time of holding such
53 primary elections.

54 (3) All primary elections in municipalities shall be held
55 and conducted in the same manner as is provided by law for state
56 and county primary elections.

57 **SECTION 2.** Section 23-15-191, Mississippi Code of 1972, is
58 amended as follows:

59 23-15-191. The first primary shall be held on the first
60 Tuesday after the first Monday of August preceding any regular or
61 general election; and the second primary shall be held * * * four
62 (4) weeks thereafter. The candidate that receives a majority of
63 the votes cast in the election shall be the party nominee. If no
64 candidate receives a majority vote at the election, then the two
65 (2) candidates who receive the highest number of votes shall have
66 their names placed on the ballot for the second primary election
67 to be held * * * four (4) weeks later. The candidate who receives
68 the most votes in the second primary election shall be the party
69 nominee. However, if no candidate receives a majority vote at the
70 first primary, and there is a tie in the election of those



71 receiving the next highest vote, then those candidates receiving
72 the next highest vote and the candidate receiving the highest vote
73 shall have their names placed on the ballot for the second primary
74 election to be held * * * four (4) weeks later, and whoever
75 receives the most votes cast in the second primary election shall
76 be the party nominee.

77 **SECTION 3.** Section 23-15-193, Mississippi Code of 1972, is
78 amended as follows:

79 23-15-193. (1) At the election in 2023, and every four (4)
80 years thereafter, there shall be elected a Governor, Lieutenant
81 Governor, Secretary of State, Auditor of Public Accounts, State
82 Treasurer, Attorney General, three (3) public service
83 commissioners, three (3) Mississippi Transportation Commissioners,
84 Commissioner of Insurance, Commissioner of Agriculture and
85 Commerce, Senators and members of the House of Representatives in
86 the Legislature, district attorneys for the several districts,
87 clerks of the circuit and chancery courts of the several counties,
88 as well as sheriffs, coroners, assessors, surveyors and members of
89 the boards of supervisors, justice court judges and constables,
90 and all other officers to be elected by the people at the general
91 state election. All such officers shall hold their offices for a
92 term of four (4) years, and until their successors are elected and
93 qualified. The state officers shall be elected in the manner
94 prescribed in Section 140 of the Constitution.



95 (2) The state officers that receive a majority of votes cast
96 for the office at the general election shall be elected. If no
97 candidate receives a majority number of votes cast at the
98 election, then the two (2) candidates who receive the highest
99 number of votes cast shall have their names placed on the ballot
100 for the runoff election to be held * * * four (4) weeks later.
101 The candidate who receives a majority of the votes cast in the
102 runoff election shall be elected. However, if no candidate
103 receives a majority vote cast at the election, and there is a tie
104 in the election of those receiving the next highest vote, then
105 those candidates receiving the next highest vote and the candidate
106 receiving the highest number of votes cast shall have their names
107 placed on the ballot for the runoff election to be held * * * four
108 (4) weeks later, and whoever receives the majority of votes cast
109 in the runoff election shall be elected. If it appears that two
110 (2) or more candidates for state office have an equal number of
111 votes after the runoff election, the interested candidates shall
112 appear before the Chief Justice of the Mississippi Supreme Court
113 within two (2) days after the canvass and the tie shall be
114 determined by a toss of a coin or by lot fairly and publicly
115 drawn, and a certificate of election shall be given accordingly.

116 **SECTION 4.** Section 23-15-213, Mississippi Code of 1972, is
117 amended as follows:

118 23-15-213. (1) There shall be elected five (5) election
119 commissioners for each county whose terms of office shall commence



120 on the first Monday of January following their election and who
121 shall serve for a term of four (4) years. Each of the
122 commissioners shall be required to attend a training seminar
123 provided by the Secretary of State and satisfactorily complete a
124 skills assessment, and before acting, shall take and subscribe the
125 oath of office prescribed by the Constitution. The oath shall be
126 filed in the office of the clerk of the chancery court. Upon
127 filing the oath of office, the election commissioner may be
128 provided access to the Statewide Elections Management System for
129 the purpose of performing his or her duties. Such skills
130 assessment shall only be required once every four (4) years.
131 While engaged in their duties, the commissioners shall be
132 conservators of the peace in the county, with all the duties and
133 powers of such.

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

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

142 (c) No more than one (1) commissioner shall be a
143 resident of and reside in each supervisor's district of the
144 county; it being the purpose of this section that the county board



145 of election commissioners shall consist of one (1) person from
146 each supervisor's district of the county and that each
147 commissioner be elected from the supervisor's district in which he
148 or she resides.

149 (3) Candidates for county election commissioner shall
150 qualify by filing with the clerk of the board of supervisors of
151 their respective counties a petition personally signed by not less
152 than fifty (50) qualified electors of the supervisor's district in
153 which they reside, requesting that they be a candidate, by 5:00
154 p.m. not later than February 1 of the year in which the election
155 occurs and unless the petition is filed within the required time,
156 their names shall not be placed upon the ballot. All candidates
157 shall declare in writing their party affiliation, if any, to the
158 board of supervisors, and such party affiliation shall be shown on
159 the official ballot.

160 (4) The petition shall have attached thereto a certificate
161 of the county registrar showing the number of qualified electors
162 on each petition, which shall be furnished by the registrar on
163 request. The board shall determine the sufficiency of the
164 petition, and if the petition contains the required number of
165 signatures and is filed within the time required, the president of
166 the board shall verify that the candidate is a resident of the
167 supervisor's district in which he or she seeks election and that
168 the candidate is otherwise qualified as provided by law, and shall
169 certify that the candidate is qualified to the chair or secretary



170 of the county election commission and the names of the candidates
171 shall be placed upon the ballot for the ensuing election. No
172 county election commissioner shall serve or be considered as
173 elected until he or she has received a majority of the votes cast
174 for the position or post for which he or she is a candidate. If a
175 majority vote is not received in the first election, then the two
176 (2) candidates receiving the most votes for each position or post
177 shall be placed upon the ballot for a second election to be
178 held * * * four (4) weeks later in accordance with appropriate
179 procedures followed in other elections involving runoff
180 candidates.

181 (5) In the first meeting in January of each year, the county
182 election commissioners shall organize by electing a chair and a
183 secretary, who shall serve a one-year term. The county election
184 commissioners shall provide the names of the chair and secretary
185 to the Secretary of State and provide notice of any change in
186 officers which may occur during the year.

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

190 **SECTION 5.** Section 23-15-833, Mississippi Code of 1972, is
191 amended as follows:

192 23-15-833. Except as otherwise provided by law, the first
193 Tuesday after the first Monday in November of each year shall be
194 designated the regular special election day, and on that day an



195 election shall be held to fill any vacancy in county, county
196 district, and district attorney elective offices, and any vacancy
197 in the office of circuit judge or chancellor.

198 All special elections, or elections to fill vacancies, shall
199 in all respects be held, conducted and returned in the same manner
200 as general elections, except that where no candidate receives a
201 majority of the votes cast in the election, a runoff election
202 shall be held * * * four (4) weeks after the election. The two
203 (2) candidates who receive the highest popular votes for the
204 office shall have their names submitted as the candidates to the
205 runoff and the candidate who leads in the runoff election shall be
206 elected to the office. When there is a tie in the first election
207 of those receiving the next highest vote, these two (2) and the
208 one receiving the highest vote, none having received a majority,
209 shall go into the runoff election and whoever leads in the runoff
210 election shall be entitled to the office.

211 In those years when the regular special election day shall
212 occur on the same day as the general election, the names of
213 candidates in any special election and the general election shall
214 be placed on the same ballot, but shall be clearly distinguished
215 as general election candidates or special election candidates. At
216 any time a special election is held on the same day as a party
217 primary election, the names of the candidates in the special
218 election may be placed on the same ballot, but shall be clearly



219 distinguished as special election candidates or primary election
220 candidates.

221 **SECTION 6.** Section 23-15-857, Mississippi Code of 1972, is
222 amended as follows:

223 23-15-857. (1) When there is a vacancy in an elective
224 office in a city, town or village, the unexpired term of which
225 shall not exceed six (6) months, the same shall be filled by
226 appointment by the governing authority or remainder of the
227 governing authority of the city, town or village. The municipal
228 clerk shall certify the appointment to the Secretary of State and
229 the appointed person or persons shall be commissioned by the
230 Governor.

231 (2) When there is a vacancy in an elective office in a city,
232 town or village, the unexpired term of which shall exceed six (6)
233 months, the governing authority or remainder of the governing
234 authority of the city, town or village shall make and enter on the
235 minutes an order for an election to be held in the city, town or
236 village to fill the vacancy and fix a date upon which the election
237 shall be held. The order shall be made and entered upon the
238 minutes at the next regular meeting of the governing authority
239 after the vacancy occurs, or at a special meeting to be held not
240 later than ten (10) days after the vacancy occurs, Saturdays,
241 Sundays and legal holidays excluded, whichever shall occur first.
242 The election shall be held on a date not less than thirty (30)



243 days nor more than forty-five (45) days after the date upon which
244 the order is adopted.

245 Notice of the election shall be given by the municipal clerk
246 by notice published in a newspaper published in the municipality.
247 The notice shall be published once each week for three (3)
248 successive weeks preceding the date of the election. The first
249 notice shall be published at least thirty (30) days before the
250 date of the election. Notice shall also be given by posting a
251 copy of the notice at three (3) public places in the municipality
252 not less than twenty-one (21) days before the date of the
253 election. One (1) of the notices shall be posted at the city,
254 town or village hall. In the event that there is no newspaper
255 published in the municipality, such notice shall be published as
256 provided for above in a newspaper that has a general circulation
257 within the municipality and by posting as provided for above.
258 Additionally, the governing authority may publish the notice in
259 that newspaper for as many additional times as may be deemed
260 necessary by the governing authority.

261 Each candidate shall qualify by petition filed with the
262 municipal clerk by 5:00 p.m. at least twenty (20) days before the
263 date of the election. If the twentieth day to file the petition
264 before the election falls on a Sunday or legal holiday, the
265 petition filed on the business day immediately following the
266 Sunday or legal holiday shall be accepted. The petition shall be



267 signed by not less than the following number of qualified
268 electors:

269 (a) For an office of a city, town, village or municipal
270 district having a population of one thousand (1,000) or more, not
271 less than fifty (50) qualified electors.

272 (b) For an office of a city, town, village or municipal
273 district having a population of less than one thousand (1,000),
274 not less than fifteen (15) qualified electors.

275 No qualifying fee shall be required of any candidate, and the
276 election shall be held as far as practicable in the same manner as
277 municipal general elections.

278 The candidate receiving a majority of the votes cast in the
279 election shall be elected. If no candidate receives a majority
280 vote at the election, the two (2) candidates receiving the highest
281 number of votes shall have their names placed on the ballot for
282 the election to be held * * * four (4) weeks thereafter. The
283 candidate receiving a majority of the votes cast in the election
284 shall be elected. However, if no candidate receives a majority
285 and there is a tie in the election of those receiving the next
286 highest vote, those receiving the next highest vote and the
287 candidate receiving the highest vote shall have their names placed
288 on the ballot for the election to be held * * * four (4) weeks
289 thereafter, and whoever receives the most votes cast in the
290 election shall be elected.



291 Should the election held * * * four (4) weeks thereafter
292 result in a tie vote, the prevailing candidate shall be decided by
293 a toss of a coin or by lot fairly and publicly drawn under the
294 supervision of the election commission.

295 The clerk of the election commission shall then give a
296 certificate of election to the person elected, and return to the
297 Secretary of State a copy of the order of holding the election and
298 runoff election results, certified by the clerk of the governing
299 authority. The person elected shall be commissioned by the
300 Governor.

301 However, if nineteen (19) days before the date of the
302 election only one (1) person shall have qualified as a candidate,
303 the governing authority, or remainder of the governing authority,
304 shall dispense with the election and appoint that one (1)
305 candidate in lieu of an election. In the event no person shall
306 have qualified by 5:00 p.m. at least twenty (20) days before the
307 date of the election, the governing authority or remainder of the
308 governing authority shall dispense with the election and fill the
309 vacancy by appointment. The clerk of the governing authority
310 shall certify the appointment to the Secretary of State, and the
311 appointed person shall be commissioned by the Governor.

312 **SECTION 7.** Section 23-15-981, Mississippi Code of 1972, is
313 amended as follows:

314 23-15-981. If two (2) or more candidates qualify for
315 judicial office, the names of those candidates shall be placed on



316 the general election ballot. If any candidate for such an office
317 receives a majority of the votes cast for such office in the
318 general election, he shall be declared elected. If no candidate
319 for such office receives a majority of the votes cast for such
320 office in the general election, the names of the two (2)
321 candidates receiving the highest number of votes for such office
322 shall be placed on the ballot for a second election to be
323 held * * * four (4) weeks later in accordance with appropriate
324 procedures followed in other elections involving runoff
325 candidates.

326 **SECTION 8.** Section 23-15-1031, Mississippi Code of 1972, is
327 amended as follows:

328 23-15-1031. Except as provided by Section 23-15-1081, the
329 first primary election for Congressmen shall be held on the first
330 Tuesday in June of the years in which congressmen are elected, and
331 a second primary, if necessary, shall be held * * * four (4) weeks
332 thereafter. Each year in which a presidential election is held,
333 the congressional primary shall be held as provided in Section
334 23-15-1081. The election shall be held in all districts of the
335 state on the same day. Candidates for United States Senator shall
336 be nominated at the congressional primary next preceding the
337 general election at which a senator is to be elected and in the
338 same manner that congressmen are nominated. The chair and
339 secretary of the state executive committee shall certify the vote
340 for United States Senator to the Secretary of State in the same



341 manner that county executive committees certify the returns of
342 counties in general state and county primary elections.

343 **SECTION 9.** Section 23-15-1083, Mississippi Code of 1972, is
344 amended as follows:

345 23-15-1083. Beginning in 1988, as an alternative to the
346 congressional primary election date set forth in Section
347 23-15-1031, when a political party elects to conduct a
348 presidential preference primary, the first primary election for
349 congressmen, and senators, if senators are to be elected, shall be
350 held on the second Tuesday in March, and the second primary, when
351 one is necessary, shall be held * * * four (4) weeks thereafter,
352 and the election shall be held in all districts of the state on
353 the same day.

354 **SECTION 10.** Section 37-5-9, Mississippi Code of 1972, is
355 amended as follows:

356 37-5-9. The name of any qualified elector who is a candidate
357 for the county board of education shall be placed on the ballot
358 used in the general elections by the county election
359 commissioners, provided that the candidate files with the county
360 election commissioners, not more than ninety (90) days and not
361 less than sixty (60) days prior to the date of such general
362 election, a petition of nomination signed by not less than fifty
363 (50) qualified electors of the county residing within each
364 supervisors district. Where there are less than one hundred (100)
365 qualified electors in said supervisors district, it shall only be



366 required that said petition of nomination be signed by at least
367 twenty percent (20%) of the qualified electors of such supervisors
368 district. The candidate in each supervisors district who receives
369 the majority of votes cast in the district shall be declared
370 elected. If no candidate receives a majority of the votes cast at
371 the election, a runoff shall be held between the two (2)
372 candidates receiving the highest number of votes in the first
373 election. The runoff election, in the event that such is
374 necessary, shall be held * * * four (4) weeks after the first
375 election.

376 When any member of the county board of education is to be
377 elected from the county at large under the provisions of this
378 chapter, then the petition required by the preceding paragraph
379 hereof shall be signed by the required number of qualified
380 electors residing in any part of the county outside of the
381 territory embraced within a municipal separate school district or
382 special municipal separate school district. The candidate who
383 receives the majority of votes cast in the election shall be
384 declared elected. If no candidate receives a majority of the
385 votes cast at the election, a runoff shall be held between the two
386 (2) candidates receiving the highest number of votes in the first
387 election. The runoff election, in the event that such is
388 necessary, shall be held * * * four (4) weeks after the first
389 election.



390 In no case shall any qualified elector residing within a
391 municipal separate school district or special municipal separate
392 school district be eligible to sign a petition of nomination for
393 any candidate for the county board of education under any of the
394 provisions of this section.

395 **SECTION 11.** Section 37-7-215, Mississippi Code of 1972, is
396 amended as follows:

397 37-7-215. All such elections shall be held on the first
398 Tuesday after the first Monday in November of each year and in the
399 same manner as general state and county elections are held and
400 conducted. In the event a runoff is necessary the runoff shall be
401 held * * * four (4) weeks thereafter.

402 **SECTION 12.** Section 37-7-217, Mississippi Code of 1972, is
403 amended as follows:

404 37-7-217. (1) The county election commissioners shall
405 indicate on the ballot which of the persons whose names appear
406 thereon are candidates for a full term, and which of such persons,
407 if any, are candidates for an unexpired term or terms.

408 (2) The qualified electors of each school district operating
409 under Section 37-7-215 shall vote on the date specified in that
410 section and at the special trustee election districts.

411 (3) A person elected shall assume the duties of his office
412 for the full term on the first day of January if the election is
413 for the full term. A person elected to an unexpired term shall
414 assume office immediately.



415 (4) The county election commissioners shall forthwith
416 certify the results of the election to the superintendent of the
417 municipal separate or special municipal separate school district,
418 as the case may be, which certificate shall be delivered to such
419 superintendent within five (5) days following the first election.

420 (5) If a person does not receive a majority of the votes
421 cast at the election, a runoff shall be held between the two (2)
422 persons receiving the highest number of votes at the first
423 election. In the event a runoff is necessary the runoff shall be
424 held four (4) weeks thereafter.

425 **SECTION 13.** Section 37-7-227, Mississippi Code of 1972, is
426 amended as follows:

427 37-7-227. (1) The county election commissioners shall
428 indicate on the ballot which of the persons whose names appear
429 thereon are candidates for a full term, and which of such persons,
430 if any, are candidates for an unexpired term or terms. The
431 candidate who receives a majority of the votes cast, either for a
432 full term or for an unexpired term or terms, as indicated on the
433 ballot, shall be declared elected, and the person or persons
434 elected to a full term shall assume the duties of his office on
435 the first day of January of the year following such election. The
436 person or persons elected to an unexpired term(s) shall assume
437 office immediately. If no candidate receives a majority of the
438 votes cast at the election, a runoff shall be held in the same
439 manner * * * four (4) weeks after the election between the two (2)



440 candidates receiving the highest number of votes upon the first
441 ballot.

442 (2) Notwithstanding any other provision of law, if an
443 election for school board trustees occurs on a Tuesday, during a
444 general election, any runoff for such election shall occur * * *
445 four (4) weeks after the election.

446 **SECTION 14.** Section 37-7-711, Mississippi Code of 1972, is
447 amended as follows:

448 37-7-711. In all such special municipal separate school
449 districts which may be so organized, reorganized or reconstituted
450 to embrace the entire county in which the majority of the
451 inhabitants of the county reside outside the corporate limits of
452 the municipality, the name of any qualified elector who is a
453 candidate for the board of trustees of such special municipal
454 separate school district, whether such person be a candidate for
455 an unexpired term or for a full term, shall be placed on the
456 ballot used in the elections, provided that the candidate files
457 with the county election commissioners, not more than ninety (90)
458 days and not less than sixty (60) days prior to the date of such
459 general election, a petition of nomination signed by not less than
460 fifty (50) qualified electors of the county. Where there are less
461 than one hundred (100) qualified electors in said area represented
462 by the trustee, it shall only be required that said petition of
463 nomination be signed by at least twenty percent (20%) of the
464 qualified electors in said area. However, in any such special



465 municipal separate school district which embraces the entire
466 county and which borders the Mississippi River and in which
467 Interstate Highway 20 and United States Highway 61 intersect and
468 having a population in excess of forty-seven thousand (47,000)
469 according to the 1990 federal decennial census, the candidate
470 shall be required to file a petition of nomination with the county
471 election commissioners not less than sixty (60) days prior to the
472 date of such general election, in addition to the other
473 requirements prescribed herein.

474 The candidate in each election who receives the majority of
475 votes cast in the election shall be declared to have been elected.
476 If no candidate receives a majority of the votes cast at the
477 election, a runoff shall be held between the two (2) candidates
478 receiving the highest number of votes in the first election. The
479 runoff election, in the event that such is necessary, shall be
480 held * * * four (4) weeks after the first election.

481 **SECTION 15.** This act shall take effect and be in force from
482 and after July 1, 2024.

