

By: Representative Hurst

To: Apportionment and  
Elections

HOUSE BILL NO. 1427

1 AN ACT TO REVISE THE PROVISIONS REGULATING ELECTION CONTESTS;  
2 TO PROVIDE THAT THE ELECTION CONTESTS FOR PRIMARY, RUNOFF, GENERAL  
3 AND SPECIAL ELECTIONS SHALL BE TREATED THE SAME; TO PROVIDE THAT  
4 SUCH CONTESTS MUST BE FILED WITHIN TWENTY DAYS AFTER THE ELECTION;  
5 TO PROVIDE THAT THE CIRCUIT CLERK SHALL NOTIFY THE CHIEF JUSTICE  
6 OF THE SUPREME COURT, WHO SHALL DESIGNATE AND NOTIFY A RETIRED  
7 JUDGE ON SENIOR STATUS OF A DISTRICT OTHER THAN THE ONE THAT  
8 EMBRACES THE AREA INVOLVED IN THE CONTEST TO HEAR THE CONTEST; TO  
9 PROVIDE FOR SERVICE OF PROCESS IN THE CONTEST; TO EXEMPT CONTESTS  
10 OF THE LEGISLATURE FROM THESE PROVISIONS; TO PROVIDE THAT SUCH  
11 CONTEST SHALL NOT BE HEARD BY A JURY; TO AMEND SECTION 23-15-911,  
12 MISSISSIPPI CODE OF 1972, TO PROCESS THE EXAMINATION OF THE BALLOT  
13 BOX; TO AMEND SECTION 23-15-933, MISSISSIPPI CODE OF 1972, TO  
14 PROVIDE THAT THE ELECTION COMMISSIONERS SHALL NOT ATTEND THE  
15 HEARING ON THE CONTEST; TO AMEND SECTION 23-15-937, MISSISSIPPI  
16 CODE OF 1972, TO PROVIDE THAT THE DECISION OF THE JUDGE SHALL BE  
17 RENDERED AS EXPEDITIOUSLY AS POSSIBLE SO THAT THE RESOLUTION OF  
18 THE CONTEST CAN PROVIDE FOR A TIMELY RESOLUTION OF ANY RESULTING  
19 ELECTIONS; TO AMEND SECTION 23-15-939, MISSISSIPPI CODE OF 1972,  
20 TO REMOVE THE COMPENSATION FOR THE SERVICES OF THE ELECTION  
21 COMMISSIONS DURING AN ELECTION CONTEST; TO AMEND SECTIONS  
22 23-15-941, 23-15-955, 23-15-961, 23-15-963, 23-15-921, 23-15-927,  
23 23-15-929, 23-15-935 AND 23-15-953, MISSISSIPPI CODE OF 1972, TO  
24 CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTIONS  
25 23-15-913, 23-15-923, 23-15-925, 23-15-931, 23-15-951, 23-15-957  
26 AND 23-15-615, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF  
27 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** Section 23-15-911, Mississippi Code of 1972, is  
30 amended as follows:



31           23-15-911. (1) (a) When the returns for a box and the  
32 contents of the ballot box and the conduct of the election have  
33 been canvassed and reviewed by the county election commission in  
34 the case of general elections or the county executive committee in  
35 the case of primary elections, all the contents of the box  
36 required to be placed and sealed in the ballot box by the poll  
37 managers shall be replaced therein by the election commission or  
38 executive committee, as the case may be, and the box shall be  
39 forthwith resealed and delivered to the circuit clerk, who shall  
40 safely keep and secure the same against any tampering. At any  
41 time within twelve (12) business days after the \* \* \*  
42 certification of the election results by the election commission  
43 or executive committee, as the case may be, any candidate or his  
44 or her representative authorized in writing by him or her shall  
45 have the right of full examination of the box and its contents and  
46 any other material used in the conduct of the election upon three  
47 (3) days' notice of his or her application therefor served upon  
48 the opposing candidates. The service of notice shall be provided  
49 to each opposing candidate by delivering a copy personally to each  
50 candidate, or by performing two (2) of the following:  
51                   (i) By leaving a copy at each candidate's usual  
52 place of residence with a family member, who shall be no less than  
53 sixteen (16) years of age and, who resides in the candidate's  
54 residence;



55 (ii) By email or other electronic means, with  
56 receipt deemed upon transmission; or

57 (iii) By mailing a copy of the notice by  
58 registered or certified mail that is addressed to each opposing  
59 candidate at that candidate's residence with receipt deemed  
60 mailing.

61 (b) If service of notice cannot be made to any opposing  
62 candidate, then notice may be posted on the door of each  
63 candidate's usual place of abode. If any candidate's usual place  
64 of residence is a multifamily dwelling, a copy of the notice must  
65 be mailed to the candidate or candidates by United States  
66 first-class mail, postage prepaid, return receipt requested.  
67 Proof of service of notice upon any opposing candidate shall be  
68 made to the circuit clerk within three (3) days before a full  
69 examination of the ballot box may be conducted.

70 (c) The examination shall be conducted in the presence  
71 of the circuit clerk or his or her deputy who shall be charged  
72 with the duty to see that none of the contents of the box are  
73 removed from the presence of the clerk or in any way tampered  
74 with. All materials shall be subject to examination without  
75 redaction. Materials may be copied, scanned or photographed  
76 during the examination at the expense of the candidate or his or  
77 her representative, but any material copied that contains a social  
78 security number or birthdate shall be redacted before copying.  
79 Upon the completion of the examination the box shall be resealed



80 with all its original contents inside. And if any contest or  
81 complaint before the court shall arise over the box, it shall be  
82 kept intact and sealed until the court hearing and another ballot  
83 box, if necessary, shall be furnished for the precinct involved.

84 (2) The provisions of this section allowing the examination  
85 of ballot boxes shall apply in the case of an election contest  
86 regarding the seat of a member of the state Legislature. In such  
87 a case, the results of the examination shall be reported by the  
88 applicable circuit clerk to the Clerk of the House of  
89 Representatives or the Secretary of the Senate, as the case may  
90 be.

91 **SECTION 2.** (1) Except as otherwise provided by Section  
92 23-15-955 or 23-15-961, a person desiring to contest the election  
93 of another person or persons returned as candidate for nomination  
94 in a party's runoff election, or returned as the nominee of the  
95 party, or contesting the election of another person returned as  
96 elected to any office, may, within twenty (20) days after the  
97 election, file a petition in the office of the clerk of the  
98 circuit court of the county in which the irregularities are  
99 charged to have occurred, or, if more than one (1) county is  
100 involved, then in one (1) of the counties, setting forth the  
101 grounds upon which the election is contested. When such a  
102 petition is filed, the circuit clerk shall immediately notify, by  
103 registered letter, telegraph, telephone, or personally the Chief  
104 Justice of the Supreme Court or in his absence, or disability,



105 some other Justice of the Supreme Court, who shall forthwith  
106 designate and notify a retired judge on senior status of a  
107 district other than that which embraces the district, subdistrict,  
108 county or any of the counties, involved in the contest or  
109 complaint, to proceed to the county in which the contest or  
110 complaint has been filed to hear and determine the contest or  
111 complaint. The circuit clerk shall also cause a copy of such  
112 petition to be served upon the contestee, which shall serve as  
113 notice to such contestee.

114 (2) It shall be the official duty of the trial judge to  
115 proceed to discharge the duty of hearing the contest at the  
116 earliest possible date. The date of the contest shall be fixed by  
117 the trial judge and of which the contestant and contestee shall  
118 have reasonable notice, to be served in such reasonable manner as  
119 the judge may direct. When the contestee is served, such  
120 contestee shall promptly file his answer, and cross-complaint, if  
121 the contestee has one to prefer.

122 (3) In case the election of district attorney or other state  
123 district election be contested, the petition may be filed in any  
124 county of the district or in any county of an adjoining district.

125 (4) A person desiring to contest the election of another  
126 person returned as elected to any seat in the Mississippi  
127 Legislature shall comply with the provisions of Section 23-15-955.  
128 A person desiring to contest the qualifications of a candidate for  
129 nomination shall comply with the provisions of Section 23-15-961.



130           **SECTION 3.** Section 23-15-933, Mississippi Code of 1972, is  
131 amended as follows:

132           23-15-933. The contestant or contestee, or both, may file an  
133 appeal in the Supreme Court within the time and under such  
134 conditions and procedures as are established by the Supreme Court  
135 for other appeals. \* \* \*

136           **SECTION 4.** Section 23-15-937, Mississippi Code of 1972, is  
137 amended as follows:

138           23-15-937. If more than one (1) county is involved in a  
139 contest or complaint, the judge shall have the authority to  
140 transfer the hearing to a more convenient county within the  
141 district, if the contest or complaint involves a district office,  
142 or within the state if the contest or complaint involves a state  
143 office; or the judge may proceed to any county or counties in  
144 which the facts complained of are charged to have transpired, and  
145 there hear the evidence and make a finding of facts relating to  
146 that county and any convenient neighboring county or counties,  
147 but, in any event, if possible with due diligence to do so, the  
148 hearing must be completed and final judgment rendered \* \* \* as  
149 expeditiously as reasonably possible so that the resolution of the  
150 contest can provide for a timely resolution of any resulting  
151 elections. When any judge lawfully designated to hear a contest  
152 or complaint shall not promptly and diligently proceed with the  
153 hearing and final determination of the contest or complaint, he  
154 shall be guilty of a high misdemeanor in office unless excused by



155 actual illness, or by an equivalent excuse. In the case of a  
156 party primary or runoff election, when no final decision has been  
157 made by the time the official ballots are required to be printed,  
158 the name of the candidates for runoff or the nominee declared by  
159 the party executive committee shall be printed on the official  
160 ballots \* \* \*, but the contest or complaint shall not thereby be  
161 dismissed but the cause shall nevertheless proceed to final  
162 judgment and if the judgment is in favor of the contestant, the  
163 election of the contestee shall thereby be vacated and the  
164 Governor, or the Lieutenant Governor, in case the Governor is a  
165 party to the contest, shall call a special election for the office  
166 or offices involved. If the contestee has already entered upon  
167 the term he shall vacate the office upon the qualification of the  
168 person elected at the special election, and may be removed by quo  
169 warranto if he fails so to do.

170 **SECTION 5.** Section 23-15-939, Mississippi Code of 1972, is  
171 amended as follows:

172 23-15-939. The reasonable traveling expenses of the judge or  
173 chancellor shall be paid by order of the board of supervisors of  
174 the county or counties in which a contest or complaint is heard,  
175 upon an itemized certificate thereof by the judge or chancellor.

176 \* \* \*

177 **SECTION 6.** Section 23-15-941, Mississippi Code of 1972, is  
178 amended as follows:



179           23-15-941. If upon the hearing of a \* \* \* election contest  
180 or complaint \* \* \*, it shall distinctly appear to the trial judge  
181 that any person, including a candidate or election officer, has  
182 willfully and corruptly violated any \* \* \* election statute and  
183 such violation is by said statute made a criminal offense, whether  
184 a misdemeanor or a felony, it shall be the duty of the trial judge  
185 to issue immediately his warrant for the arrest of the guilty  
186 party, reciting in his order therefor, in brief, the grounds or  
187 causes for the arrest. Such warrant and a certified copy of the  
188 order shall be forthwith placed in the hands of the sheriff of the  
189 county wherein the offense occurred, and the sheriff shall at  
190 once, upon receipt of the warrant, arrest the party and commit him  
191 to prison, unless and until the party give bond in the sum of Five  
192 Hundred Dollars (\$500.00) with two (2) or more good and sufficient  
193 sureties conditioned for his appearance at the next term of the  
194 circuit court and from term to term until discharged by law. When  
195 the arrest has been made and the bond, if any, given, the sheriff  
196 shall deliver all the papers therein with his return thereon to  
197 the circuit clerk who shall file, and thereafter personally  
198 deliver, the same to the foreman of the next grand jury.

199           **SECTION 7.** Section 23-15-955, Mississippi Code of 1972, is  
200 amended as follows:

201           23-15-955. Except as otherwise provided by Section  
202 23-15-961, the person contesting the seat of any member of the  
203 Senate or House of Representatives shall comply with the





204 provisions of this section. Section 38, Mississippi Constitution  
205 of 1890, provides that each house of the Mississippi State  
206 Legislature shall judge the qualifications, return and election of  
207 its membership. Pursuant to that authority, the House of  
208 Representatives shall have exclusive jurisdiction over \* \* \* a  
209 general or special election contest regarding the seat of any  
210 member of the House of Representatives, and the Senate shall have  
211 exclusive jurisdiction over \* \* \* a general or special election  
212 contest regarding the seat of any member of the Senate. An  
213 election contest regarding the seat of a member of the House of  
214 Representatives or the Senate shall be filed with the Clerk of the  
215 House or the Secretary of the Senate, as the case may be, within  
216 thirty (30) days after a regular general election or ten (10) days  
217 after a special election to fill a vacancy. The legislative  
218 resolution of the election contest shall be conducted in  
219 accordance with procedures and precedents established by the House  
220 of Representatives or the Senate, as the case may be. Such  
221 procedures and precedents may be found in the Journals of the  
222 House of Representatives and of the State Senate and/or in the  
223 published Rules of the House of Representatives and of the State  
224 Senate.

225       **SECTION 8.** Section 23-15-961, Mississippi Code of 1972, is  
226 amended as follows:

227       23-15-961. (1) Any person desiring to contest the  
228 qualifications of another person as a candidate for nomination in



229 a political party primary election shall file a petition  
230 specifically setting forth the grounds of the challenge within ten  
231 (10) days after the qualifying deadline for the office in  
232 question. The petition shall be filed with the executive  
233 committee with whom the candidate in question qualified.

234 (2) Within \* \* \* fifteen (15) days of receipt of the  
235 petition described in subsection (1) of this section, the  
236 appropriate executive committee shall meet and rule upon the  
237 petition. At least two (2) days before the hearing to consider  
238 the petition, the appropriate executive committee shall give  
239 notice to both the petitioner and the contested candidate of the  
240 time and place of the hearing on the petition. Each party shall  
241 be given an opportunity to be heard at that meeting and present  
242 evidence in support of his position.

243 (3) If the appropriate executive committee fails to rule  
244 upon the petition within the time required in subsection (2) of  
245 this section, that inaction shall be interpreted as a denial of  
246 the request for relief contained in the petition.

247 (4) Any party aggrieved by the action or inaction of the  
248 appropriate executive committee may file a petition for judicial  
249 review to the circuit court of the county in which the executive  
250 committee whose decision is being reviewed sits. The petition  
251 must be filed no later than \* \* \* twenty (20) days after the date  
252 the petition was originally filed with the appropriate executive  
253 committee. The person filing for judicial review shall give a



254 cost bond in the sum of Three Hundred Dollars (\$300.00) with two  
255 (2) or more sufficient sureties conditioned to pay all costs in  
256 case his petition be dismissed, and an additional bond may be  
257 required, by the court, if necessary, at any subsequent stage of  
258 the proceedings.

259 (5) Upon the filing of the petition and bond, the circuit  
260 clerk shall immediately, by registered letter or by telegraph or  
261 by telephone, or personally, notify the Chief Justice of the  
262 Supreme Court, or in his absence, or disability, some other judge  
263 of the Supreme Court, who shall forthwith designate and notify a  
264 circuit judge or retired judge on senior status of a district  
265 other than that which embraces the district, subdistrict, county  
266 or any of the counties, involved in the contest or complaint, to  
267 proceed to the county in which the contest or complaint has been  
268 filed to hear and determine the contest or complaint. It shall be  
269 the official duty of the trial judge to proceed to the discharge  
270 of the designated duty at the earliest possible date to be fixed  
271 by the judge and of which the contestant and contestee shall have  
272 reasonable notice. The contestant and contestee are to be served  
273 in a reasonable manner as the judge may direct, in response to  
274 which notice the contestee shall promptly file his answer, and  
275 also his cross-complaint if he has a cross-complaint. The hearing  
276 before the trial court shall be de novo. The matter shall be  
277 tried to the trial judge, without a jury. After hearing the  
278 evidence, the trial judge shall determine whether the candidate



279 whose qualifications have been challenged is legally qualified to  
280 have his name placed upon the ballot in question. The trial judge  
281 may, upon disqualification of any such candidate, order that such  
282 candidate shall bear the court costs of the proceedings.

283 (6) Within three (3) days after judgment is rendered by the  
284 circuit court, the contestant or contestee, or both, may file an  
285 appeal in the Supreme Court upon giving a cost bond in the sum of  
286 Three Hundred Dollars (\$300.00), together with a bill of  
287 exceptions which shall state the point or points of law at issue  
288 with a sufficient synopsis of the facts to fully disclose the  
289 bearing and relevancy of such points of law. The bill of  
290 exceptions shall be signed by the trial judge, or in case of his  
291 absence, refusal or disability, by two (2) disinterested  
292 attorneys, as is provided by law in other cases of bills of  
293 exception. The filing of such appeals shall automatically suspend  
294 the decision of the circuit court and the appropriate executive  
295 committee is entitled to proceed based upon their decision unless  
296 and until the Supreme Court, in its discretion, stays further  
297 proceedings in the matter. The appeal shall be immediately  
298 docketed in the Supreme Court and referred to the court en banc  
299 upon briefs without oral argument unless the court shall call for  
300 oral argument, and shall be decided at the earliest possible date,  
301 as a preference case over all others. The Supreme Court shall  
302 have the authority to grant such relief as is appropriate under  
303 the circumstances.



304 (7) The procedure set forth in this section shall be the  
305 sole and only manner in which the qualifications of a candidate  
306 seeking public office as a party nominee may be challenged prior  
307 to the time of his nomination or election. After a party nominee  
308 has been elected to public office, the election may be challenged  
309 as otherwise provided by law. After a party nominee assumes an  
310 elective office, his qualifications to hold that office may be  
311 contested as otherwise provided by law.

312 **SECTION 9.** Section 23-15-963, Mississippi Code of 1972, is  
313 amended as follows:

314 23-15-963. (1) Any person desiring to contest the  
315 qualifications of another person who has qualified pursuant to the  
316 provisions of Section 23-15-359, Mississippi Code of 1972, or has  
317 been declared a party's nominee either as the result of having  
318 been unopposed in the primary or the winning candidate of the  
319 party's primary election, as a candidate for any office elected at  
320 a general election, shall file a petition specifically setting  
321 forth the grounds of the challenge not later than thirty-one (31)  
322 days after the date of the first primary election set forth in  
323 Section 23-15-191, Mississippi Code of 1972. Such petition shall  
324 be filed with the same body with whom the candidate in question  
325 qualified pursuant to Section 23-15-359, Mississippi Code of 1972,  
326 or with the election commission with which the party executive  
327 committee filed notice of their party's nomination of the  
328 candidate.



329           (2) Any person desiring to contest the qualifications of  
330 another person who has qualified pursuant to the provisions of  
331 Section 23-15-213, Mississippi Code of 1972, as a candidate for  
332 county election commissioner elected at a general election, shall  
333 file a petition specifically setting forth the grounds of the  
334 challenge no later than sixty (60) days prior to the general  
335 election. Such petition shall be filed with the county board of  
336 supervisors, being the same body with whom the candidate in  
337 question qualified pursuant to Section 23-15-213, Mississippi Code  
338 of 1972.

339           (3) Any person desiring to contest the qualifications of  
340 another person who has qualified pursuant to the provisions of  
341 Section 23-15-361, Mississippi Code of 1972, as a candidate for  
342 municipal office elected on the date designated by law for regular  
343 municipal elections, shall file a petition specifically setting  
344 forth the grounds of the challenge no later than thirty-one (31)  
345 days after the date of the first primary election set forth in  
346 Section 23-15-309, Mississippi Code of 1972. Such petition shall  
347 be filed with the municipal commissioners of election, being the  
348 same body with whom the candidate in question qualified pursuant  
349 to Section 23-15-361, Mississippi Code of 1972.

350           (4) Within ten (10) days of receipt of the petition  
351 described in subsections (1), (2) and (3) of this section, the  
352 appropriate election officials shall meet and rule upon the  
353 petition. At least two (2) days before the hearing to consider



354 the petition, the appropriate election officials shall give notice  
355 to both the petitioner and the contested candidate of the time and  
356 place of the hearing on the petition. Each party shall be given  
357 an opportunity to be heard at such meeting and present evidence in  
358 support of his position.

359 (5) If the appropriate election officials fail to rule upon  
360 the petition within the time required above, such inaction shall  
361 be interpreted as a denial of the request for relief contained in  
362 the petition.

363 (6) Any party aggrieved by the action or inaction of the  
364 appropriate election officials may file a petition for judicial  
365 review to the circuit court of the county in which the election  
366 officials whose decision is being reviewed sits. Such petition  
367 must be filed no later than fifteen (15) days after the date the  
368 petition was originally filed with the appropriate election  
369 officials. Such person filing for judicial review shall give a  
370 cost bond in the sum of Three Hundred Dollars (\$300.00) with two  
371 (2) or more sufficient sureties conditioned to pay all costs in  
372 case his petition be dismissed, and an additional bond may be  
373 required, by the court, if necessary, at any subsequent stage of  
374 the proceedings.

375 (7) The circuit court with whom such a petition for judicial  
376 review has been filed shall at the earliest possible date set the  
377 matter for hearing. Notice shall be given the interested parties  
378 of the time set for hearing by the circuit clerk. The hearing



379 before the circuit court shall be de novo. The matter shall be  
380 tried to the circuit judge, without a jury. After hearing the  
381 evidence, the circuit judge shall determine whether the candidate  
382 whose qualifications have been challenged is legally qualified to  
383 have his name placed upon the ballot in question. The circuit  
384 judge may, upon disqualification of any such candidate, order that  
385 such candidate shall bear the court costs of the proceedings.

386 (8) Within three (3) days after judgment is rendered by the  
387 circuit court, the contestant or contestee, or both, may file an  
388 appeal in the Supreme Court upon giving a cost bond in the sum of  
389 Three Hundred Dollars (\$300.00), together with a bill of  
390 exceptions which shall state the point or points of law at issue  
391 with a sufficient synopsis of the facts to fully disclose the  
392 bearing and relevancy of such points of law. The bill of  
393 exceptions shall be signed by the trial judge, or in case of his  
394 absence, refusal or disability, by two (2) disinterested  
395 attorneys, as is provided by law in other cases of bills of  
396 exception. The filing of such appeals shall automatically suspend  
397 the decision of the circuit court and the appropriate election  
398 officials are entitled to proceed based upon their decision unless  
399 and until the Supreme Court, in its discretion, stays further  
400 proceedings in the matter. The appeal shall be immediately  
401 docketed in the Supreme Court and referred to the court en banc  
402 upon briefs without oral argument unless the court shall call for  
403 oral argument, and shall be decided at the earliest possible date,





404 as a preference case over all others. The Supreme Court shall  
405 have the authority to grant such relief as is appropriate under  
406 the circumstances.

407 (9) The procedure set forth above shall be the sole and only  
408 manner in which the qualifications of a candidate seeking public  
409 office who qualified pursuant to the provisions of Sections  
410 23-15-359, 23-15-213 and 23-15-361, Mississippi Code of 1972, may  
411 be challenged prior to the time of his election. After any such  
412 person has been elected to public office, the election may be  
413 challenged as otherwise provided by law. After any person assumes  
414 an elective office, his qualifications to hold that office may be  
415 contested as otherwise provided by law.

416 **SECTION 10.** Section 23-15-921, Mississippi Code of 1972, is  
417 amended as follows:

418 23-15-921. \* \* \* [DELETED]

419 **SECTION 11.** Section 23-15-927, Mississippi Code of 1972, is  
420 amended as follows:

421 23-15-927. \* \* \* [DELETED]

422 **SECTION 12.** Section 23-15-929, Mississippi Code of 1972, is  
423 amended as follows:

424 23-15-929. \* \* \* [DELETED]

425 **SECTION 13.** Section 23-15-935, Mississippi Code of 1972, is  
426 amended as follows:

427 23-15-935. \* \* \* [DELETED]



428           **SECTION 14.** Section 23-15-953, Mississippi Code of 1972, is  
429 amended as follows:

430           23-15-953.   \* \* \* [DELETED]

431           **SECTION 15.** Section 23-15-913, Mississippi Code of 1972, is  
432 brought forward as follows:

433           23-15-913. The judges listed and selected to hear election  
434 disputes, as provided in Section 23-15-951, shall be available on  
435 election day to immediately hear and resolve any election day  
436 disputes. The rules for filing pleadings shall be relaxed to  
437 carry out the purposes of this section. The judges selected shall  
438 perform no other judicial duties on election day. The Supreme  
439 Court shall make judges available to hear disputes in the county  
440 in which the disputes occur but no judge shall hear disputes in  
441 the district or county in which he or she was elected nor shall  
442 any judge hear any dispute in which any potential conflict may  
443 arise. Each judge shall be fair and impartial and shall be  
444 assigned on that basis.

445           **SECTION 16.** Section 23-15-923, Mississippi Code of 1972, is  
446 brought forward as follows:

447           23-15-923. Except as otherwise provided in Section  
448 23-15-961, a person desiring to contest the election of another  
449 returned as the nominee in state, congressional and judicial  
450 districts, and in legislative districts composed of more than one  
451 (1) county or parts of more than one (1) county, upon complaint  
452 filed with the chairman of the state executive committee, by



453 petition, reciting the grounds upon which the election is  
454 contested. If necessary and with the advice of four (4) members  
455 of said committee, the chairman shall issue his fiat to the  
456 chairman of the appropriate county executive committee, and in  
457 like manner as in the county office, the county committee shall  
458 investigate the complaint and return their findings to the  
459 chairman of the state committee. The state executive committee by  
460 majority vote of members present shall declare the true results of  
461 such primary.

462       **SECTION 17.** Section 23-15-925, Mississippi Code of 1972, is  
463 brought forward as follows:

464       23-15-925. For the proper enforcement of the preceding  
465 sections the committee has the power to subpoena and, if  
466 necessary, attach witnesses needed in said investigation.

467       **SECTION 18.** Section 23-15-931, Mississippi Code of 1972, is  
468 brought forward as follows:

469       23-15-931. When the day for the hearing has been set, the  
470 circuit clerk shall issue subpoenas for witnesses as in other  
471 litigated cases, and he shall also issue a summons to each of the  
472 five (5) election commissioners of the county, unless they waive  
473 summons, requiring them to attend the hearing, throughout which  
474 the commissioners shall sit with the judge as advisors or  
475 assistants in the trial and determination of the facts, and as  
476 assistants in counts, calculations and inspections, and in seeing  
477 to it that ballots, papers, documents, books and the like are



478 diligently secured against misplacement, alteration, concealment  
479 or loss both in the sessions and during recesses or adjournments.  
480 The judge is, however, the controlling judge both of the facts and  
481 the law, and has all the power in every respect of a circuit judge  
482 in termtime. The tribunal shall be attended by the sheriff, and  
483 clerk, each with sufficient deputies, and by a court reporter.  
484 The special tribunal so constituted shall fully hear the contest  
485 or complaint de novo, and the original contestant before the party  
486 executive committee shall have the burden of proof and the burden  
487 of going forward with the evidence in the hearing before the  
488 special tribunal. The special tribunal, after the contest or  
489 complaint has been fully heard anew, shall make a finding dictated  
490 to the reporter covering all controverted material issues of fact,  
491 together with any dissents of any commissioner, and thereupon, the  
492 trial judge shall enter the judgment which the county executive  
493 committee should have entered, of which the election commissioners  
494 shall take judicial notice, or if the matter be one within the  
495 jurisdiction of the State Executive Committee, the judgment shall  
496 be certified and promptly forwarded to the Secretary of the State  
497 Executive Committee, and, in the absence of an appeal, it shall be  
498 the duty of the State Executive Committee forthwith to reassemble  
499 and revise any decision theretofore made by it so as to conform to  
500 the judicial judgment; that when the contest is upon a complaint  
501 filed with the State Executive Committee and the petition to the  
502 court avers that the wrong or irregularity is one which occurred



503 wholly within the proceedings of the state committee, the petition  
504 to the court shall be filed in the Circuit Court of Hinds County  
505 and, after notice served, shall be promptly heard by the circuit  
506 judge of that county, without the attendance of commissioners.

507         **SECTION 19.** Section 23-15-951, Mississippi Code of 1972, is  
508 brought forward as follows:

509         23-15-951. Except as otherwise provided by Section 23-15-955  
510 or 23-15-961, a person desiring to contest the election of another  
511 person returned as elected to any office within any county, may,  
512 within twenty (20) days after the election, file a petition in the  
513 office of the clerk of the circuit court of the county, setting  
514 forth the grounds upon which the election is contested. When such  
515 a petition is filed, the circuit clerk shall immediately notify,  
516 by registered letter, telegraph, telephone, or personally the  
517 Chief Justice of the Supreme Court or in his absence, or  
518 disability, some other Justice of the Supreme Court, who shall  
519 forthwith designate and notify a circuit judge or chancellor of a  
520 district other than that which embraces the district, subdistrict,  
521 county or any of the counties, involved in the contest or  
522 complaint, to proceed to the county in which the contest or  
523 complaint has been filed to hear and determine the contest or  
524 complaint. The circuit clerk shall also cause a copy of such  
525 petition to be served upon the contestee, which shall serve as  
526 notice to such contestee.



527           The Supreme Court shall compile a list of judges throughout  
528 the state to hear such disputes before an election. It shall be  
529 the official duty of the designated circuit judge or chancellor to  
530 proceed to discharge the duty of hearing the contest at the  
531 earliest possible date. The date of the contest shall be fixed by  
532 the judge or chancellor, and the judge or chancellor shall provide  
533 reasonable notice to the contestant and the contestee of the date  
534 and time fixed for the contest. The judge or chancellor shall  
535 cause the contestant and contestee to be served in a reasonable  
536 manner. When the contestee is served, such contestee shall  
537 promptly file his answer, and cross-complaint, if the contestee  
538 has a cross-complaint.

539           The court shall, at the first term, cause an issue to be made  
540 up and tried by a jury, and the verdict of the jury shall find the  
541 person having the greatest number of legal votes at the election.  
542 If the jury shall find against the person returned elected, the  
543 clerk shall issue a certificate thereof; and the person in whose  
544 favor the jury shall find shall be commissioned by the Governor,  
545 and shall qualify and enter upon the duties of his office. Each  
546 party shall be allowed ten (10) peremptory challenges, and new  
547 trials shall be granted and costs awarded as in other cases. In  
548 case the election of district attorney or other state district  
549 election be contested, the petition may be filed in any county of  
550 the district or in any county of an adjoining district within  
551 twenty (20) days after the election, and like proceedings shall be



552 had thereon as in the case of county officers, and the person  
553 found to be entitled to the office shall qualify as required by  
554 law and enter upon the duties of his office.

555 A person desiring to contest the election of another person  
556 returned as elected to any seat in the Mississippi Legislature  
557 shall comply with the provisions of Section 23-15-955. A person  
558 desiring to contest the qualifications of a candidate for  
559 nomination in a political party primary election shall comply with  
560 the provisions of Section 23-15-961.

561 **SECTION 20.** Section 23-15-957, Mississippi Code of 1972, is  
562 brought forward as follows:

563 23-15-957. Each house of the Legislature, the Clerk of the  
564 House of Representatives, the Secretary of the Senate, or any  
565 committee appointed to investigate the facts concerning the  
566 election or qualifications of any member or persons claimed to be  
567 such, shall have power to issue subpoenas and compel the  
568 attendance of witnesses and the production of such documents or  
569 papers as may be required. In addition, the clerk or the  
570 secretary, as the case may be, shall have the authority to enforce  
571 any subpoena issued by him or her and to enforce compliance with  
572 the time limitations set forth in Section 23-15-955 or in any  
573 internal procedure or precedent of the respective house of the  
574 State Legislature.

575 **SECTION 21.** Section 23-15-615, Mississippi Code of 1972, is  
576 brought forward as follows:



577           23-15-615. The Secretary of State shall be authorized to  
578 audit election procedures of the 2023, 2024, 2026 and 2027 general  
579 elections in the counties of this state. The conduction of an  
580 audit shall not create excessive interference with the general  
581 duties and responsibilities of the Secretary of State, county  
582 registrar, and county election commission.

583           (a) The Secretary of State shall audit all eighty-two  
584 (82) counties by randomly selecting from each of the congressional  
585 districts during the 2023, 2024, 2026 and 2027 general elections,  
586 and randomly selecting no more than twenty-five percent (25%) of  
587 the total precincts or no more than five (5) precincts, whichever  
588 is less in each county. No county or precinct shall be selected  
589 for audit on the basis of race, geographical location or voting  
590 trends.

591           (i) If the Secretary of State finds any issues  
592 that could affect the outcome of an election or cause voters to be  
593 disenfranchised, then the Secretary of State, in partnership with  
594 the local county election officials, shall develop a plan to  
595 correct those issues, which shall include additional training.

596           (ii) The Secretary of State will have the  
597 discretion to randomly select the counties and precincts that will  
598 be audited, but must do so at least ninety (90) days before the  
599 election to be audited. No audit shall occur if the election is  
600 challenged as provided in Sections 23-15-927, 23-15-951 or  
601 23-15-955. No audit shall occur until after a ballot box





602 examination has occurred and the period to contest an election has  
603 expired, or if a runoff election occurs, the audit shall occur  
604 after the runoff election.

605 (b) In conducting a procedural audit, the Secretary of  
606 State shall audit the following:

607 (i) Procedures for testing of OMR equipment before  
608 counting ballots, including the ballots used for testing of OMR  
609 equipment, as required by Section 23-15-521;

610 (ii) Ballot accounting reports, seal logs, poll  
611 books, and receipt books as required to be kept by Section  
612 23-15-519;

613 (iii) Absentee ballots, absentee ballot  
614 applications, and absentee ballot envelopes, along with the list  
615 provided to the resolution board, to ensure appropriate processing  
616 and counting of absentee ballots as required by Section 23-15-631  
617 et seq.; and

618 (iv) Affidavit ballots and affidavit ballot  
619 envelopes, including affidavit ballot receipt book to ensure  
620 compliance with appropriate processing and counting of affidavit  
621 ballots as required by Section 23-15-573.

622 (c) By January 20, 2027, the Secretary of State shall  
623 provide a recommendation to the Mississippi Legislature on whether  
624 the procedures to be audited in paragraph (b) should be expanded  
625 or reduced.



626 (d) The Secretary of State shall develop a  
627 post-election audit manual which shall detail the policies and  
628 procedures for conducting post-election audits. The post-election  
629 audit manual shall not be altered less than ninety (90) days  
630 before an election in which the post-election audit manual shall  
631 be utilized in conducting a post-election audit.

632 (e) No later than one hundred twenty (120) days after  
633 the election that the Secretary of State is auditing, the  
634 Secretary of State shall compile a report of the procedural audits  
635 conducted and shall submit the report to the Governor, Lieutenant  
636 Governor, Speaker of the House of Representatives and Chairmen of  
637 the Senate and House Election Committees. Prior to submitting the  
638 report, the Secretary of State shall allow the local county  
639 election officials to review the report and provide comments that  
640 will be submitted along with the report. The report shall first  
641 list all counties audited alphabetically with any major finding  
642 which may affect the outcome of the election and whether any  
643 voters were disenfranchised, then list out a detailed report of  
644 any major or minor findings, along with recommended changes to  
645 both county and Secretary of State practices.

646 **SECTION 22.** This act shall take effect and be in force from  
647 and after July 1, 2024.

