

By: Senator(s) England

To: Elections

SENATE BILL NO. 2583

1 AN ACT TO AMEND SECTION 23-15-911, MISSISSIPPI CODE OF 1972,
2 TO ALLOW ALL MATERIALS TO BE EXAMINED BY A CANDIDATE OR THEIR
3 REPRESENTATIVE DURING AN ELECTION CONTEST; TO AMEND SECTION
4 23-15-921, MISSISSIPPI CODE OF 1972, TO AMEND THE PETITION FILING
5 PROCESS FOR CONTESTED ELECTIONS; TO REPEAL SECTIONS 23-15-927,
6 23-15-929, 23-15-935, AND 23-15-953, MISSISSIPPI CODE OF 1972; TO
7 AMEND SECTION 23-15-933, MISSISSIPPI CODE OF 1972, TO REMOVE THE
8 REQUIREMENT THAT ALL THE COMMISSIONERS IN ATTENDANCE MUST CONCUR
9 TO THE FINDING OF FACTS FOR THE ELECTION CONTEST TO BE ELIGIBLE
10 FOR APPELLATE REVIEW; TO AMEND SECTION 23-15-937, MISSISSIPPI CODE
11 OF 1972, TO REQUIRE ELECTION CONTESTS TO PRIMARY AND RUNOFF
12 ELECTIONS TO HAVE JUDGEMENTS RENDERED AS EXPEDITIOUSLY AS
13 POSSIBLE; TO AMEND SECTION 23-15-939, MISSISSIPPI CODE OF 1972, TO
14 REMOVE THE PROVISION ALLOWING ELECTION COMMISSIONERS TO BE
15 COMPENSATED FOR THEIR SERVICES RENDERED DURING AN ELECTION
16 CONTEST; TO AMEND SECTION 23-15-941, MISSISSIPPI CODE OF 1972, TO
17 APPLY THE CRIMINAL OFFENSE PROVISIONS OF THIS SECTION TO ALL
18 ELECTIONS; TO AMEND SECTION 23-15-955, MISSISSIPPI CODE OF 1972,
19 TO APPLY THE PROCEEDING PROVISIONS OF THIS SECTION TO SPECIAL AND
20 GENERAL ELECTION CONTESTS; TO BRING FORWARD SECTION 23-15-957,
21 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
22 TO AMEND SECTION 23-15-961, MISSISSIPPI CODE OF 1972, TO AMEND THE
23 TIMELINE FOR CONTESTING QUALIFICATIONS OF CANDIDATES FOR
24 ELECTIONS; TO AMEND SECTION 23-15-963, MISSISSIPPI CODE OF 1972,
25 TO ALLOW GENERAL ELECTION CONTESTS TO BE FILED WITH THE ELECTION
26 COMMISSION FOR WHICH THE EXECUTIVE COMMITTEE HAS FILED NOTICE OF A
27 PARTY NOMINATED CANDIDATE; 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
54 candidate's 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 a 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, with a return receipt
67 requested. Proof of service of notice upon any opposing candidate
68 shall be made to the circuit clerk within three (3) days before a
69 full 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 must be redacted prior to being
79 copied. Upon the completion of the examination, the box shall be



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

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

92 **SECTION 2.** Section 23-15-921, Mississippi Code of 1972, is
93 amended as follows:

94 23-15-921. Except as otherwise provided by Section
95 23-15-961, a person desiring to contest the election of another
96 person or persons returned as a candidate for nomination in a
97 party's runoff election, or returned as the nominee of the party,
98 or contesting * * * the election of another person returned as
99 elected to any office, may, within twenty (20) days after
100 the * * * election, file a petition * * * in the office of the
101 clerk of the circuit court of the county in which the
102 irregularities are charged to have occurred, or, if more than one
103 (1) county is involved, then in one (1) of the counties, setting
104 forth the grounds upon which the * * * election is



105 contested * * *. * * * When such a petition is filed, the circuit
106 clerk shall immediately notify, by registered letter, telegraph or
107 personally the Chief Justice of the Supreme Court, or in his or
108 her absence or disability, another Justice of the Supreme Court,
109 who shall forthwith designate and notify a retired judge of senior
110 status of a district other than that which embraces the district,
111 subdistrict, county or any of the counties involved in the contest
112 or complaint that has been filed, to hear and determine the
113 contest or complaint. The circuit clerk shall also cause a copy
114 of such petition to be served upon the contestee, which shall
115 serve as notice to the contestee. It shall be the official duty
116 of the trial judge to proceed to discharge the duty of hearing the
117 contest at the earliest possible date. The date of the contest
118 shall be fixed by the trial judge and of which the contestant and
119 contestee shall have reasonable notice to be served upon them in a
120 reasonable manner as the presiding judge may direct. When the
121 contestee is served, such contestee shall properly file his or her
122 answer and cross-complaint, if the contestee has one (1) to offer.
123 In the case that the election of the district attorney or other
124 state district election is contested, the petition may be filed in
125 any county of the district or in any county of an adjoining
126 district.

127 A person desiring to contest the election of another person
128 returned as elected to any seat in the Mississippi Legislature
129 shall comply with the provisions of Section 23-15-955. A person



130 desiring to contest the qualifications of a candidate for
131 nomination shall comply with the provisions of Section 23-15-961.

132 **SECTION 3.** Section 23-15-927, Mississippi Code of 1972,
133 which provides the procedure for judicial review when the
134 executive committee fails to promptly provide relief for an
135 election contest, is repealed.

136 **SECTION 4.** Section 23-15-929, Mississippi Code of 1972,
137 which provides the procedure for designating a judge to hear an
138 election contest and the duties of said judge, is repealed.

139 **SECTION 5.** Section 23-15-933, Mississippi Code of 1972, is
140 amended as follows:

141 23-15-933. The contestant or contestee, or both, may file an
142 appeal in the Supreme Court within the time and under such
143 conditions and procedures as are established by the Supreme Court
144 for other appeals. * * *

145 **SECTION 6.** Section 23-15-935, Mississippi Code of 1972,
146 which provides a trial judge with the power to compel the
147 attendance of election commissioners to an election contest
148 hearing, is repealed.

149 **SECTION 7.** Section 23-15-937, Mississippi Code of 1972, is
150 amended as follows:

151 23-15-937. If more than one (1) county is involved in a
152 contest or complaint, the judge shall have the authority to
153 transfer the hearing to a more convenient county within the
154 district, if the contest or complaint involves a district office,



155 or within the state if the contest or complaint involves a state
156 office; or the judge may proceed to any county or counties in
157 which the facts complained of are charged to have transpired, and
158 there hear the evidence and make a finding of facts relating to
159 that county and any convenient neighboring county or counties,
160 but, in any event, if possible with due diligence to do so, the
161 hearing must be completed and final judgment rendered * * * as
162 expeditiously as reasonably possible so that the resolution of the
163 contest can provide for a timely resolution of any resulting
164 elections. When any judge lawfully designated to hear a contest
165 or complaint shall not promptly and diligently proceed with the
166 hearing and final determination of the contest or complaint, he or
167 she shall be guilty of a high misdemeanor in office unless excused
168 by actual illness, or by an equivalent excuse. In the case of a
169 party primary or runoff election, when no final decision has been
170 made by the time the official ballots are required to be printed,
171 the name of the candidates for a runoff or the nominee declared by
172 the party executive committee shall be printed on the official
173 ballots * * *, but the contest or complaint shall not thereby be
174 dismissed but the cause shall nevertheless proceed to final
175 judgment and if the judgment is in favor of the contestant, the
176 election of the contestee shall thereby be vacated and the
177 Governor, or the Lieutenant Governor, in case the Governor is a
178 party to the contest, shall call a special election for the office
179 or offices involved. If the contestee has already entered upon



180 the term he or she shall vacate the office upon the qualification
181 of the person elected at the special election, and may be removed
182 by quo warranto if he or she fail so to do.

183 **SECTION 8.** Section 23-15-939, Mississippi Code of 1972, is
184 amended as follows:

185 23-15-939. The reasonable traveling expenses of the judge or
186 chancellor shall be paid by order of the board of supervisors of
187 the county or counties in which a contest or complaint is heard,
188 upon an itemized certificate thereof by the judge or chancellor.

189 * * *

190 **SECTION 9.** Section 23-15-941, Mississippi Code of 1972, is
191 amended as follows:

192 23-15-941. If upon the hearing of an an * * * election contest
193 or complaint, * * * it shall distinctly appear to the trial judge
194 that any person, including a candidate or election officer, has
195 willfully and corruptly violated any * * * election statute and
196 such violation is by said statute made a criminal offense, whether
197 a misdemeanor or a felony, it shall be the duty of the trial judge
198 to issue immediately his or her warrant for the arrest of the
199 guilty party, reciting in his or her order therefor, in brief, the
200 grounds or causes for the arrest. Such warrant and a certified
201 copy of the order shall be forthwith placed in the hands of the
202 sheriff of the county wherein the offense occurred, and the
203 sheriff shall at once, upon receipt of the warrant, arrest the
204 party and commit him or her to prison, unless and until the



205 party * * * gives bond in the sum of Five Hundred Dollars
206 (\$500.00) with two (2) or more good and sufficient sureties
207 conditioned for his or her appearance at the next term of the
208 circuit court, and from term to term until discharged by law.
209 When the arrest has been made and the bond, if any, given, the
210 sheriff shall deliver all the papers therein with his or her
211 return thereon to the circuit clerk who shall file, and thereafter
212 personally deliver, the same to the foreman of the next grand
213 jury.

214 **SECTION 10.** Section 23-15-953, Mississippi Code of 1972,
215 which provides proceedings with respect to petitions filed more
216 than forty (40) days before the term of the next circuit court
217 after the contested election, is repealed.

218 **SECTION 11.** Section 23-15-955, Mississippi Code of 1972, is
219 amended as follows:

220 23-15-955. Except as otherwise provided by Section
221 23-15-961, the person contesting the seat of any member of the
222 Senate or House of Representatives shall comply with the
223 provisions of this section. Section 38, Mississippi Constitution
224 of 1890, provides that each house of the Mississippi State
225 Legislature shall judge the qualifications, return and election of
226 its membership. Pursuant to that authority, the House of
227 Representatives shall have exclusive jurisdiction over * * * a
228 general or special election contest regarding the seat of any
229 member of the House of Representatives, and the Senate shall have



230 exclusive jurisdiction over * * * a general or special election
231 contest regarding the seat of any member of the Senate. An
232 election contest regarding the seat of a member of the House of
233 Representatives or the Senate shall be filed with the Clerk of the
234 House or the Secretary of the Senate, as the case may be, within
235 thirty (30) days after a regular general election or ten (10) days
236 after a special election to fill a vacancy. The legislative
237 resolution of the election contest shall be conducted in
238 accordance with procedures and precedents established by the House
239 of Representatives or the Senate, as the case may be. Such
240 procedures and precedents may be found in the Journals of the
241 House of Representatives and of the State Senate and/or in the
242 published Rules of the House of Representatives and of the State
243 Senate.

244 **SECTION 12.** Section 23-15-957, Mississippi Code of 1972, is
245 brought forward as follows:

246 23-15-957. Each house of the Legislature, the Clerk of the
247 House of Representatives, the Secretary of the Senate, or any
248 committee appointed to investigate the facts concerning the
249 election or qualifications of any member or persons claimed to be
250 such, shall have power to issue subpoenas and compel the
251 attendance of witnesses and the production of such documents or
252 papers as may be required. In addition, the clerk or the
253 secretary, as the case may be, shall have the authority to enforce
254 any subpoena issued by him or her and to enforce compliance with



255 the time limitations set forth in Section 23-15-955 or in any
256 internal procedure or precedent of the respective house of the
257 State Legislature.

258 **SECTION 13.** Section 23-15-961, Mississippi Code of 1972, is
259 amended as follows:

260 23-15-961. (1) Any person desiring to contest the
261 qualifications of another person as a candidate for nomination in
262 a political party primary election shall file a petition
263 specifically setting forth the grounds of the challenge within ten
264 (10) days after the qualifying deadline for the office in
265 question. The petition shall be filed with the executive
266 committee with whom the candidate in question qualified.

267 (2) Within * * * fifteen (15) days of receipt of the
268 petition described in subsection (1) of this section, the
269 appropriate executive committee shall meet and rule upon the
270 petition. At least two (2) days before the hearing to consider
271 the petition, the appropriate executive committee shall give
272 notice to both the petitioner and the contested candidate of the
273 time and place of the hearing on the petition. Each party shall
274 be given an opportunity to be heard at that meeting and present
275 evidence in support of his or her position.

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



280 (4) Any party aggrieved by the action or inaction of the
281 appropriate executive committee may file a petition for judicial
282 review to the circuit court of the county in which the executive
283 committee whose decision is being reviewed sits. The petition
284 must be filed no later than * * * twenty (20) days after the date
285 the petition was originally filed with the appropriate executive
286 committee. The person filing for judicial review shall give a
287 cost bond in the sum of Three Hundred Dollars (\$300.00) with two
288 (2) or more sufficient sureties conditioned to pay all costs in
289 case his or her petition be dismissed, and an additional bond may
290 be required, by the court, if necessary, at any subsequent stage
291 of the proceedings.

292 (5) Upon the filing of the petition and bond, the circuit
293 clerk shall immediately, by registered letter or by telegraph or
294 by telephone, or personally, notify the Chief Justice of the
295 Supreme Court, or in his or her absence, or disability, some other
296 judge of the Supreme Court, who shall forthwith designate and
297 notify a circuit judge or retired judge on senior status of a
298 district other than that which embraces the district, subdistrict,
299 county or any of the counties, involved in the contest or
300 complaint, to proceed to the county in which the contest or
301 complaint has been filed to hear and determine the contest or
302 complaint. It shall be the official duty of the trial judge to
303 proceed to the discharge of the designated duty at the earliest
304 possible date to be fixed by the judge and of which the contestant



305 and contestee shall have reasonable notice. The contestant and
306 contestee are to be served in a reasonable manner as the judge may
307 direct, in response to which notice the contestee shall promptly
308 file his or her answer, and also his or her cross-complaint if he
309 or she has a cross-complaint. The hearing before the trial court
310 shall be de novo. The matter shall be tried to the trial judge,
311 without a jury. After hearing the evidence, the trial judge shall
312 determine whether the candidate whose qualifications have been
313 challenged is legally qualified to have his or her name placed
314 upon the ballot in question. The trial judge may, upon
315 disqualification of any such candidate, order that such candidate
316 shall bear the court costs of the proceedings.

317 (6) Within three (3) days after judgment is rendered by the
318 circuit court, the contestant or contestee, or both, may file an
319 appeal in the Supreme Court upon giving a cost bond in the sum of
320 Three Hundred Dollars (\$300.00), together with a bill of
321 exceptions which shall state the point or points of law at issue
322 with a sufficient synopsis of the facts to fully disclose the
323 bearing and relevancy of such points of law. The bill of
324 exceptions shall be signed by the trial judge, or in case of his
325 or her absence, refusal or disability, by two (2) disinterested
326 attorneys, as is provided by law in other cases of bills of
327 exception. The filing of such appeals shall automatically suspend
328 the decision of the circuit court and the appropriate executive
329 committee is entitled to proceed based upon their decision unless



330 and until the Supreme Court, in its discretion, stays further
331 proceedings in the matter. The appeal shall be immediately
332 docketed in the Supreme Court and referred to the court en banc
333 upon briefs without oral argument unless the court shall call for
334 oral argument, and shall be decided at the earliest possible date,
335 as a preference case over all others. The Supreme Court shall
336 have the authority to grant such relief as is appropriate under
337 the circumstances.

338 (7) The procedure set forth in this section shall be the
339 sole and only manner in which the qualifications of a candidate
340 seeking public office as a party nominee may be challenged prior
341 to the time of his or her nomination or election. After a party
342 nominee has been elected to public office, the election may be
343 challenged as otherwise provided by law. After a party nominee
344 assumes an elective office, his or her qualifications to hold that
345 office may be contested as otherwise provided by law.

346 **SECTION 14.** Section 23-15-963, Mississippi Code of 1972, is
347 amended as follows:

348 23-15-963. (1) Any person desiring to contest the
349 qualifications of another person who has qualified pursuant to the
350 provisions of Section 23-15-359, Mississippi Code of 1972, or who
351 has been declared a party's nominee either as the result of having
352 been unopposed in the primary or the winning candidate of the
353 party's primary election, as a candidate for any office elected at
354 a general election, shall file a petition specifically setting



355 forth the grounds of the challenge not later than thirty-one (31)
356 days after the date of the first primary election set forth in
357 Section 23-15-191, Mississippi Code of 1972. Such petition shall
358 be filed with the same body with whom the candidate in question
359 qualified pursuant to Section 23-15-359, Mississippi Code of 1972,
360 or with the election commission with which the party executive
361 committee filed notice of their party's nomination of the
362 candidate.

363 (2) Any person desiring to contest the qualifications of
364 another person who has qualified pursuant to the provisions of
365 Section 23-15-213, Mississippi Code of 1972, as a candidate for
366 county election commissioner elected at a general election, shall
367 file a petition specifically setting forth the grounds of the
368 challenge no later than sixty (60) days prior to the general
369 election. Such petition shall be filed with the county board of
370 supervisors, being the same body with whom the candidate in
371 question qualified pursuant to Section 23-15-213, Mississippi Code
372 of 1972.

373 (3) Any person desiring to contest the qualifications of
374 another person who has qualified pursuant to the provisions of
375 Section 23-15-361, Mississippi Code of 1972, as a candidate for
376 municipal office elected on the date designated by law for regular
377 municipal elections, shall file a petition specifically setting
378 forth the grounds of the challenge no later than thirty-one (31)
379 days after the date of the first primary election set forth in



380 Section 23-15-309, Mississippi Code of 1972. Such petition shall
381 be filed with the municipal commissioners of election, being the
382 same body with whom the candidate in question qualified pursuant
383 to Section 23-15-361, Mississippi Code of 1972.

384 (4) Within ten (10) days of receipt of the petition
385 described in subsections (1), (2) and (3) of this section, the
386 appropriate election officials shall meet and rule upon the
387 petition. At least two (2) days before the hearing to consider
388 the petition, the appropriate election officials shall give notice
389 to both the petitioner and the contested candidate of the time and
390 place of the hearing on the petition. Each party shall be given
391 an opportunity to be heard at such meeting and present evidence in
392 support of his position.

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

397 (6) Any party aggrieved by the action or inaction of the
398 appropriate election officials may file a petition for judicial
399 review to the circuit court of the county in which the election
400 officials whose decision is being reviewed sits. Such petition
401 must be filed no later than fifteen (15) days after the date the
402 petition was originally filed with the appropriate election
403 officials. Such person filing for judicial review shall give a
404 cost bond in the sum of Three Hundred Dollars (\$300.00) with two



405 (2) or more sufficient sureties conditioned to pay all costs in
406 case his or her petition be dismissed, and an additional bond may
407 be required, by the court, if necessary, at any subsequent stage
408 of the proceedings.

409 (7) The circuit court with whom such a petition for judicial
410 review has been filed shall at the earliest possible date set the
411 matter for hearing. Notice shall be given to the interested
412 parties of the time set for hearing by the circuit clerk. The
413 hearing before the circuit court shall be de novo. The matter
414 shall be tried to the circuit judge, without a jury. After
415 hearing the evidence, the circuit judge shall determine whether
416 the candidate whose qualifications have been challenged is legally
417 qualified to have his or her name placed upon the ballot in
418 question. The circuit judge may, upon disqualification of any
419 such candidate, order that such candidate shall bear the court
420 costs of the proceedings.

421 (8) Within three (3) days after judgment is rendered by the
422 circuit court, the contestant or contestee, or both, may file an
423 appeal in the Supreme Court upon giving a cost bond in the sum of
424 Three Hundred Dollars (\$300.00), together with a bill of
425 exceptions which shall state the point or points of law at issue
426 with a sufficient synopsis of the facts to fully disclose the
427 bearing and relevancy of such points of law. The bill of
428 exceptions shall be signed by the trial judge, or in case of his
429 or her absence, refusal or disability, by two (2) disinterested



430 attorneys, as is provided by law in other cases of bills of
431 exception. The filing of such appeals shall automatically suspend
432 the decision of the circuit court and the appropriate election
433 officials are entitled to proceed based upon their decision unless
434 and until the Supreme Court, in its discretion, stays further
435 proceedings in the matter. The appeal shall be immediately
436 docketed in the Supreme Court and referred to the court en banc
437 upon briefs without oral argument unless the court shall call for
438 oral argument, and shall be decided at the earliest possible date,
439 as a preference case over all others. The Supreme Court shall
440 have the authority to grant such relief as is appropriate under
441 the circumstances.

442 (9) The procedure set forth above shall be the sole and only
443 manner in which the qualifications of a candidate seeking public
444 office who qualified pursuant to the provisions of Sections
445 23-15-359, 23-15-213 and 23-15-361, Mississippi Code of 1972, may
446 be challenged prior to the time of his or her election. After any
447 such person has been elected to public office, the election may be
448 challenged as otherwise provided by law. After any person assumes
449 an elective office, his or her qualifications to hold that office
450 may be contested as otherwise provided by law.

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

