

By: Representative Sanford

To: Apportionment and
Elections

HOUSE BILL NO. 291

1 AN ACT TO AMEND SECTION 23-15-193, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT COUNTY AND COUNTY DISTRICT OFFICERS THAT RECEIVE A
3 MAJORITY OF VOTES CAST FOR THE OFFICE AT THE GENERAL ELECTION
4 SHALL BE ELECTED; TO PROVIDE THAT IF NO CANDIDATE RECEIVES A
5 MAJORITY NUMBER OF VOTES CAST AT THE ELECTION, THEN THE TWO
6 CANDIDATES WHO RECEIVE THE HIGHEST NUMBER OF VOTES CAST SHALL HAVE
7 THEIR NAMES PLACED ON THE BALLOT FOR THE RUNOFF ELECTION TO BE
8 HELD FOUR WEEKS LATER; TO AMEND SECTION 23-15-601, MISSISSIPPI
9 CODE OF 1972, TO CONFORM; TO BRING FORWARD SECTIONS 23-15-603 AND
10 23-15-605, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE
11 AMENDMENT; TO AMEND SECTION 23-15-951, MISSISSIPPI CODE OF 1972,
12 TO CONFORM; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 23-15-193, Mississippi Code of 1972, is
15 amended as follows:

16 **[Through December 31, 2024, this section shall read as**
17 **follows:]**

18 23-15-193. (1) At the election in 2023, and every four (4)
19 years thereafter, there shall be elected a Governor, Lieutenant
20 Governor, Secretary of State, Auditor of Public Accounts, State
21 Treasurer, Attorney General, three (3) public service
22 commissioners, three (3) Mississippi Transportation Commissioners,
23 Commissioner of Insurance, Commissioner of Agriculture and



24 Commerce, Senators and members of the House of Representatives in
25 the Legislature, district attorneys for the several districts,
26 clerks of the circuit and chancery courts of the several counties,
27 as well as sheriffs, coroners, assessors, surveyors and members of
28 the boards of supervisors, justice court judges and constables,
29 and all other officers to be elected by the people at the general
30 state election. All such officers shall hold their offices for a
31 term of four (4) years, and until their successors are elected and
32 qualified. The state officers shall be elected in the manner
33 prescribed in Section 140 of the Constitution.

34 (2) The state officers that receive a majority of votes cast
35 for the office at the general election shall be elected. If no
36 candidate receives a majority number of votes cast at the
37 election, then the two (2) candidates who receive the highest
38 number of votes cast shall have their names placed on the ballot
39 for the runoff election to be held three (3) weeks later. The
40 candidate who receives a majority of the votes cast in the runoff
41 election shall be elected. However, if no candidate receives a
42 majority vote cast at the election, and there is a tie in the
43 election of those receiving the next highest vote, then those
44 candidates receiving the next highest vote and the candidate
45 receiving the highest number of votes cast shall have their names
46 placed on the ballot for the runoff election to be held three (3)
47 weeks later, and whoever receives the majority of votes cast in
48 the runoff election shall be elected. If it appears that two (2)



49 or more candidates for state office have an equal number of votes
50 after the runoff election, the interested candidates shall appear
51 before the Chief Justice of the Mississippi Supreme Court within
52 two (2) days after the canvass and the tie shall be determined by
53 a toss of a coin or by lot fairly and publicly drawn, and a
54 certificate of election shall be given accordingly.

55 (3) The provisions of Section 23-15-981 shall control the
56 run-off elections of justice court judges.

57 **[From and after January 1, 2025, this section shall read as**
58 **follows:]**

59 23-15-193. (1) At the election in 2023, and every four (4)
60 years thereafter, there shall be elected a Governor, Lieutenant
61 Governor, Secretary of State, Auditor of Public Accounts, State
62 Treasurer, Attorney General, three (3) public service
63 commissioners, three (3) Mississippi Transportation Commissioners,
64 Commissioner of Insurance, Commissioner of Agriculture and
65 Commerce, Senators and members of the House of Representatives in
66 the Legislature, district attorneys for the several districts,
67 clerks of the circuit and chancery courts of the several counties,
68 as well as sheriffs, coroners, assessors, surveyors and members of
69 the boards of supervisors, justice court judges and constables,
70 and all other officers to be elected by the people at the general
71 state election. All such officers shall hold their offices for a
72 term of four (4) years, and until their successors are elected and



73 qualified. The state officers shall be elected in the manner
74 prescribed in Section 140 of the Constitution.

75 (2) The state officers, county officers and county district
76 officers that receive a majority of votes cast for the office at
77 the general election shall be elected. If no candidate receives a
78 majority number of votes cast at the election, then the two (2)
79 candidates who receive the highest number of votes cast shall have
80 their names placed on the ballot for the runoff election to be
81 held four (4) weeks later. The candidate who receives a majority
82 of the votes cast in the runoff election shall be elected.

83 However, if no candidate receives a majority vote cast at the
84 election, and there is a tie in the election of those receiving
85 the next highest vote, then those candidates receiving the next
86 highest vote and the candidate receiving the highest number of
87 votes cast shall have their names placed on the ballot for the
88 runoff election to be held four (4) weeks later, and whoever
89 receives the majority of votes cast in the runoff election shall
90 be elected. If it appears that two (2) or more candidates for
91 state office, county office or county district office have an
92 equal number of votes after the runoff election, the interested
93 candidates shall appear before the Chief Justice of the
94 Mississippi Supreme Court within two (2) days after the canvass
95 and the tie shall be determined by a toss of a coin or by lot
96 fairly and publicly drawn, and a certificate of election shall be
97 given accordingly.



(3) The provisions of Section 23-15-981 shall control the run-off elections of justice court judges.

SECTION 2. Section 23-15-601, Mississippi Code of 1972, is amended as follows:

23-15-601. (1) When the result of the election shall have been ascertained by the poll managers they, or one (1) of their number, or some fit person designated by them, shall, on the night of the election, deliver to the election commissioners, at the courthouse, a statement of the whole number of votes given for each person and for what office; and the election commissioners shall canvass the returns, ascertain and declare the result, and, within ten (10) days after the day of the election, shall deliver a certificate of the election to the person having the greatest number of votes for representative in the Legislature of districts composed of one (1) county or less * * *. If it appears that two (2) or more candidates for Representative of the county, or part of the county * * * standing highest on the list, and not elected, have an equal number of votes, the interested candidates shall appear before the election commissioners within two (2) days after the canvass and the tie shall be determined by a toss of a coin or by lot fairly and publicly drawn, and a certificate of election shall be given accordingly. The foregoing provisions shall apply to Senators, if the county be a senatorial district.

(2) The election commissioners shall transmit to the Secretary of State, on such forms and by such methods as may be



required by rules and regulations promulgated by the Secretary of State, a statement of the total number of votes cast in the county for each candidate for each office and the total number of votes cast for such candidates in each precinct in the district in which the candidate ran.

SECTION 3. Section 23-15-603, Mississippi Code of 1972, is brought forward as follows:

23-15-603. (1) The election commissioners shall, within ten (10) days after the general election and within ten (10) days after a runoff election, if one is required, transmit to the Secretary of State, to be filed in his or her office, a statement of the whole number of votes given in their county and the whole number of votes given in each precinct in their county, for each candidate for any office at the election; but the returns of every election for Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor of Public Accounts, State Treasurer, Commissioner of Insurance and other state officers, shall each be made out separately, sealed up together and transmitted to the seat of government, directed to the Secretary of State, and endorsed the "VOTE FOR STATE OFFICERS." In addition to the other information required pursuant to this subsection, the returns for state officers shall contain a statement of the whole number of votes given in each House of Representative district or portion thereof for each candidate for state office at the election.



147 (2) Constitutional amendments shall be voted for at the time
148 fixed by the concurrent resolution. The election, whether held
149 separately or with other elections, shall be conducted, in all
150 respects, as required for elections generally. The election
151 commissioners shall, within ten (10) days after the election,
152 transmit to the Secretary of State a statement of the whole number
153 of votes given in their county and the whole number of votes given
154 in each precinct in their county for or against constitutional
155 amendments.

156 (3) The statements certified by the election commissioners
157 and transmitted to the Secretary of State, as required by this
158 section, shall be tabulated by the Secretary of State. Certified
159 county vote totals shall represent the final results of the
160 election.

161 (4) The statements required by this section shall contain a
162 certification, signed and dated by a majority of the election
163 commissioners, which shall read as follows:

164 "We, the undersigned election commissioners, do
165 hereby certify that this statement of the whole number
166 of votes contains the official vote for the election
167 reflected therein."

168 (5) The statements required by this section shall be
169 transmitted to the Secretary of State on such forms and by such
170 methods as may be required by rules and regulations promulgated by
171 the Secretary of State.



172 **SECTION 4.** Section 23-15-605, Mississippi Code of 1972, is
173 brought forward as follows:

174 23-15-605. The Secretary of State, immediately after
175 receiving the returns of an election, not longer than thirty (30)
176 days after the election, shall sum up the whole number of votes
177 given for each candidate other than candidates for state offices,
178 legislative offices composed of one (1) county or less, county
179 offices and county district offices, according to the statements
180 of the votes certified to him or her and ascertain the person or
181 persons having the largest number of votes for each office, and
182 declare such person or persons to be duly elected; and thereupon
183 all persons chosen to any office at the election shall be
184 commissioned by the Governor; but if it appears that two (2) or
185 more candidates for any district office where the district is
186 composed of two (2) or more counties, standing highest on the
187 list, and not elected, have an equal number of votes, the election
188 shall be decided between the candidates having an equal number of
189 votes by each candidate individually drawing one (1) of the two
190 (2) sealed containers from an opaque bag, under the direction of
191 the Governor and Secretary of State. The containers shall consist
192 of a straw of conspicuous length, and the candidate drawing the
193 container with the longer of the two (2) straws shall be declared
194 the winner.

195 **SECTION 5.** Section 23-15-951, Mississippi Code of 1972, is
196 amended as follows:



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

The Supreme Court shall compile a list of judges throughout the state to hear such disputes before an election. The name of any judge selected to hear election day disputes shall be provided to the Secretary of State by the Chief Justice of the Supreme Court at the time the appointment is made, unless the Secretary of State is a party to the election day dispute to which the special circuit judge is appointed. It shall be the official duty of the



222 designated circuit judge or chancellor to proceed to discharge the
223 duty of hearing the contest at the earliest possible date. The
224 date of the contest shall be fixed by the judge or chancellor, and
225 the judge or chancellor shall provide reasonable notice to the
226 contestant and the contestee of the date and time fixed for the
227 contest. The judge or chancellor shall cause the contestant and
228 contestee to be served in a reasonable manner. When the contestee
229 is served, such contestee shall promptly file his or her answer,
230 and cross-complaint, if the contestee has a cross-complaint.

231 The court shall, at the first term, cause an issue to be made
232 up and tried by a jury, and the verdict of the jury shall find the
233 person having the greatest number of legal votes at the election
234 or the person having a majority of legal votes at the election,
235 for county and county district officers. If the jury shall find
236 against the person returned elected, the clerk shall issue a
237 certificate thereof; and the person in whose favor the jury shall
238 find shall be commissioned by the Governor, and shall qualify and
239 enter upon the duties of his or her office. Each party shall be
240 allowed ten (10) peremptory challenges, and new trials shall be
241 granted and costs awarded as in other cases. In case the election
242 of district attorney or other state district election be
243 contested, the petition may be filed in any county of the district
244 or in any county of an adjoining district within twenty (20) days
245 after the election, and like proceedings shall be had thereon as
246 in the case of county officers, and the person found to be



247 entitled to the office shall qualify as required by law and enter
248 upon the duties of his or her office.

249 A person desiring to contest the election of another person
250 returned as elected to any seat in the Mississippi Legislature
251 shall comply with the provisions of Section 23-15-955. A person
252 desiring to contest the qualifications of a candidate for
253 nomination in a political party primary election shall comply with
254 the provisions of Section 23-15-961.

255 **SECTION 6.** This act shall take effect and be in force from
256 and after July 1, 2025.

