

By: Representative Sanford

To: Apportionment and
Elections

HOUSE BILL NO. 291
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 23-15-193, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE ALL CANDIDATES RUNNING IN THE STATE GENERAL ELECTION TO
3 SECURE THE MAJORITY VOTE TO BE ELECTED; TO AMEND SECTION
4 23-15-601, MISSISSIPPI CODE OF 1972, TO CONFORM; TO BRING FORWARD
5 SECTIONS 23-15-603 AND 23-15-605, MISSISSIPPI CODE OF 1972, FOR
6 THE PURPOSE OF POSSIBLE AMENDMENT; TO AMEND SECTION 23-15-951,
7 MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

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

11 **[Through December 31, 2024, this section shall read as**
12 **follows:]**

13 23-15-193. (1) At the election in 2023, and every four (4)
14 years thereafter, there shall be elected a Governor, Lieutenant
15 Governor, Secretary of State, Auditor of Public Accounts, State
16 Treasurer, Attorney General, three (3) public service
17 commissioners, three (3) Mississippi Transportation Commissioners,
18 Commissioner of Insurance, Commissioner of Agriculture and
19 Commerce, Senators and members of the House of Representatives in
20 the Legislature, district attorneys for the several districts,



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

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



before the Chief Justice of the Mississippi Supreme Court 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.

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

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

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



(2) The * * * candidate that receives a majority of votes cast for the office at the general election shall be elected. If no candidate receives a majority number of votes cast at the election, then the two (2) candidates who receive the highest number of votes cast shall have their names placed on the ballot for the runoff election to be held four (4) weeks later. The candidate who receives a majority of the votes cast in the runoff election shall be elected. However, if no candidate receives a majority vote cast at the election, and there is a tie in the election of those receiving the next highest vote, then those candidates receiving the next highest vote and the candidate receiving the highest number of votes cast shall have their names placed on the ballot for the runoff election to be held four (4) weeks later, and whoever receives the majority of votes cast in the runoff election shall be elected. If it appears that two (2) or more candidates for * * * office have an equal number of votes after the runoff election, the interested candidates shall appear before the Chief Justice of the Mississippi Supreme Court 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.

(3) The provisions of Section 23-15-981 shall control the runoff 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.

(2) Constitutional amendments shall be voted for at the time fixed by the concurrent resolution. The election, whether held separately or with other elections, shall be conducted, in all respects, as required for elections generally. The election



commissioners shall, within ten (10) days after the election, transmit to the Secretary of State 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 or against constitutional amendments.

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

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

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

(5) The statements required by this section shall be transmitted 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.

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

23-15-605. The Secretary of State, immediately after receiving the returns of an election, not longer than thirty (30)



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

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

190 23-15-951. Except as otherwise provided by Section 23-15-955
191 or 23-15-961, a person desiring to contest the election of another
192 person returned as elected to any office within any county, may,
193 within twenty (20) days after the election, file a petition in the



194 office of the clerk of the circuit court of the county, setting
195 forth the grounds upon which the election is contested. When such
196 a petition is filed, the circuit clerk shall immediately notify,
197 by registered letter, telegraph, telephone, or personally the
198 Chief Justice of the Supreme Court or in his or her absence, or
199 disability, some other Justice of the Supreme Court, who shall
200 forthwith designate and notify a circuit judge or chancellor of a
201 district other than that which embraces the district, subdistrict,
202 county or any of the counties, involved in the contest or
203 complaint, to proceed to the county in which the contest or
204 complaint has been filed to hear and determine the contest or
205 complaint. The circuit clerk shall also cause a copy of such
206 petition to be served upon the contestee, which shall serve as
207 notice to such contestee.

208 The Supreme Court shall compile a list of judges throughout
209 the state to hear such disputes before an election. The name of
210 any judge selected to hear election day disputes shall be provided
211 to the Secretary of State by the Chief Justice of the Supreme
212 Court at the time the appointment is made, unless the Secretary of
213 State is a party to the election day dispute to which the special
214 circuit judge is appointed. It shall be the official duty of the
215 designated circuit judge or chancellor to proceed to discharge the
216 duty of hearing the contest at the earliest possible date. The
217 date of the contest shall be fixed by the judge or chancellor, and
218 the judge or chancellor shall provide reasonable notice to the



219 contestant and the contestee of the date and time fixed for the
220 contest. The judge or chancellor shall cause the contestant and
221 contestee to be served in a reasonable manner. When the contestee
222 is served, such contestee shall promptly file his or her answer,
223 and cross-complaint, if the contestee has a cross-complaint.

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

242 A person desiring to contest the election of another person
243 returned as elected to any seat in the Mississippi Legislature



244 shall comply with the provisions of Section 23-15-955. A person
245 desiring to contest the qualifications of a candidate for
246 nomination in a political party primary election shall comply with
247 the provisions of Section 23-15-961.

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

