

By: Representative Scott

To: Apportionment and  
Elections; Municipalities

## HOUSE BILL NO. 351

1 AN ACT TO AMEND SECTION 23-15-221, MISSISSIPPI CODE OF 1972,  
2 TO REVISE THE PROCESS FOR MAKING APPOINTMENTS TO MUNICIPAL  
3 ELECTION COMMISSIONS; TO PROVIDE A TIMELINE OF WHEN EACH GOVERNING  
4 AUTHORITY MUST MAKE APPOINTMENTS TO THE MUNICIPAL ELECTION  
5 COMMISSION; TO PROVIDE THAT EACH MUNICIPAL ELECTION COMMISSIONER  
6 MUST ACCEPT HIS OR HER APPOINTMENT BY SUBMITTING A LETTER TO THE  
7 SECRETARY OF STATE; TO PROVIDE THAT MUNICIPAL ELECTION  
8 COMMISSIONERS SHALL BE REQUIRED TO COMPLETE A TRAINING SEMINAR AND  
9 A SKILLS ASSESSMENT; TO AMEND SECTION 23-15-211, MISSISSIPPI CODE  
10 OF 1972, TO CONFORM TO THE PROCEEDING SECTION; TO BRING FORWARD  
11 SECTIONS 23-15-611, 23-15-361 AND 21-9-19, MISSISSIPPI CODE OF  
12 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED  
13 PURPOSES.

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

15 **SECTION 1.** Section 23-15-221, Mississippi Code of 1972, is  
16 amended as follows:

17 23-15-221. (1) (a) The governing authorities of  
18 municipalities having a population of less than twenty thousand  
19 (20,000) inhabitants according to the last federal decennial  
20 census shall appoint three (3) election commissioners; the  
21 governing authorities of municipalities having a population of  
22 twenty thousand (20,000) inhabitants or more and less than one  
23 hundred thousand (100,000) inhabitants according to the last



24 federal decennial census shall appoint five (5) election  
25 commissioners; and the governing authorities of municipalities  
26 having a population of one hundred thousand (100,000) or more  
27 according to the last federal decennial census shall appoint seven  
28 (7) election commissioners. No more than one (1) commissioner may  
29 be appointed from a ward of a municipality. The governing  
30 authority of each municipality shall make their appointments to  
31 the municipal election commission at least one (1) year before the  
32 year in which a municipal election is held. If any municipal  
33 election commissioner appointment remains vacant on January 31 of  
34 the year in which a municipal election is held, the State Board of  
35 Election Commissioners shall make the appointment, and such  
36 appointed commissioner shall remain in office as otherwise  
37 provided by law. Every person appointed to a municipal election  
38 commission shall submit a letter to the Secretary of State  
39 accepting the municipal election position and affirming that he or  
40 she will fulfill the duties of the position. Such letter shall be  
41 signed by the municipal election commissioner under penalty of  
42 perjury.

43       (b) The municipal election commissioners, in  
44 conjunction with the municipal clerk, shall perform all the duties  
45 in respect to the municipal election prescribed by law to be  
46 performed by the county election commissioners where not otherwise  
47 provided. The election commissioners shall, in case there be but  
48 one (1) election precinct in the municipality, act as poll



managers themselves. Each of the commissioners shall be required to attend a training seminar provided by the Secretary of State and satisfactorily complete a skills assessment.

(2) The city council or board of aldermen or other governing authority of any municipality desiring to avail itself of the provisions of the Mississippi Election Code regarding the duties of municipal election commissioners shall adopt an ordinance declaring its intention to enter into an agreement with the municipality's county to have the county election commissioners conduct municipal elections and other functions that are performed by municipal election commissioners for the benefit of the efficiency and conformity of elections, to be effective on and after a date fixed in the ordinance which must be at least thirty (30) days after the ordinance is adopted and on the first day of a month. If the municipality is located in more than one (1) county, the municipality shall choose which county it wants to conduct its elections and other duties of its municipal election commissioners and enter into an agreement with that county to have that county's election commissioners conduct the municipal elections and other functions that are performed by municipal election commissioners for the benefit of the efficiency and conformity of elections, to be effective on and after a date fixed in the ordinance which must be at least thirty (30) days after the ordinance is adopted and on the first day of a month. A certified copy of this ordinance shall be immediately forwarded to the Chair



74 of the State Board of Election Commissioners. The municipal  
75 authorities shall have a copy of the ordinance published once a  
76 week for three (3) consecutive weeks in at least one (1) newspaper  
77 published in the municipality and having a general circulation  
78 therein. The first publication shall be not less than  
79 twenty-eight (28) days before the effective date fixed in the  
80 ordinance, and the last publication shall be made not less than  
81 seven (7) days before such date. If no newspaper is published in  
82 the municipality, then notice shall be given by publishing the  
83 ordinance for the required time in some newspaper published in the  
84 same or an adjoining county having a general circulation in the  
85 municipality. A copy of the ordinance shall also be posted at  
86 three (3) public places in the municipality for a period of at  
87 least twenty-one (21) days during the time of its publication in a  
88 newspaper. The publication of the ordinance may be made as  
89 provided in Section 21-17-19. Proof of publication must also be  
90 furnished to the Chair of the State Board of Election  
91 Commissioners.

92 (3) If a city council or board of aldermen or other  
93 governing authority of any municipality adopts an ordinance to  
94 abolish municipal election commissioners in the municipality's  
95 county and authorize county election commissioners to conduct the  
96 municipal election commissioners' duties, the county election  
97 commissioners shall conduct all of the duties of the municipal  
98 election commissioners including, but not limited to:



99                   (a) Canvass the results of bond elections in a  
100 municipality;  
101                   (b) Canvass the returns of special and general  
102 elections for mayor and councilmen and within five (5) days after  
103 any special or general election, deliver to each person receiving  
104 the highest number of votes a certificate of election;  
105                   (c) Certify to the Secretary of State the name or names  
106 of the person or persons elected at special and general elections  
107 within ten (10) days after any special or general election;  
108                   (d) Revise the primary pollbooks for municipalities at  
109 the time and in the manner and in accordance with the laws now  
110 fixed and in force for revising pollbooks, except they shall not  
111 remove from the pollbook any person who is qualified to  
112 participate in primary elections;  
113                   (e) Print the pollbooks that are to be used in  
114 municipal elections;  
115                   (f) Print and distribute the "official ballots";  
116                   (g) Perform the duties of poll managers in the event  
117 there is only one (1) election precinct in the municipality;  
118                   (h) Perform any of the duties required of the municipal  
119 executive committee pursuant to Section 23-15-239 if the municipal  
120 executive committee has entered into a written agreement with the  
121 municipal clerk or the municipal or county election commission  
122 that gives such authorization;



123           (i) Determine whether each party candidate in the  
124 municipal general election is a qualified elector of the  
125 municipality, and of the ward if the office sought is a ward  
126 office, whether each candidate either meets all other  
127 qualifications to hold the office he or she is seeking or presents  
128 absolute proof that he or she will, subject to no contingencies,  
129 meet all qualifications on or before the date of the general or  
130 special election at which he or she could be elected to office,  
131 and whether any candidate has been convicted of any felony in a  
132 court of this state, or has been convicted on or after December 8,  
133 1992, of any offense in another state which is a felony under the  
134 laws of this state, or has been convicted of any felony in a  
135 federal court on or after December 8, 1992;

136           (j) Declare each candidate elected without opposition,  
137 if the candidate meets all the qualifications to hold the office  
138 as determined pursuant to a review by the commission in accordance  
139 with the provisions of paragraph (i) of this subsection (3);

140           (k) Canvass the returns for municipal elections  
141 received from all voting precincts and within ten (10) days after  
142 the election, deliver to each person receiving the highest number  
143 of votes a certificate of election. If it shall appear that any  
144 two (2) or more of the candidates receiving the highest number of  
145 votes shall have received an equal number of votes, the election  
146 shall be decided by the toss of a coin or by lot, fairly and  
147 publicly drawn by the election commissioners;



(l) Transmit the statement provided in Section 23-15-611 to the Secretary of State certifying the name or names of the person or persons elected at municipal elections, and such person or persons shall be issued commissions by the Governor;

(m) Receiving the filed document by any person desiring to contest the qualifications of another person who has qualified pursuant to the provisions of Section 23-15-361 as a candidate for municipal office elected on the date designated by law for regular municipal elections that specifically sets forth the grounds of the challenge no later than thirty-one (31) days after the date of the first primary election set forth in Section 23-15-309; and

(n) Perform all other duties with respect to the municipal election prescribed by law.

(4) If the city council or board of aldermen or other governing authority of any municipality does not desire to avail itself of the provisions of the Mississippi Election Code regarding the duties of municipal election commissioners, then nothing in this section shall be construed in any way to affect, alter or modify the existence of those municipal election commissioners now operating under the laws relating to municipal election commissioners provided in the Mississippi Code of 1972. Those municipalities shall continue to enjoy the form of election commissions and the conduct of the respective elections that are now enjoyed by them, and each shall possess all rights, powers, privileges and immunities granted and conferred under the laws



relating to municipal election commissioners provided in the  
Mississippi Code of 1972.

**SECTION 2.** Section 23-15-211, Mississippi Code of 1972, is  
amended as follows:

23-15-211. (1) There shall be a State Board of Election  
Commissioners to consist of the following members:

- (a) The Governor, who shall serve as chair;
- (b) The Secretary of State, who shall serve as  
secretary, maintain minutes of all meetings and accept service of  
process on behalf of the board; and
- (c) The Attorney General.

Any two (2) of the members of the State Board of Election  
Commissioners may perform the duties required of the board.

(2) The duties of the board shall include, but not be  
limited to, the following:

(a) Ruling on a candidate's qualifications to run for  
statewide, Supreme Court, Court of Appeals, congressional  
district, circuit and chancery court district, and other state  
district offices;

(b) Approving the state ballot for the offices stated  
in paragraph (a) of this subsection (2); \* \* \*

(c) Appointing members of a municipal election  
commission, if necessary as provided in Section 23-15-221; and





196 ( \* \* \*d) Adopting any administrative rules and  
197 regulations as are necessary to carry out the statutory duties of  
198 the board.

199 (3) The board of supervisors of each county shall pay  
200 members of the county election commission for attending training  
201 events a per diem in the amount provided in Section 23-15-153;  
202 however, except as otherwise provided in this section, the per  
203 diem shall not be paid to an election commissioner for more than  
204 twelve (12) days of training per year and shall only be paid to  
205 election commissioners who actually attend and complete a training  
206 event and obtain a training certificate.

207 (4) Included in this twelve (12) days shall be an elections  
208 seminar, conducted and sponsored by the Secretary of State.  
209 Election commissioners and chairpersons of each political party  
210 executive committee, or their designee, shall be required to  
211 attend. An election commissioner shall be certified by the  
212 Secretary of State only after attending the annual elections  
213 seminar and satisfactorily completing the skills assessment  
214 provided for in Section 23-15-213. Such skills assessment shall  
215 only be required once every four (4) years.

216 (5) Each participant shall receive a certificate from the  
217 Secretary of State indicating that the named participant has  
218 received the elections training seminar instruction and  
219 satisfactorily completed the skills assessment provided for in  
220 Section 23-15-213. Election commissioners shall annually file the



221 certificate with the chancery clerk. If any election commissioner  
222 shall fail to file the certificate by April 30 of each year, his  
223 or her office shall be vacated, absent exigent circumstances as  
224 determined by the board of supervisors and consistent with the  
225 facts. The vacancy shall be declared by the board of supervisors  
226 and the vacancy shall be filled in the manner described by law.  
227 Before declaring the office vacant, the board of supervisors shall  
228 give the election commissioner notice and the opportunity for a  
229 hearing.

230 (6) The Secretary of State, upon approval of the board of  
231 supervisors, may authorize not more than eight (8) additional  
232 training days per year for election commissioners in one or more  
233 counties. The board of supervisors of each county shall pay  
234 members of the county election commission for attending training  
235 on these days a per diem in the amount provided in Section  
236 23-15-153.

237 **SECTION 3.** Section 23-15-611, Mississippi Code of 1972, is  
238 brought forward as follows:

239 23-15-611. (1) In municipal elections, poll managers shall,  
240 immediately upon the closing of the polls, count the ballots and  
241 ascertain the number of votes cast in each voting precinct for  
242 each of the candidates or ballot measures and make a return  
243 thereof to the municipal election commissioners. On the day  
244 following the election, the election commissioners shall canvass  
245 the returns so received from all voting precincts and shall,



246 within six (6) days after the election, deliver to each person  
247 receiving the highest number of votes a certificate of election.  
248 If it shall appear that any two (2) or more of the candidates  
249 receiving the highest number of votes shall have received an equal  
250 number of votes, the election shall be decided by a toss of a coin  
251 or by lot fairly and publicly drawn under the direction of the  
252 election commissioners.

253       (2) (a) Within six (6) days after any election, the  
254 municipal election commissioners shall transmit a statement to the  
255 Secretary of State certifying the name or names of the person or  
256 persons elected, and such person or persons shall be issued  
257 commissions by the Governor. The statement shall also include  
258 vote totals for each candidate for each office and vote totals for  
259 and against ballot measures, if any, including the vote totals for  
260 each candidate and ballot measure in each precinct in the  
261 municipality.

262       (b) The statements required by this subsection (2)  
263 shall contain a certification, signed and dated by a majority of  
264 the municipal election commissioners, which shall read as follows:  
265       "We, the undersigned municipal election commissioners, do  
266 hereby certify that this statement contains the official vote for  
267 the election reflected therein."

268       (c) The statements required by this subsection (2)  
269 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.

(d) If the statement certifying the names of the persons elected is not transmitted to the Secretary of State as required by this subsection (2), the Secretary of State may issue a show cause order directing the municipal election commissioners to provide to the Secretary of State written response containing the reasons for their failure to transmit the statement. The municipal election commissioners shall file their response to the show cause order with the Secretary of State within five (5) working days after the issuance of the show cause order. If the statement certifying the names of the persons elected is not transmitted to the Secretary of State within five (5) working days after the issuance of the show cause order, the Secretary of State may petition a court of competent jurisdiction to compel the municipal election commissioners to comply with this subsection (2). If the statement certifying the names of the persons elected is received by the Secretary of State within five (5) days after the issuance of the show cause order, a response to the show cause order shall not be required.

**SECTION 4.** Section 23-15-361, Mississippi Code of 1972, is brought forward as follows:

23-15-361. (1) The municipal general election ballot shall contain the names of all candidates who have been put in nomination by the municipal primary election of any political



295 party. There shall be printed on the ballots the names of all  
296 persons so nominated, whether the nomination be otherwise known or  
297 not, upon the written request of one or more of the candidates so  
298 nominated, or of any qualified elector who will make oath that he  
299 or she was a participant in the primary election, and that the  
300 person whose name is presented by him or her was nominated by such  
301 primary election. The municipal election commissioners who are  
302 required to have the ballots printed, shall also have printed on  
303 the ballot in any municipal general election the name of any  
304 candidate who, not having been nominated by a political party,  
305 shall have been requested to be a candidate for any office by a  
306 petition filed with the clerk of the municipality no later than  
307 5:00 p.m. on the same date by which candidates for nomination in  
308 the municipal primary elections are required to pay the fee  
309 provided for in Section 23-15-309, and signed by not less than the  
310 following number of qualified electors:

311 (a) For an office elected by the qualified electors of  
312 a municipality or a municipal district having a population of one  
313 thousand (1,000) or more, not less than fifty (50) qualified  
314 electors.

315 (b) For an office elected by the qualified electors of  
316 a municipality or a municipal district having a population of less  
317 than one thousand (1,000), not less than fifteen (15) qualified  
318 electors.



319           (2) Unless the petition required above shall be filed no  
320 later than 5:00 p.m. on the same date by which candidates for  
321 nomination in the municipal primary election are required to pay  
322 the fee provided for in Section 23-15-309, the name of the person  
323 requested to be a candidate, unless nominated by a political  
324 party, shall not be placed upon the ballot. The ballot shall  
325 contain the names of each candidate for each municipal office, and  
326 the names shall be listed under the name of the political party  
327 the candidate represents as provided by law and as certified to  
328 the municipal clerk by the municipal executive committee of such  
329 political party. In the event such candidate qualifies as an  
330 independent as herein provided, he or she shall be listed on the  
331 ballot as an independent candidate.

332           (3) The clerk of the municipality shall notify the municipal  
333 election commissioners of all persons who have filed petitions  
334 pursuant to subsection (1) of this section within two (2) business  
335 days of the date of filing.

336           (4) The ballot in elections to fill vacancies in municipal  
337 elective office shall contain the names of all persons who have  
338 qualified as required by Section 23-15-857.

339           (5) The municipal election commission shall determine  
340 whether each party candidate in the municipal general election is  
341 a qualified elector of the municipality, and of the ward if the  
342 office sought is a ward office and shall determine whether each  
343 candidate either meets all other qualifications to hold the office



344 he or she is seeking or presents absolute proof that he or she  
345 will, subject to no contingencies, meet all qualifications on or  
346 before the date of the general or special election at which he or  
347 she could be elected to office. The municipal election commission  
348 also shall determine whether any candidate has been convicted of  
349 any felony in a court of this state, or has been convicted on or  
350 after December 8, 1992, of any offense in another state which is a  
351 felony under the laws of this state, or has been convicted of any  
352 felony in a federal court on or after December 8, 1992. Excepted  
353 from the above are convictions of manslaughter and violations of  
354 the United States Internal Revenue Code or any violations of the  
355 tax laws of this state unless such offense also involved misuse or  
356 abuse of his or her office or money coming into his or her hands  
357 by virtue of the office. If the municipal election commission  
358 finds that a candidate either (a) is not a qualified elector, (b)  
359 does not meet all qualifications to hold the office he or she  
360 seeks and fails to provide absolute proof, subject to no  
361 contingencies, that he or she will meet the qualifications on or  
362 before the date of the general or special election at which he or  
363 she could be elected, or (c) has been convicted of a felony as  
364 described above and not pardoned, then the election commission  
365 shall notify the candidate and give the candidate an opportunity  
366 to be heard. The election commission shall mail notice to the  
367 candidate at least three (3) business days before the hearing to  
368 the address provided by the candidate on the qualifying forms, and



the committee shall attempt to contact the candidate by telephone, email and facsimile if the candidate provided this information on the forms. If the candidate fails to appear at the hearing or to prove he or she meets all qualifications to hold the office subject to no contingencies, then the name of the candidate shall not be placed upon the ballot.

(6) If after the deadline to qualify as a candidate for an office or after the time for holding any party primary election for an office, only one (1) person has duly qualified to be a candidate for the office in the general election the name of that person shall be placed on the ballot; provided, however, that if not more than one (1) person has duly qualified to be a candidate for each office on the general election ballot, the election for all offices on the ballot shall be dispensed with and the municipal election commission shall declare each candidate elected without opposition if the candidate meets all the qualifications to hold the office as determined pursuant to a review by the election commission in accordance with the provisions of subsection (5) of this section and if the candidate has filed all required campaign finance disclosure reports as required by Section 23-15-807.

**SECTION 5.** Section 21-9-19, Mississippi Code of 1972, is brought forward as follows:

21-9-19. At all elections held to choose a mayor and councilmen, or any of them, the choice of the person or persons





394 voting shall be indicated and the ballots shall be marked in like  
395 manner as is provided by law for general state and county  
396 elections.

397       The poll managers at all special and general elections for  
398 mayor and councilmen, or any of them, shall immediately, upon the  
399 closing of the polls, count the ballots and ascertain the number  
400 of votes cast in each voting precinct for each of the candidates  
401 and make return thereof to the municipal election commissioners.  
402 On the day following any special or general election, the  
403 municipal election commissioners shall canvass the returns so  
404 received from all the voting precincts, and shall within six (6)  
405 business days after such special or general election, deliver to  
406 each person receiving the highest number of votes a certificate of  
407 election. If it shall appear by the returns that any two (2)  
408 candidates for mayor or councilmen, have received an equal number  
409 of votes, the election shall be decided by a toss of a coin or by  
410 lot, fairly and publicly drawn under the direction of the election  
411 commissioners, with the aid of a friend of each such candidates,  
412 and a certificate of election shall be given accordingly.

413       The election commissioners shall, within ten (10) business  
414 days after any special or general election, certify to the  
415 Secretary of State the name or names of the person or persons  
416 elected at such special or general election, and the Secretary of  
417 State shall, immediately upon receiving such certificates, deliver



418 the same to the Governor, who shall immediately issue commissions  
419 to the persons mentioned in certificate.

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

