

By: Senator(s) Tate

To: Elections

SENATE BILL NO. 2637

1 AN ACT TO BRING FORWARD SECTIONS 23-15-831, 23-15-832,
2 23-15-833, 23-15-835, 23-15-837, 23-15-839, 23-15-843, 23-15-849,
3 23-15-851, 23-15-853, 23-15-855, 23-15-857, 23-15-859, 23-15-193,
4 23-15-191, AND 23-15-297, MISSISSIPPI CODE OF 1972, FOR THE
5 PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 23-15-831, Mississippi Code of 1972, is
8 brought forward as follows:

9 23-15-831. When a vacancy other than in the Legislature
10 occurs by death, resignation or otherwise, in any state or state
11 district elected office, and there is no special provision of law
12 for filling the vacancy, the same shall be filled for the
13 unexpired term by appointment by the Governor.

14 **SECTION 2.** Section 23-15-832, Mississippi Code of 1972, is
15 brought forward as follows:

16 23-15-832. When a vacancy shall occur in an elective office
17 for which a special election is required to be called to fill, the
18 entity with whom candidates for the office are required to qualify



shall notify the Secretary of State of the vacancy within five (5) days after it receives knowledge of the vacancy.

SECTION 3. Section 23-15-833, Mississippi Code of 1972, is brought forward as follows:

23-15-833. Except as otherwise provided by law, the first Tuesday after the first Monday in November of each year shall be designated the regular special election day, and on that day an election shall be held to fill any vacancy in county, county district, and district attorney elective offices, and any vacancy in the office of circuit judge or chancellor.

All special elections, or elections to fill vacancies, shall in all respects be held, conducted and returned in the same manner as general elections, except that where no candidate receives a majority of the votes cast in the election, a runoff election shall be held four (4) weeks after the election. The two (2) candidates who receive the highest popular votes for the office shall have their names submitted as the candidates to the runoff and the candidate who leads in the runoff election shall be elected to the office. When there is a tie in the first election of those receiving the next highest vote, these two (2) and the one receiving the highest vote, none having received a majority, shall go into the runoff election and whoever leads in the runoff election shall be entitled to the office.

In those years when the regular special election day shall occur on the same day as the general election, the names of



44 candidates in any special election and the general election shall
45 be placed on the same ballot, but shall be clearly distinguished
46 as general election candidates or special election candidates. At
47 any time a special election is held on the same day as a party
48 primary election, the names of the candidates in the special
49 election may be placed on the same ballot, but shall be clearly
50 distinguished as special election candidates or primary election
51 candidates.

52 **SECTION 4.** Section 23-15-835, Mississippi Code of 1972, is
53 brought forward as follows:

54 23-15-835. The election commissioners of the several
55 counties to whom the writ of election may be directed shall,
56 immediately upon receipt of the writ, give notice of the special
57 election to fill a vacancy in such county or county district
58 office by posting notices at the courthouse and in each
59 supervisor's district in the county for ninety (90) days before
60 the election; and the election shall be prepared for and held as
61 in case of a general election.

62 **SECTION 5.** Section 23-15-837, Mississippi Code of 1972, is
63 brought forward as follows:

64 23-15-837. (1) When a special election is called to fill
65 any state district office or legislative office and where only one
66 (1) person has duly qualified with the State Board of Election
67 Commissioners to be a candidate in the special election within the
68 time prescribed by law for qualifying as a candidate, the State



69 Board of Election Commissioners shall make a finding and
70 determination of that fact, which shall be duly entered upon its
71 official minutes.

72 (2) A finding and determination and certification to office
73 by the State Board of Election Commissioners, as herein provided,
74 shall dispense with the holding of the special election.

75 (3) A certified copy of the finding and determination of the
76 State Board of Election Commissioners shall be filed with the
77 Governor, and the Governor shall appoint the candidate so
78 certified to fill the unexpired term.

79 **SECTION 6.** Section 23-15-839, Mississippi Code of 1972, is
80 brought forward as follows:

81 23-15-839. (1) When a vacancy occurs in any county or
82 county district office, the same shall be filled by appointment by
83 the board of supervisors of the county, by order entered upon its
84 minutes, where the vacancy occurs, or by appointment of the
85 president of the board of supervisors, by and with the consent of
86 the majority of the board of supervisors, if such vacancy occurs
87 when the board is not in session, and the clerk of the board shall
88 certify to the Secretary of State the appointment, and the
89 appointed person shall be commissioned by the Governor; and if the
90 unexpired term be longer than six (6) months, such appointee shall
91 serve until a successor is elected as hereinafter provided, unless
92 the regular special election day on which the vacancy should be
93 filled occurs in a year in which an election would normally be



94 held for that office as provided by law, in which case the person
95 so appointed shall serve the unexpired portion of the term. Such
96 vacancies shall be filled for the unexpired term by the qualified
97 electors at the next regular special election day occurring more
98 than ninety (90) days after the vacancy occurs. The board of
99 supervisors of the county shall, within ten (10) days after the
100 vacancy occurs, make an order, in writing, directed to the
101 election commissioners, commanding an election to be held on the
102 next regular special election day to fill the vacancy. The
103 election commissioners shall require each candidate to qualify at
104 least sixty (60) days before the date of the election, and shall
105 give a certificate of election to the person elected, and shall
106 return to the Secretary of State a copy of the order of holding
107 the election, showing the election results, certified by the clerk
108 of the board of supervisors. The person elected shall be
109 commissioned by the Governor to take office once the election is
110 certified.

111 (2) In any election ordered pursuant to this section where
112 only one (1) person qualifies with the election commissioners to
113 be a candidate within the time provided by law, the election
114 commissioners shall certify to the board of supervisors that there
115 is only one (1) candidate. Thereupon, the board of supervisors
116 shall dispense with the election and appoint the certified
117 candidate to fill the unexpired term. The clerk of the board
118 shall certify the appointed candidate to the Secretary of State



and the candidate shall be commissioned by the Governor. In the event no person qualifies by 5:00 p.m. sixty (60) days before the date of the election, the election commissioners shall certify that fact to the board of supervisors who shall dispense with the election and fill the vacancy by appointment. The clerk of the board of supervisors shall certify the appointment to the Secretary of State, and the appointed person shall be commissioned by the Governor.

SECTION 7. Section 23-15-843, Mississippi Code of 1972, is brought forward as follows:

23-15-843. In case of death, resignation or vacancy from any cause in the office of district attorney, the unexpired term of which shall exceed six (6) months, the Governor shall within ten (10) days after the vacancy occurs issue a proclamation calling an election to fill a vacancy in the office of district attorney to be held on the next regular special election day in the district where the vacancy occurred unless the vacancy occurs in a year in which a general election would normally be held for that office as provided by law, in which case the appointed person shall serve the unexpired portion of the term. Candidates in such a special election shall qualify in the same manner and be subject to the same time limitations as set forth in Section 23-15-839. Pending the holding of a special election, the Governor shall make an emergency appointment to fill the vacancy until the same shall be filled by election.



144 **SECTION 8.** Section 23-15-849, Mississippi Code of 1972, is
145 brought forward as follows:

146 23-15-849. (1) Vacancies in the office of circuit judge or
147 chancellor shall be filled for the unexpired term by the qualified
148 electors at the next regular special election occurring more than
149 nine (9) months after the vacancy to be filled occurred, and the
150 term of office of the person elected to fill a vacancy shall
151 commence on the first Monday in January following the election.
152 Upon the occurrence of a vacancy, the Governor shall appoint a
153 qualified person from the district in which the vacancy exists to
154 hold the office and discharge the duties thereof until the vacancy
155 is filled by election as provided in this subsection.

156 (2) (a) If half or more than half of the term remains,
157 vacancies in the office of justice of the Supreme Court or judge
158 of the Court of Appeals shall be filled for the unexpired term by
159 the qualified electors at the next regular election for state
160 officers or for representatives in Congress occurring more than
161 nine (9) months after the vacancy to be filled occurred, and the
162 term of office of the person elected to fill a vacancy shall
163 commence on the first Monday in January following the election.
164 If less than half of the term remains, vacancies in the office of
165 justice of the Supreme Court or judge of the Court of Appeals
166 shall be filled for the remaining unexpired term solely by
167 appointment as provided in this subsection.



(b) Upon occurrence of a vacancy, the Governor shall appoint a qualified person from the district in which the vacancy exists to hold the office and discharge the duties thereof as follows:

(i) If less than half of the term remains, the appointee shall serve until expiration of the term;

(ii) If half or more than half of the term remains, the appointee shall serve until the vacancy is filled by election as provided in subsection (1) of this section for judges of the circuit and chancery courts. Elections to fill vacancies in the office of justice of the Supreme Court or judge of the Court of Appeals shall be held, conducted, returned and the persons elected commissioned in accordance with the law governing regular elections for justices of the Supreme Court or judges of the Court of Appeals to the extent applicable.

SECTION 9. Section 23-15-851, Mississippi Code of 1972, is brought forward as follows:

23-15-851. (1) Except as otherwise provided in subsection (2) of this section, within thirty (30) days after vacancies occur in either house of the Legislature, the Governor shall issue writs of election to fill the vacancies on a day specified in the writ of election. At least sixty (60) days' notice shall be given of the election in each county or part of a county in which the election shall be held. The qualifying deadline for the election shall be fifty (50) days before the election. Notice of the



election shall be posted at the courthouse and in each supervisors district in the county or part of county in which such election shall be held for as near sixty (60) days as may be practicable. The election shall be prepared for and held as in the case of a general election.

(2) If a vacancy occurs in a calendar year in which the general election for state officers is held, the Governor may elect not to issue a writ of election to fill the vacancy.

SECTION 10. Section 23-15-853, Mississippi Code of 1972, is brought forward as follows:

23-15-853. (1) If a vacancy occurs in the representation in Congress, the vacancy shall be filled for the unexpired term by a special election, to be ordered by the Governor, within sixty (60) days after the vacancy occurs, and held at a time fixed by his or her order, and which time shall be not less than sixty (60) days after the issuance of the order of the Governor, which shall be directed to the election commissioners of the several counties of the district, who shall, immediately on the receipt of the order, give notice of the election by publishing the same in a newspaper having a general circulation in the county and by posting the notice at the front door of the courthouse. The order shall also be directed to the State Board of Election Commissioners. The election shall be prepared for and conducted, and returns shall be made, in all respects as provided for a special election to fill vacancies.



(2) Candidates for the office in such an election must qualify with the Secretary of State by 5:00 p.m. not less than fifty (50) days before the date of the election. If the fiftieth day to qualify before an election falls on a Sunday or legal holiday, the qualification submitted on the business day immediately following the Sunday or legal holiday shall be accepted. The election commissioners shall have printed on the ballot in such special election the name of any candidate who shall have been requested to be a candidate for the office by a petition filed with the Secretary of State and personally signed by not less than one thousand (1,000) qualified electors of the district. The petition shall be filed by 5:00 p.m. not less than fifty (50) days before the date of the election. If the fiftieth day to file the petition before an election falls on a Sunday or legal holiday, the petition filed on the business day immediately following the Sunday or legal holiday shall be accepted.

There shall be attached to each petition above provided for, upon the time of filing with the Secretary of State, a certificate from the appropriate registrar or registrars showing the number of qualified electors appearing upon each petition which the registrar shall furnish to the petitioner upon request.

SECTION 11. Section 23-15-855, Mississippi Code of 1972, is brought forward as follows:

23-15-855. (1) If a vacancy shall occur in the office of United States Senator from Mississippi by death, resignation or



otherwise, the Governor shall, within ten (10) days after receiving official notice of the vacancy, issue a proclamation for an election to be held in the state to elect a Senator to fill the remaining unexpired term, provided the unexpired term is more than twelve (12) months and the election shall be held within ninety (90) days from the time the proclamation is issued and the returns of such election shall be certified to the Governor in the manner set out above for regular elections, unless the vacancy occurs in a year in which a general state or congressional election is held, in which event the Governor's proclamation shall designate the general election day as the time for electing a Senator, and the vacancy shall be filled by appointment as hereinafter provided.

(2) In case of a vacancy in the office of United States Senator, the Governor may appoint a Senator to fill the vacancy temporarily, and if the United States Senate be in session at the time the vacancy occurs the Governor shall appoint a Senator within ten (10) days after receiving official notice thereof, and the appointed Senator shall serve until a successor is elected and commissioned as provided for in subsection (1) of this section, provided that such unexpired term as he or she may be appointed to fill shall be for a longer time than one (1) year, but if for a shorter time than one (1) year, he or she shall serve for the full time of the unexpired term and no special election shall be called by the Governor but a successor shall be elected at the regular election.



268 **SECTION 12.** Section 23-15-857, Mississippi Code of 1972, is
269 brought forward as follows:

270 23-15-857. (1) When there is a vacancy in an elective
271 office in a city, town or village, the unexpired term of which
272 shall not exceed six (6) months, the same shall be filled by
273 appointment by the governing authority or remainder of the
274 governing authority of the city, town or village. The municipal
275 clerk shall certify the appointment to the Secretary of State and
276 the appointed person or persons shall be commissioned by the
277 Governor.

278 (2) When there is a vacancy in an elective office in a city,
279 town or village, the unexpired term of which shall exceed six (6)
280 months, the governing authority or remainder of the governing
281 authority of the city, town or village shall make and enter on the
282 minutes an order for an election to be held in the city, town or
283 village to fill the vacancy and fix a date upon which the election
284 shall be held. The order shall be made and entered upon the
285 minutes at the next regular meeting of the governing authority
286 after the vacancy occurs, or at a special meeting to be held not
287 later than ten (10) days after the vacancy occurs, Saturdays,
288 Sundays and legal holidays excluded, whichever shall occur first.
289 The election shall be held on a date not less than thirty (30)
290 days nor more than forty-five (45) days after the date upon which
291 the order is adopted.



292 Notice of the election shall be given by the municipal clerk
293 by notice published in a newspaper published in the municipality.
294 The notice shall be published once each week for three (3)
295 successive weeks preceding the date of the election. The first
296 notice shall be published at least thirty (30) days before the
297 date of the election. Notice shall also be given by posting a
298 copy of the notice at three (3) public places in the municipality
299 not less than twenty-one (21) days before the date of the
300 election. One (1) of the notices shall be posted at the city,
301 town or village hall. In the event that there is no newspaper
302 published in the municipality, such notice shall be published as
303 provided for above in a newspaper that has a general circulation
304 within the municipality and by posting as provided for above.
305 Additionally, the governing authority may publish the notice in
306 that newspaper for as many additional times as may be deemed
307 necessary by the governing authority.

308 Each candidate shall qualify by petition filed with the
309 municipal clerk by 5:00 p.m. at least twenty (20) days before the
310 date of the election. If the twentieth day to file the petition
311 before the election falls on a Sunday or legal holiday, the
312 petition filed on the business day immediately following the
313 Sunday or legal holiday shall be accepted. The petition shall be
314 signed by not less than the following number of qualified
315 electors:



316 (a) For an office of a city, town, village or municipal
317 district having a population of one thousand (1,000) or more, not
318 less than fifty (50) qualified electors.

319 (b) For an office of a city, town, village or municipal
320 district having a population of less than one thousand (1,000),
321 not less than fifteen (15) qualified electors.

322 No qualifying fee shall be required of any candidate, and the
323 election shall be held as far as practicable in the same manner as
324 municipal general elections.

325 The candidate receiving a majority of the votes cast in the
326 election shall be elected. If no candidate receives a majority
327 vote at the election, the two (2) candidates receiving the highest
328 number of votes shall have their names placed on the ballot for
329 the election to be held three (3) weeks thereafter. The candidate
330 receiving a majority of the votes cast in the election shall be
331 elected. However, if no candidate receives a majority and there
332 is a tie in the election of those receiving the next highest vote,
333 those receiving the next highest vote and the candidate receiving
334 the highest vote shall have their names placed on the ballot for
335 the election to be held three (3) weeks thereafter, and whoever
336 receives the most votes cast in the election shall be elected.

337 Should the election held three (3) weeks thereafter result in
338 a tie vote, the prevailing candidate shall be decided by a toss of
339 a coin or by lot fairly and publicly drawn under the supervision
340 of the election commission.



341 The clerk of the election commission shall then give a
342 certificate of election to the person elected, and return to the
343 Secretary of State a copy of the order of holding the election and
344 runoff election results, certified by the clerk of the governing
345 authority. The person elected shall be commissioned by the
346 Governor.

347 However, if nineteen (19) days before the date of the
348 election only one (1) person shall have qualified as a candidate,
349 the governing authority, or remainder of the governing authority,
350 shall dispense with the election and appoint that one (1)
351 candidate in lieu of an election. In the event no person shall
352 have qualified by 5:00 p.m. at least twenty (20) days before the
353 date of the election, the governing authority or remainder of the
354 governing authority shall dispense with the election and fill the
355 vacancy by appointment. The clerk of the governing authority
356 shall certify the appointment to the Secretary of State, and the
357 appointed person shall be commissioned by the Governor.

358 **SECTION 13.** Section 23-15-859, Mississippi Code of 1972, is
359 brought forward as follows:

360 23-15-859. Whenever under any statute a special election is
361 required or authorized to be held in any municipality, and the
362 statute authorizing or requiring the election does not specify the
363 time within which the election shall be called, or the notice
364 which shall be given, the governing authorities of the
365 municipality shall, by resolution, fix a date upon which the



election shall be held. The date shall not be less than twenty-one (21) nor more than thirty (30) days after the date upon which such resolution is adopted, and not less than three (3) weeks' notice of the election shall be given by the clerk by a notice published in a newspaper published in the municipality once each week for three (3) weeks next preceding the date of the election, and by posting a copy of the notice at three (3) public places in the municipality. Nothing herein, however, shall be applicable to elections on the question of the issuance of the bonds of a municipality or to general or primary elections for the election of municipal officers.

The provisions of this section shall be applicable to all municipalities of this state, whether operating under a code charter, special charter or the commission form of government, except in cases of conflicts between the provisions of the section and the provisions of the special charter of a municipality, or the law governing the commission form of government, in which cases of conflict the provisions of the special charter or the statutes relative to the commission form of government shall apply.

SECTION 14. Section 23-15-193, Mississippi Code of 1972, is brought forward 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 state officers that receive 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 state 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 run-off elections of justice court judges.

SECTION 15. Section 23-15-191, Mississippi Code of 1972, is brought forward as follows:

23-15-191. The first primary shall be held on the first Tuesday after the first Monday of August preceding any regular or general election; and the second primary shall be held four (4) weeks thereafter. The candidate that receives a majority of the votes cast in the election shall be the party nominee. If no candidate receives a majority vote at the election, then the two (2) candidates who receive the highest number of votes shall have their names placed on the ballot for the second primary election to be held four (4) weeks later. The candidate who receives the most votes in the second primary election shall be the party nominee. However, if no candidate receives a majority vote at the first primary, 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 vote shall have their names placed on the ballot for the second primary election to be held four (4) weeks later, and whoever receives the most votes cast in the second primary election shall be the party nominee.

SECTION 16. Section 23-15-297, Mississippi Code of 1972, is brought forward as follows:

23-15-297. (1) All candidates, upon entering the race for party nominations for office, shall first pay to the proper officer as provided for in Section 23-15-299 for each primary election the following amounts:

(a) Candidates for Governor, the amount determined by the state executive committee of the party pursuant to subsection (2) of this section but no less than One Thousand Dollars (\$1,000.00) and no more than Five Thousand Dollars (\$5,000.00).

(b) Candidates for Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, Auditor of Public Accounts, Commissioner of Insurance, Commissioner of Agriculture and Commerce, State Highway Commissioner and State Public Service Commissioner, the amount determined by the state executive committee of the party pursuant to subsection (2) of this section but no less than Five Hundred Dollars (\$500.00) and no more than Two Thousand Five Hundred Dollars (\$2,500.00).



(c) Candidates for State Senator and State Representative, Two Hundred Fifty Dollars (\$250.00).

(d) Candidates for district attorney, Two Hundred Fifty Dollars (\$250.00).

(e) Candidates for sheriff, chancery clerk, circuit clerk, tax assessor, tax collector, county attorney, county superintendent of education and board of supervisors, One Hundred Dollars (\$100.00).

(f) Candidates for county surveyor, county coroner and constable, One Hundred Dollars (\$100.00).

(g) Candidates for United States Senator, the amount determined by the state executive committee of the party pursuant to subsection (2) of this section but no less than One Thousand Dollars (\$1,000.00) and no more than Five Thousand Dollars (\$5,000.00).

(h) Candidates for United States Representative, the amount determined by the state executive committee of the party pursuant to subsection (2) of this section but no less than Five Hundred Dollars (\$500.00) and no more than Two Thousand Five Hundred Dollars (\$2,500.00).

(2) (a) The state executive committee of a political party shall set the entry fee that a candidate is to pay upon entering the race for party nominations for the offices listed in paragraphs (a), (b), (g) and (h) of subsection (1) of this section and Section 23-15-1093(2) (a). The authority granted under this



subsection shall not be exercised by any state executive committee of a political party for any individual office more than once every two (2) years, beginning July 1, 2022.

(b) Each state executive committee of a political party shall report the entry fee determined for each office to the Secretary of State by October 1 of the year before the election is held for that office. If a state executive committee does not meet the deadline in this paragraph for any office, the minimum entry fee shall be assessed for the office in that party's primary election during that election cycle.

(3) All independent candidates and special election candidates entering the race for office shall pay to the proper officer as provided for in Section 23-15-299 the following amounts:

(a) Candidates for Governor, One Thousand Dollars (\$1,000.00).

(b) Candidates for Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, Auditor of Public Accounts, Commissioner of Insurance, Commissioner of Agriculture and Commerce, State Highway Commissioner and State Public Service Commissioner, Five Hundred Dollars (\$500.00).

(c) Candidates for district attorney, State Senator and State Representative, Two Hundred Fifty Dollars (\$250.00).

(d) Candidates for sheriff, chancery clerk, circuit clerk, tax assessor, tax collector, county attorney, county



515 superintendent of education and board of supervisors, One Hundred
516 Dollars (\$100.00).

517 (e) Candidates for county surveyor, county coroner and
518 constable, One Hundred Dollars (\$100.00).

519 (f) Candidates for United States Senator, One Thousand
520 Dollars (\$1,000.00).

521 (g) Candidates for United States Representative, Five
522 Hundred Dollars (\$500.00).

523 (4) The Secretary of State shall publish the fees listed in
524 this section and Section 23-15-1093 no later than forty-five (45)
525 days before the qualifying period begins for each office.

526 **SECTION 17.** This act shall take effect and be in force from
527 and after July 1, 2025.

