

Senate Amendments to House Bill No. 291

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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
46 before the Chief Justice of the Mississippi Supreme Court within
47 two (2) days after the canvass and the tie shall be determined by
48 a toss of a coin or by lot fairly and publicly drawn, and a
49 certificate of election shall be given accordingly.

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

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

54 23-15-193. (1) At the election in 2023, and every four (4)
55 years thereafter, there shall be elected a Governor, Lieutenant
56 Governor, Secretary of State, Auditor of Public Accounts, State
57 Treasurer, Attorney General, three (3) public service
58 commissioners, three (3) Mississippi Transportation Commissioners,
59 Commissioner of Insurance, Commissioner of Agriculture and
60 Commerce, Senators and members of the House of Representatives in
61 the Legislature, district attorneys for the several districts,
62 clerks of the circuit and chancery courts of the several counties,
63 as well as sheriffs, coroners, assessors, surveyors and members of
64 the boards of supervisors, justice court judges and constables,
65 and all other officers to be elected by the people at the general
66 state election. All such officers shall hold their offices for a
67 term of four (4) years, and until their successors are elected and
68 qualified. The state officers shall be elected in the manner
69 prescribed in Section 140 of the Constitution.

70 (2) The * * * candidate that receives a majority of votes
71 cast for the office at the general election shall be elected. If
72 no candidate receives a majority number of votes cast at the
73 election, then the two (2) candidates who receive the highest
74 number of votes cast shall have their names placed on the ballot
75 for the runoff election to be held four (4) weeks later. The
76 candidate who receives a majority of the votes cast in the runoff
77 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 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.

(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) days after the election, shall sum up the whole number of votes given for each candidate other than candidates for state offices, legislative offices composed of one (1) county or less, county offices and county district offices, according to the statements of the votes certified to him or her and ascertain the person or persons having the largest number of votes for each office, and declare such person or persons to be duly elected; and thereupon all persons chosen to any office at the election shall be commissioned by the Governor; but if it appears that two (2) or more candidates for any district office where the district is composed of two (2) or more counties, standing highest on the

list, and not elected, have an equal number of votes, the election shall be decided between the candidates having an equal number of votes by each candidate individually drawing one (1) of the two (2) sealed containers from an opaque bag, under the direction of the Governor and Secretary of State. The containers shall consist of a straw of conspicuous length, and the candidate drawing the container with the longer of the two (2) straws shall be declared the winner.

SECTION 5. Section 23-15-951, Mississippi Code of 1972, is 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 designated circuit judge or chancellor to proceed to discharge the duty of hearing the contest at the earliest possible date. The date of the contest shall be fixed by the judge or chancellor, and the judge or chancellor shall provide reasonable notice to the contestant and the contestee of the date and time fixed for the contest. The judge or chancellor shall cause the contestant and contestee to be served in a reasonable manner. When the contestee is served, such contestee shall promptly file his or her answer, and cross-complaint, if the contestee has a cross-complaint.

The court shall, at the first term, cause an issue to be made up and tried by a jury, and the verdict of the jury shall find the person having the greatest number of legal votes at the election or the person having a majority of legal votes at the election, for county and county district officers. If the jury shall find against the person returned elected, the clerk shall issue a certificate thereof; and the person in whose favor the jury shall 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.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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.

SS26\HB291A.J

Amanda White
Secretary of the Senate