

By: Representative Horne

To: Apportionment and
Elections

HOUSE BILL NO. 848

1 AN ACT TO AMEND SECTION 23-15-801, MISSISSIPPI CODE OF 1972,
2 TO REVISE CANDIDATE AND POLITICAL COMMITTEE REPORTING
3 REQUIREMENTS; TO AMEND SECTION 23-15-803, MISSISSIPPI CODE OF
4 1972, TO REVISE POLITICAL COMMITTEE REGISTRATION REQUIREMENTS; TO
5 AMEND SECTION 23-15-807, MISSISSIPPI CODE OF 1972, TO REVISE
6 REPORTING REQUIREMENTS; TO AMEND SECTION 23-15-809, MISSISSIPPI
7 CODE OF 1972, TO REVISE STATEMENT REQUIREMENTS FOR PERSONS OTHER
8 THAN POLITICAL COMMITTEES; TO AMEND SECTION 23-15-811, MISSISSIPPI
9 CODE OF 1972, TO REVISE PENALTIES; TO AMEND SECTION 23-15-813,
10 MISSISSIPPI CODE OF 1972, TO REVISE CIVIL PENALTIES FOR FAILURE TO
11 FILE CAMPAIGN FINANCE DISCLOSURE REPORTS; AND FOR RELATED
12 PURPOSES.

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

14 **SECTION 1.** Section 23-15-801, Mississippi Code of 1972, is
15 amended as follows:

16 23-15-801. (a) "Election" shall mean a general, special,
17 primary or runoff election.

18 (b) "Candidate" shall mean an individual who seeks
19 nomination for election, or election, to any elective office other
20 than a federal elective office and for purposes of this article,
21 an individual shall be deemed to seek nomination for election, or
22 election:

23 (i) If such individual has received contributions * * *
24 or has made expenditures * * * for a candidate for the Legislature
25 or any statewide or state district office, by the qualifying
26 deadlines specified in Sections 23-15-299 and 23-15-977, whichever
27 occurs first; or

28 (ii) If such individual has given his or her consent to
29 another person to receive contributions or make expenditures on
30 behalf of such individual and if such person has received such
31 contributions * * * during a calendar year, or has made such
32 expenditures * * * during a calendar year.



33 (c) "Political committee" shall mean any committee, party,
34 club, association, political action committee, campaign committee
35 or other groups of persons or affiliated organizations which
36 receives contributions * * * during a calendar year or which makes
37 expenditures * * * during a calendar year for the purpose of
38 influencing or attempting to influence the action of voters for or
39 against the nomination for election, or election, of one or more
40 candidates, or balloted measures and shall, in addition, include
41 each political party registered with the Secretary of State.

42 (d) "Affiliated organization" shall mean any organization
43 which is not a political committee, but which directly or
44 indirectly establishes, administers or financially supports a
45 political committee.

46 (e) (i) "Contribution" shall include any gift,
47 subscription, loan, advance or deposit of money or anything of
48 value made by any person or political committee for the purpose of
49 influencing any election for elective office or balloted measure;

50 (ii) "Contribution" shall not include the value of
51 services provided without compensation by any individual who
52 volunteers on behalf of a candidate or political committee; or the
53 cost of any food or beverage for use in any candidate's campaign
54 or for use by or on behalf of any political committee of a
55 political party;

56 (iii) "Contribution to a political party" includes any
57 gift, subscription, loan, advance or deposit of money or anything
58 of value made by any person, political committee, or other
59 organization to a political party and to any committee,
60 subcommittee, campaign committee, political committee and other
61 groups of persons and affiliated organizations of the political
62 party;

63 (iv) "Contribution to a political party" shall not
64 include the value of services provided without compensation by any



65 individual who volunteers on behalf of a political party or a
66 candidate of a political party.

67 (f) (i) "Expenditure" shall include any purchase, payment,
68 distribution, loan, advance, deposit, gift of money or anything of
69 value, made by any person or political committee for the purpose
70 of influencing any balloted measure or election for elective
71 office; and a written contract, promise, or agreement to make an
72 expenditure;

73 (ii) "Expenditure" shall not include any news story,
74 commentary or editorial distributed through the facilities of any
75 broadcasting station, newspaper, magazine, or other periodical
76 publication, unless such facilities are owned or controlled by any
77 political party, political committee, or candidate; or nonpartisan
78 activity designed to encourage individuals to vote or to register
79 to vote;

80 (iii) "Expenditure by a political party" includes 1.
81 any purchase, payment, distribution, loan, advance, deposit, gift
82 of money or anything of value, made by any political party and by
83 any contractor, subcontractor, agent, and consultant to the
84 political party; and 2. a written contract, promise, or agreement
85 to make such an expenditure.

86 (g) The term "identification" shall mean:

87 (i) In the case of any individual, the name, the
88 mailing address, and the occupation of such individual, as well as
89 the name of his or her employer; and

90 (ii) In the case of any other person, the full name and
91 address of such person.

92 (h) The term "political party" shall mean an association,
93 committee or organization which nominates a candidate for election
94 to any elective office whose name appears on the election ballot
95 as the candidate of such association, committee or organization.

96 (i) The term "person" shall mean any individual, family,
97 firm, corporation, partnership, association or other legal entity.



98 (j) The term "independent expenditure" shall mean an
99 expenditure by a person expressly advocating the election or
100 defeat of a clearly identified candidate which is made without
101 cooperation or consultation with any candidate or any authorized
102 committee or agent of such candidate, and which is not made in
103 concert with or at the request or suggestion of any candidate or
104 any authorized committee or agent of such candidate.

105 (k) The term "clearly identified" shall mean that:

106 (i) The name of the candidate involved appears; or

107 (ii) A photograph or drawing of the candidate appears;

108 or

109 (iii) The identity of the candidate is apparent by
110 unambiguous reference.

111 **SECTION 2.** Section 23-15-803, Mississippi Code of 1972, is
112 amended as follows:

113 23-15-803. (a) Statements of organization. Each political
114 committee shall file a statement of organization no later than ten
115 (10) days after receipt of contributions * * * or no later than
116 ten (10) days after having made expenditures * * *.

117 (b) Contents of statements. The statement of organization
118 of a political committee shall include:

119 (i) The name and address of the committee and all
120 officers;

121 (ii) Designation of a director of the committee and a
122 custodian of books and accounts of the committee, who shall be
123 designated treasurer; and

124 (iii) If the committee is authorized by a candidate,
125 the name, address, office sought, and party affiliation of the
126 candidate.

127 (c) Change of information in statements. Any change in
128 information previously submitted in a statement of organization
129 shall be reported and noted on the next regularly scheduled
130 report.



131 **SECTION 3.** Section 23-15-807, Mississippi Code of 1972, is
132 amended as follows:

133 23-15-807. (a) Each candidate or political committee shall
134 file reports of contributions and disbursements in accordance with
135 the provisions of this section. All candidates or political
136 committees required to report may terminate its obligation to
137 report only upon submitting a final report that it will no longer
138 receive any contributions or make any disbursement and that such
139 candidate or committee has no outstanding debts or obligations.
140 The candidate, treasurer or chief executive officer shall sign
141 each such report.

142 (b) Candidates who are seeking election, or nomination for
143 election, and political committees that make expenditures for the
144 purpose of influencing or attempting to influence the action of
145 voters for or against the nomination for election, or election, of
146 one or more candidates or balloted measures at such election,
147 shall file the following reports:

148 (i) In any calendar year during which there is a
149 regularly scheduled election, a preelection report, which shall be
150 filed no later than the seventh day before any election in which
151 such candidate or political committee has accepted contributions
152 or made expenditures and which shall be complete as of the tenth
153 day before such election;

154 (ii) In 1987 and every fourth year thereafter, periodic
155 reports, which shall be filed no later than the tenth day after
156 April 30, May 31, June 30, September 30 and December 31, and which
157 shall be complete as of the last day of each period; and

158 (iii) In any calendar years except 1987 and except
159 every fourth year thereafter, a report covering the calendar year
160 which shall be filed no later than January 31 of the following
161 calendar year.

162 (c) All candidates for judicial office as defined in Section
163 23-15-975, or their political committees, shall file in the year



164 in which they are to be elected, periodic reports which shall be
165 filed no later than the tenth day after April 30, May 31, June 30,
166 September 30 and December 31.

167 (d) Contents of reports. Each report under this article
168 shall disclose:

169 (i) For the reporting period and the calendar year, the
170 total amount of all contributions and the total amount of all
171 expenditures of the candidate or reporting committee which shall
172 include those required to be identified pursuant to item (ii) of
173 this paragraph as well as the total of all other contributions and
174 expenditures during the calendar year. Such reports shall be
175 cumulative during the calendar year to which they relate;

176 (ii) The identification of:

177 1. Each person or political committee who makes a
178 contribution to the reporting candidate or political committee
179 during the reporting period * * * together with the date and
180 amount of any such contribution;

181 2. Each person or organization, candidate or
182 political committee who receives an expenditure, payment or other
183 transfer from the reporting candidate, political committee or its
184 agent, employee, designee, contractor, consultant or other person
185 or persons acting in its behalf during the reporting period * * *
186 together with the date and amount of such expenditure;

187 (iii) The total amount of cash on hand of each
188 reporting candidate and reporting political committee;

189 (iv) In addition to the contents of reports specified
190 in items (i), (ii) and (iii) of this paragraph, each political
191 party shall disclose:

192 1. Each person or political committee who makes a
193 contribution to a political party during the reporting period
194 * * * together with the date and amount of the contribution;

195 2. Each person or organization who receives an
196 expenditure by a political party or expenditures by a political



197 party during the reporting period * * * together with the date and
198 amount of the expenditure.

199 (e) The appropriate office specified in Section 23-15-805
200 must be in actual receipt of the reports specified in this article
201 by 5:00 p.m. on the dates specified in paragraph (b) of this
202 section. If the date specified in paragraph (b) of this section
203 shall fall on a weekend or legal holiday then the report shall be
204 due in the appropriate office at 5:00 p.m. on the first working
205 day before the date specified in paragraph (b) of this section.
206 The reporting candidate or reporting political committee shall
207 ensure that the reports are delivered to the appropriate office by
208 the filing deadline. The Secretary of State may approve specific
209 means of electronic transmission of completed campaign finance
210 disclosure reports, which may include, but not be limited to,
211 transmission by electronic facsimile (FAX) devices.

212 (f) (i) If any contribution * * * is received by a
213 candidate or candidate's political committee after the tenth day,
214 but more than forty-eight (48) hours before 12:01 a.m. of the day
215 of the election, the candidate or political committee shall notify
216 the appropriate office designated in Section 23-15-805, within
217 forty-eight (48) hours of receipt of the contribution. The
218 notification shall include:

- 219 1. The name of the receiving candidate;
- 220 2. The name of the receiving candidate's political
221 committee, if any;
- 222 3. The office sought by the candidate;
- 223 4. The identification of the contributor;
- 224 5. The date of receipt;
- 225 6. The amount of the contribution;
- 226 7. If the contribution is in-kind, a description
227 of the in-kind contribution; and
- 228 8. The signature of the candidate or the treasurer
229 or director of the candidate's political committee.



230 (ii) The notification shall be in writing, and may be
231 transmitted by overnight mail, courier service, or other reliable
232 means, including electronic facsimile (FAX), but the candidate or
233 candidate's committee shall ensure that the notification shall in
234 fact be received in the appropriate office designated in Section
235 23-15-805 within forty-eight (48) hours of the contribution.

236 **SECTION 4.** Section 23-15-809, Mississippi Code of 1972, is
237 amended as follows:

238 23-15-809. (a) Every person who makes independent
239 expenditures * * * during a calendar year shall file a statement
240 containing the information required under Section 23-15-807. Such
241 statement shall be filed with the appropriate offices as provided
242 for in Section 23-15-805, and such person shall be considered a
243 political committee for the purpose of determining place of
244 filing.

245 (b) Statements required to be filed by this subsection shall
246 include:

247 (i) Information indicating whether the independent
248 expenditure is in support of, or in opposition to, the candidate
249 involved;

250 (ii) Under penalty of perjury, a certification of
251 whether or not such independent expenditure is made in
252 cooperation, consultation or concert with, or at the request or
253 suggestion of, any candidate or any authorized committee or agent
254 of such candidate; and

255 (iii) The identification of each person who made a
256 contribution * * * to the person filing such statement which was
257 made for the purpose of furthering an independent expenditure.

258 **SECTION 5.** Section 23-15-811, Mississippi Code of 1972, is
259 amended as follows:

260 23-15-811. (a) Any candidate or any other person who shall
261 wilfully and deliberately and substantially violate the provisions
262 and prohibitions of this article shall be guilty of a misdemeanor



263 and upon conviction thereof shall be punished by a fine in a sum
264 not to exceed Five Thousand Dollars (\$5,000.00) or imprisoned for
265 not longer than one (1) year or by both fine and imprisonment.

266 (b) In addition to the penalties provided in paragraph (a)
267 of this section, any candidate or political committee which is
268 required to file a statement or report which fails to file such
269 statement or report on the date in which it is due shall be
270 compelled to file such statement or report by an action in the
271 nature of a mandamus.

272 (c) No candidate shall be certified as nominated for
273 election or as elected to office unless and until he files all
274 reports required by this article due as of the date of
275 certification.

276 (d) No candidate who is elected to office shall receive any
277 salary or other remuneration for the office unless and until he
278 files all reports required by this article due as of the date such
279 salary or remuneration is payable.

280 * * *

281 **SECTION 6.** Section 23-15-813, Mississippi Code of 1972, is
282 amended as follows:

283 23-15-813. (a) In addition to any other penalty permitted
284 by law, the Secretary of State shall require any candidate or
285 political committee, as identified in Section 23-15-805(a), and
286 any other political committee registered with the Secretary of
287 State, who fails to file a campaign finance disclosure report as
288 required under Sections 23-15-801 through 23-15-813, or Sections
289 23-17-47 through 23-17-53, or who shall file a report which fails
290 to substantially comply with the requirements of Sections
291 23-15-801 through 23-15-813, or Sections 23-17-47 through
292 23-17-53, to be assessed a civil penalty as follows:

293 (i) Within five (5) calendar days after any deadline
294 for filing a report pursuant to Sections 23-15-801 through
295 23-15-813, or Sections 23-17-47 through 23-17-53, the Secretary of



296 State shall compile a list of those candidates and political
297 committees who have failed to file a report. The Secretary of
298 State shall provide each candidate or political committee, who has
299 failed to file a report, notice of the failure by first-class
300 mail.

301 (ii) Beginning with the tenth calendar day after which
302 any report shall be due, the Secretary of State shall assess the
303 delinquent candidate and political committee a civil penalty of
304 Fifty Dollars (\$50.00) for each day or part of any day until a
305 valid report is delivered to the Secretary of State. * * *

306 However, in the discretion of the Secretary of State, the
307 assessing of the fine may be waived in whole or in part if the
308 Secretary of State determines that unforeseeable mitigating
309 circumstances, such as the health of the candidate, interfered
310 with timely filing of a report. Failure of a candidate or
311 political committee to receive notice of failure to file a report
312 from the Secretary of State is not an unforeseeable mitigating
313 circumstance, and failure to receive the notice shall not result
314 in removal or reduction of any assessed civil penalty.

315 (iii) Filing of the required report and payment of the
316 fine within ten (10) calendar days of notice by the Secretary of
317 State that a required statement has not been filed, constitutes
318 compliance with Sections 23-15-801 through 23-15-813, or Sections
319 23-17-47 through 23-17-53.

320 (iv) Payment of the fine without filing the required
321 report does not in any way excuse or exempt any person required to
322 file from the filing requirements of Sections 23-15-801 through
323 23-15-813, and Sections 23-17-47 through 23-17-53.

324 (v) If any candidate or political committee is assessed
325 a civil penalty, and the penalty is not subsequently waived by the
326 Secretary of State, the candidate or political committee shall pay
327 the fine to the Secretary of State within ninety (90) days of the
328 date of the assessment of the fine. If, after one hundred twenty



329 (120) days of the assessment of the fine the payment for the
330 entire amount of the assessed fine has not been received by the
331 Secretary of State, the Secretary of State shall notify the
332 Attorney General of the delinquency, and the Attorney General
333 shall file, where necessary, a suit to compel payment of the civil
334 penalty.

335 (b) (i) Upon the sworn application, made within sixty (60)
336 calendar days of the date upon which the required report is due,
337 of a candidate or political committee against whom a civil penalty
338 has been assessed pursuant to paragraph (a), the Secretary of
339 State shall forward the application to the State Board of Election
340 Commissioners. The State Board of Election Commissioners shall
341 appoint one or more hearing officers who shall be former
342 chancellors, circuit court judges, judges of the Court of Appeals
343 or justices of the Supreme Court, and who shall conduct hearings
344 held pursuant to this article. The hearing officer shall fix a
345 time and place for a hearing and shall cause a written notice
346 specifying the civil penalties that have been assessed against the
347 candidate or political committee and notice of the time and place
348 of the hearing to be served upon the candidate or political
349 committee at least twenty (20) calendar days before the hearing
350 date. The notice may be served by mailing a copy thereof by
351 certified mail, postage prepaid, to the last known business
352 address of the candidate or political committee.

353 (ii) The hearing officer may issue subpoenas for the
354 attendance of witnesses and the production of books and papers at
355 the hearing. Process issued by the hearing officer shall extend
356 to all parts of the state and shall be served by any person
357 designated by the hearing officer for the service.

358 (iii) The candidate or political committee has the
359 right to appear either personally, by counsel or both, to produce
360 witnesses or evidence in his behalf, to cross-examine witnesses
361 and to have subpoenas issued by the hearing officer.



362 (iv) At the hearing, the hearing officer shall
363 administer oaths as may be necessary for the proper conduct of the
364 hearing. All hearings shall be conducted by the hearing officer,
365 who shall not be bound by strict rules of procedure or by the laws
366 of evidence in the conduct of the proceedings, but the
367 determination shall be based upon sufficient evidence to sustain
368 it. The scope of review at the hearing shall be limited to making
369 a determination of whether failure to file a required report was
370 due to an unforeseeable mitigating circumstance.

371 (v) Where, in any proceeding before the hearing
372 officer, any witness fails or refuses to attend upon a subpoena
373 issued by the commission, refuses to testify, or refuses to
374 produce any books and papers the production of which is called for
375 by a subpoena, the attendance of the witness, the giving of his
376 testimony or the production of the books and papers shall be
377 enforced by any court of competent jurisdiction of this state in
378 the manner provided for the enforcement of attendance and
379 testimony of witnesses in civil cases in the courts of this state.

380 (vi) Within fifteen (15) calendar days after conclusion
381 of the hearing, the hearing officer shall reduce his or her
382 decision to writing and forward an attested true copy of the
383 decision to the last known business address of the candidate or
384 political committee by way of United States first-class, certified
385 mail, postage prepaid.

386 (c) (i) The right to appeal from the decision of the
387 hearing officer in an administrative hearing concerning the
388 assessment of civil penalties authorized pursuant to this section
389 is granted. The appeal shall be to the Circuit Court of Hinds
390 County and shall include a verbatim transcript of the testimony at
391 the hearing. The appeal shall be taken within thirty (30)
392 calendar days after notice of the decision of the commission
393 following an administrative hearing. The appeal shall be
394 perfected upon filing notice of the appeal and by the prepayment



395 of all costs, including the cost of the preparation of the record
396 of the proceedings by the hearing officer, and the filing of a
397 bond in the sum of Five Hundred Dollars (\$500.00), conditioned
398 that if the decision of the hearing officer be affirmed by the
399 court, the candidate or political committee will pay the costs of
400 the appeal and the action in court. If the decision is reversed
401 by the court, the Secretary of State will pay the costs of the
402 appeal and the action in court.

403 (ii) If there is an appeal, the appeal shall act as a
404 supersedeas. The court shall dispose of the appeal and enter its
405 decision promptly. The hearing on the appeal may be tried in
406 vacation, in the court's discretion. The scope of review of the
407 court shall be limited to a review of the record made before the
408 hearing officer to determine if the action of the hearing officer
409 is unlawful for the reason that it was 1. not supported by
410 substantial evidence, 2. arbitrary or capricious, 3. beyond the
411 power of the hearing officer to make, or 4. in violation of some
412 statutory or constitutional right of the appellant. The decision
413 of the court may be appealed to the Supreme Court in the manner
414 provided by law.

415 (d) If, after forty-five (45) calendar days of the date of
416 the administrative hearing procedure set forth in paragraph (b),
417 the candidate or political committee identified in paragraph (a)
418 of this section fails to pay the monetary civil penalty imposed by
419 the hearing officer, the Secretary of State shall notify the
420 Attorney General of the delinquency. The Attorney General shall
421 investigate the offense in accordance with the provisions of this
422 chapter, and where necessary, file suit to compel payment of the
423 unpaid civil penalty.

424 (e) If, after twenty (20) calendar days of the date upon
425 which a campaign finance disclosure report is due, a candidate or
426 political committee identified in paragraph (a) of this section
427 shall not have filed a valid report with the Secretary of State,



428 the Secretary of State shall notify the Attorney General of those
429 candidates and political committees who have not filed a valid
430 report, and the Attorney General shall thereupon prosecute the
431 delinquent candidates and political committees.

432 **SECTION 7.** The Attorney General of the State of Mississippi
433 shall submit this act, immediately upon approval by the Governor,
434 or upon approval by the Legislature subsequent to a veto, to the
435 Attorney General of the United States or to the United States
436 District Court for the District of Columbia in accordance with the
437 provisions of the Voting Rights Act of 1965, as amended and
438 extended.

439 **SECTION 8.** This act shall take effect and be in force from
440 and after the date it is effectuated under Section 5 of the Voting
441 Rights Act of 1965, as amended and extended.

