

By: Representative Denny

To: Apportionment and
Elections

HOUSE BILL NO. 990

1 AN ACT TO AMEND SECTION 23-15-857, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE QUALIFYING DEADLINE FOR MUNICIPAL SPECIAL ELECTIONS;
3 AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 23-15-857, Mississippi Code of 1972, is
6 amended as follows:

7 23-15-857. (1) When it shall happen that there is any
8 vacancy in a city, town or village office which is elective the
9 unexpired term of which shall not exceed six (6) months, the same
10 shall be filled by appointment by the governing authority or
11 remainder of the governing authority of said city, town or
12 village. The municipal clerk shall certify to the Secretary of
13 State the fact of such appointment, and the person or persons so
14 appointed shall be commissioned by the Governor.

15 (2) When it shall happen that there is any vacancy in an
16 elective office in a city, town or village the unexpired term of
17 which shall exceed six (6) months, the governing authority or
18 remainder of the governing authority of said city, town or village
19 shall make and enter on the minutes an order for an election to be
20 held in such city, town or village to fill the vacancy and fix a
21 date upon which such election shall be held. Such order shall be
22 made and entered upon the minutes at the next regular meeting of
23 the governing authority after such vacancy shall have occurred, or
24 at a special meeting to be held not later than ten (10) days after
25 such vacancy shall have occurred, Saturdays, Sundays and legal
26 holidays excluded, whichever shall occur first. Such election
27 shall be held on a date not less than thirty (30) days nor more



28 than forty-five (45) days after the date upon which the order is
29 adopted.

30 Notice of such election shall be given by the municipal clerk
31 by notice published in a newspaper published in the municipality.
32 Such notice shall be published once each week for three (3)
33 successive weeks preceding the date of such election. The first
34 notice to be published at least thirty (30) days before the date
35 of such election. Notice shall also be given by posting a copy of
36 such notice at three (3) public places in such municipality not
37 less than twenty-one (21) days prior to the date of such election.
38 One (1) of such notices shall be posted at the city, town or
39 village hall. In the event that there is no newspaper published
40 in the municipality, then such notice shall be published as
41 provided for above in a newspaper which has a general circulation
42 within the municipality and by posting as provided for above. In
43 addition, the governing authority may publish such notice in such
44 newspaper for such additional times as may be deemed necessary by
45 the governing authority.

46 Each candidate shall qualify by petition filed with the
47 municipal clerk by 5:00 p.m. at least twenty (20) days before the
48 date of the election and such petition shall be signed by not less
49 than the following number of qualified electors:

50 (a) For an office of a city, town or village having a
51 population of one thousand (1,000) or more, not less than fifty
52 (50) qualified electors.

53 (b) For an office of a city, town or village having a
54 population of less than one thousand (1,000), not less than
55 fifteen (15) qualified electors.

56 No qualifying fee shall be required of any candidate, and the
57 election provided for herein shall be held as far as practicable
58 in the same manner as municipal general elections.

59 The candidate receiving a majority of the votes cast in a
60 said election shall be elected. If no candidate shall receive a



61 majority vote at the election, the two (2) candidates receiving
62 the highest number of votes shall have their names placed on the
63 ballot for the election to be held one (1) week thereafter. The
64 candidate receiving a majority of the votes cast in said election
65 shall be elected. However, if no candidate shall receive a
66 majority and there is a tie in the election of those receiving the
67 next highest vote, those receiving the next highest vote and the
68 candidate receiving the highest vote shall have their names placed
69 on the ballot for the election to be held one (1) week thereafter,
70 and whoever receives the most votes cast in such election shall be
71 elected.

72 Should the election to be held one (1) week thereafter result
73 in a tie vote, the candidate to prevail shall be decided by lot,
74 fairly and publicly drawn under the supervision by the election
75 commission with the aid of two (2) or more qualified electors of
76 the municipality.

77 The clerk of the election commission shall then give a
78 certificate of election to the person elected, and shall return to
79 the Secretary of State a copy of the order of holding the election
80 and runoff election showing the results thereof, certified by the
81 clerk of the governing authority. The person elected shall be
82 commissioned by the Governor.

83 However, if nineteen (19) days prior to the date of the
84 election only one (1) person shall have qualified as a candidate,
85 the governing authority, or remainder of the governing authority,
86 shall dispense with the election and appoint that one (1)
87 candidate in lieu of an election. In the event no person shall
88 have qualified by 5:00 p.m. at least twenty (20) days prior to the
89 date of the election, the governing authority or remainder of the
90 governing authority shall dispense with the election and fill the
91 vacancy by appointment. The clerk of the governing authority
92 shall certify to the Secretary of State the fact of the



93 appointment, and the person so appointed shall be commissioned by
94 the Governor.

95 **SECTION 2.** The Attorney General of the State of Mississippi
96 shall submit this act, immediately upon approval by the Governor,
97 or upon approval by the Legislature subsequent to a veto, to the
98 Attorney General of the United States or to the United States
99 District Court for the District of Columbia in accordance with the
100 provisions of the Voting Rights Act of 1965, as amended and
101 extended.

102 **SECTION 3.** This act shall take effect and be in force from
103 and after the date it is effectuated under Section 5 of the Voting
104 Rights Act of 1965, as amended and extended.

