

By: Representative Baker (74th)

To: Apportionment and
Elections; County Affairs

HOUSE BILL NO. 46

1 AN ACT TO AMEND SECTION 23-15-153, MISSISSIPPI CODE OF 1972,
2 TO INCREASE THE AMOUNT OF PER DIEM THAT ELECTION COMMISSIONERS MAY
3 EARN; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 23-15-153, Mississippi Code of 1972, is
6 amended as follows:

7 **[Until January 1, 2006, this section shall read as follows:]**

8 23-15-153. (1) At the following times the commissioners of
9 election shall meet at the office of the registrar and carefully
10 revise the registration books and the pollbooks of the several
11 voting precincts, and shall erase from those books the names of
12 all persons erroneously on the books, or who have died, removed or
13 become disqualified as electors from any cause; and shall register
14 the names of all persons who have duly applied to be registered
15 and have been illegally denied registration:

16 (a) On the Tuesday after the second Monday in January
17 1987 and every following year;

18 (b) On the first Tuesday in the month immediately
19 preceding the first primary election for congressmen in the years
20 when congressmen are elected;

21 (c) On the first Monday in the month immediately
22 preceding the first primary election for state, state district,
23 legislative, county and county district offices in the years in
24 which those offices are elected; and

25 (d) On the second Monday of September preceding the
26 general election or regular special election day in years in which
27 a general election is not conducted.

28 Except for the names of those persons who are duly qualified
29 to vote in the election, no name shall be permitted to remain on
30 the registration books and pollbooks; however, no name shall be
31 erased from the registration books or pollbooks based on a change
32 in the residence of an elector except in accordance with
33 procedures provided for by the National Voter Registration Act of
34 1993 that are in effect at the time of such erasure. Except as
35 otherwise provided by Section 23-15-573, no person shall vote at
36 any election whose name is not on the pollbook.

37 (2) Except as provided in subsection (3) of this section,
38 and subject to the following annual limitations, the commissioners
39 of election shall be entitled to receive a per diem in the amount
40 of Seventy Dollars (\$70.00), to be paid from the county general
41 fund, for every day or period of no less than five (5) hours
42 accumulated over two (2) or more days actually employed in the
43 performance of their duties in the conduct of an election or
44 actually employed in the performance of their duties for the
45 necessary time spent in the revision of the registration books and
46 pollbooks as required in subsection (1) of this section:

47 (a) In counties having less than fifteen thousand
48 (15,000) residents according to the latest federal decennial
49 census, not more than fifty (50) days per year, with no more than
50 fifteen (15) additional days allowed for the conduct of each
51 election in excess of one (1) occurring in any calendar year;

52 (b) In counties having fifteen thousand (15,000)
53 residents according to the latest federal decennial census but
54 less than thirty thousand (30,000) residents according to the
55 latest federal decennial census, not more than seventy-five (75)
56 days per year, with no more than twenty-five (25) additional days
57 allowed for the conduct of each election in excess of one (1)
58 occurring in any calendar year;

59 (c) In counties having thirty thousand (30,000)
60 residents according to the latest federal decennial census but

61 less than seventy thousand (70,000) residents according to the
62 latest federal decennial census, not more than one hundred (100)
63 days per year, with no more than thirty-five (35) additional days
64 allowed for the conduct of each election in excess of one (1)
65 occurring in any calendar year;

66 (d) In counties having seventy thousand (70,000)
67 residents according to the latest federal decennial census but
68 less than ninety thousand (90,000) residents according to the
69 latest federal decennial census, not more than one hundred
70 twenty-five (125) days per year, with no more than forty-five (45)
71 additional days allowed for the conduct of each election in excess
72 of one (1) occurring in any calendar year;

73 (e) In counties having ninety thousand (90,000)
74 residents according to the latest federal decennial census but
75 less than one hundred seventy thousand (170,000) residents
76 according to the latest federal decennial census, not more than
77 one hundred fifty (150) days per year, with no more than
78 fifty-five (55) additional days allowed for the conduct of each
79 election in excess of one (1) occurring in any calendar year;

80 (f) In counties having one hundred seventy thousand
81 (170,000) residents according to the latest federal decennial
82 census but less than two hundred thousand (200,000) residents
83 according to the latest federal decennial census, not more than
84 one hundred seventy-five (175) days per year, with no more than
85 sixty-five (65) additional days allowed for the conduct of each
86 election in excess of one (1) occurring in any calendar year;

87 (g) In counties having two hundred thousand (200,000)
88 residents according to the latest federal decennial census but
89 less than two hundred twenty-five thousand (225,000) residents
90 according to the latest federal decennial census, not more than
91 one hundred ninety (190) days per year, with no more than
92 seventy-five (75) additional days allowed for the conduct of each
93 election in excess of one (1) occurring in any calendar year;

94 (h) In counties having two hundred twenty-five thousand
95 (225,000) residents according to the latest federal decennial
96 census but less than two hundred fifty thousand (250,000)
97 residents according to the latest federal decennial census, not
98 more than two hundred fifteen (215) days per year, with no more
99 than eighty-five (85) additional days allowed for the conduct of
100 each election in excess of one (1) occurring in any calendar year;

101 (i) In counties having two hundred fifty thousand
102 (250,000) residents according to the latest federal decennial
103 census but less than two hundred seventy-five thousand (275,000)
104 residents according to the latest federal decennial census, not
105 more than two hundred thirty (230) days per year, with no more
106 than ninety-five (95) additional days allowed for the conduct of
107 each election in excess of one (1) occurring in any calendar year;

108 (j) In counties having two hundred seventy-five
109 thousand (275,000) residents according to the latest federal
110 decennial census or more, not more than two hundred forty (240)
111 days per year, with no more than one hundred five (105) additional
112 days allowed for the conduct of each election in excess of one (1)
113 occurring in any calendar year.

114 (3) The commissioners of election shall be entitled to
115 receive a per diem in the amount of Seventy Dollars (\$70.00), to
116 be paid from the county general fund, not to exceed ten (10) days
117 for every day or period of no less than five (5) hours accumulated
118 over two (2) or more days actually employed in the performance of
119 their duties for the necessary time spent in the revision of the
120 registration books and pollbooks prior to any special election.
121 For purposes of this subsection, the regular special election day
122 shall not be considered a special election. The annual
123 limitations set forth in subsection (2) of this section shall not
124 apply to this subsection.

125 (4) The commissioners of election shall be entitled to
126 receive only one (1) per diem payment for those days when the

127 commissioners of election discharge more than one (1) duty or
128 responsibility on the same day.

129 (5) The county registrar shall provide copies of the
130 registration books revised pursuant to this section to the
131 municipal registrar of each municipality located within the
132 county.

133 (6) Every commissioner of election shall sign personally a
134 certification setting forth the number of hours actually worked in
135 the performance of the commissioner's official duties and for
136 which the commissioner seeks compensation. The certification must
137 be on a form as prescribed in this subsection. The commissioner's
138 signature is, as a matter of law, made under the commissioner's
139 oath of office and under penalties of perjury.

140 The certification form shall be as follows:

141 **COUNTY ELECTION COMMISSIONER**

142 **PER DIEM CLAIM FORM**

143 NAME: _____ COUNTY: _____
144 ADDRESS: _____ DISTRICT: _____
145 CITY: _____ ZIP: _____

146		PURPOSE	APPLICABLE	ACTUAL	PER DIEM		
147	DATE	BEGINNING	ENDING	OF	MS CODE	HOURS	DAYS
148	WORKED	TIME	TIME	WORK	SECTION	WORKED	EARNED

149 _____
150 _____
151 _____

152 TOTAL NUMBER OF PER DIEM DAYS EARNED _____
153 PER DIEM RATE PER DAY EARNED X 70.00
154 TOTAL AMOUNT OF PER DIEM CLAIMED \$_____

155 I understand that I am signing this document under my oath as
156 a commissioner of elections and under penalties of perjury.

157 I understand that I am requesting payment from taxpayer funds
158 and that I have an obligation to be specific and truthful as to
159 the amount of hours worked and the compensation I am requesting.

160 Signed this the _____ day of _____, ____.

161 _____

162 Commissioner's Signature

163 When properly completed and signed, the certification must be
164 filed with the clerk of the county board of supervisors before any
165 payment may be made. The certification will be a public record
166 available for inspection and reproduction immediately upon the
167 oral or written request of any person.

168 Any person may contest the accuracy of the certification in
169 any respect by notifying the chairman of the commission, any
170 member of the board of supervisors or the clerk of the board of
171 supervisors of such contest at any time before or after payment is
172 made. If the contest is made before payment is made, no payment
173 shall be made as to the contested certificate until the contest is
174 finally disposed of. The person filing the contest shall be
175 entitled to a full hearing, and the clerk of the board of
176 supervisors shall issue subpoenas upon request of the contestor
177 compelling the attendance of witnesses and production of documents
178 and things. The contestor shall have the right to appeal de novo
179 to the circuit court of the involved county, which appeal must be
180 perfected within thirty (30) days from a final decision of the
181 commission, the clerk of the board of supervisors or the board of
182 supervisors, as the case may be.

183 Any contestor who successfully contests any certification
184 will be awarded all expenses incident to his contest, together
185 with reasonable attorney's fees, which will be awarded upon
186 petition to the chancery court of the involved county upon final
187 disposition of the contest before the election commission, board
188 of supervisors, clerk of the board of supervisors, or, in case of
189 an appeal, final disposition by the court. The commissioner
190 against whom the contest is decided shall be liable for the
191 payment of the expenses and attorney's fees, and the county shall
192 be jointly and severally liable for same.

193 (7) Notwithstanding the provisions of this section to the
194 contrary, from June 20, 2001, until the conclusion of calendar
195 year 2004, the number of days for which the commissioners of
196 election of a county are entitled to receive compensation shall
197 not be less than the number of days of compensation they were
198 entitled to receive during the 2000 calendar year, excluding those
199 days for which election commissioners were either entitled to or
200 did receive compensation for the conduct of any special elections
201 in calendar year 2000.

202 **[From and after January 1, 2006, this section shall read as**
203 **follows:]**

204 23-15-153. (1) At the following times the commissioners of
205 election shall meet at the office of the registrar and carefully
206 revise the registration books and the pollbooks of the several
207 voting precincts, and shall erase from those books the names of
208 all persons erroneously on the books, or who have died, removed or
209 become disqualified as electors from any cause; and shall register
210 the names of all persons who have duly applied to be registered
211 and have been illegally denied registration:

212 (a) On the Tuesday after the second Monday in January
213 1987 and every following year;

214 (b) On the first Tuesday in the month immediately
215 preceding the first primary election for congressmen in the years
216 when congressmen are elected;

217 (c) On the first Monday in the month immediately
218 preceding the first primary election for state, state district
219 legislative, county and county district offices in the years in
220 which those offices are elected; and

221 (d) On the second Monday of September preceding the
222 general election or regular special election day in years in which
223 a general election is not conducted.

224 Except for the names of those persons who are duly qualified
225 to vote in the election, no name shall be permitted to remain on

226 the registration books and pollbooks; however, no name shall be
227 erased from the registration books or pollbooks based on a change
228 in the residence of an elector except in accordance with
229 procedures provided for by the National Voter Registration Act of
230 1993 that are in effect at the time of such erasure. Except as
231 otherwise provided by Section 23-15-573, no person shall vote at
232 any election whose name is not on the pollbook.

233 (2) Except as provided in subsection (3) of this section,
234 and subject to the following annual limitations, the commissioners
235 of election shall be entitled to receive a per diem in the amount
236 of Eighty-five Dollars (\$85.00), to be paid from the county
237 general fund, for every day or period of no less than five (5)
238 hours accumulated over two (2) or more days actually employed in
239 the performance of their duties in the conduct of an election or
240 actually employed in the performance of their duties for the
241 necessary time spent in the revision of the registration books and
242 pollbooks as required in subsection (1) of this section:

243 (a) In counties having less than fifteen thousand
244 (15,000) residents according to the latest federal decennial
245 census, not more than fifty (50) days per year, with no more than
246 fifteen (15) additional days allowed for the conduct of each
247 election in excess of one (1) occurring in any calendar year;

248 (b) In counties having fifteen thousand (15,000)
249 residents according to the latest federal decennial census but
250 less than thirty thousand (30,000) residents according to the
251 latest federal decennial census, not more than seventy-five (75)
252 days per year, with no more than twenty-five (25) additional days
253 allowed for the conduct of each election in excess of one (1)
254 occurring in any calendar year;

255 (c) In counties having thirty thousand (30,000)
256 residents according to the latest federal decennial census but
257 less than seventy thousand (70,000) residents according to the
258 latest federal decennial census, not more than one hundred (100)

259 days per year, with no more than thirty-five (35) additional days
260 allowed for the conduct of each election in excess of one (1)
261 occurring in any calendar year;

262 (d) In counties having seventy thousand (70,000)
263 residents according to the latest federal decennial census but
264 less than ninety thousand (90,000) residents according to the
265 latest federal decennial census, not more than one hundred
266 twenty-five (125) days per year, with no more than forty-five (45)
267 additional days allowed for the conduct of each election in excess
268 of one (1) occurring in any calendar year;

269 (e) In counties having ninety thousand (90,000)
270 residents according to the latest federal decennial census but
271 less than one hundred seventy thousand (170,000) residents
272 according to the latest federal decennial census, not more than
273 one hundred fifty (150) days per year, with no more than
274 fifty-five (55) additional days allowed for the conduct of each
275 election in excess of one (1) occurring in any calendar year;

276 (f) In counties having one hundred seventy thousand
277 (170,000) residents according to the latest federal decennial
278 census but less than two hundred thousand (200,000) residents
279 according to the latest federal decennial census, not more than
280 one hundred seventy-five (175) days per year, with no more than
281 sixty-five (65) additional days allowed for the conduct of each
282 election in excess of one (1) occurring in any calendar year;

283 (g) In counties having two hundred thousand (200,000)
284 residents according to the latest federal decennial census but
285 less than two hundred twenty-five thousand (225,000) residents
286 according to the latest federal decennial census, not more than
287 one hundred ninety (190) days per year, with no more than
288 seventy-five (75) additional days allowed for the conduct of each
289 election in excess of one (1) occurring in any calendar year;

290 (h) In counties having two hundred twenty-five thousand
291 (225,000) residents according to the latest federal decennial

292 census but less than two hundred fifty thousand (250,000)
293 residents according to the latest federal decennial census, not
294 more than two hundred fifteen (215) days per year, with no more
295 than eighty-five (85) additional days allowed for the conduct of
296 each election in excess of one (1) occurring in any calendar year;

297 (i) In counties having two hundred fifty thousand
298 (250,000) residents according to the latest federal decennial
299 census but less than two hundred seventy-five thousand (275,000)
300 residents according to the latest federal decennial census, not
301 more than two hundred thirty (230) days per year, with no more
302 than ninety-five (95) additional days allowed for the conduct of
303 each election in excess of one (1) occurring in any calendar year;

304 (j) In counties having two hundred seventy-five
305 thousand (275,000) residents according to the latest federal
306 decennial census or more, not more than two hundred forty (240)
307 days per year, with no more than one hundred five (105) additional
308 days allowed for the conduct of each election in excess of one (1)
309 occurring in any calendar year.

310 (3) The commissioners of election shall be entitled to
311 receive a per diem in the amount of Eighty-five Dollars (\$85.00),
312 to be paid from the county general fund, not to exceed ten (10)
313 days for every day or period of no less than five (5) hours
314 accumulated over two (2) or more days actually employed in the
315 performance of their duties for the necessary time spent in the
316 revision of the registration books and pollbooks prior to any
317 special election. For purposes of this subsection, the regular
318 special election day shall not be considered a special election.
319 The annual limitations set forth in subsection (2) of this section
320 shall not apply to this subsection.

321 (4) The commissioners of election shall be entitled to
322 receive only one (1) per diem payment for those days when the
323 commissioners of election discharge more than one (1) duty or
324 responsibility on the same day.

325 (5) The county registrar shall prepare the pollbooks and the
326 county commissioners of election shall prepare the registration
327 books of each municipality located within the county pursuant to
328 an agreement between the county and each municipality in the
329 county. The county commissioners of election and the county
330 registrar shall be paid by each municipality for the actual cost
331 of preparing registration books and pollbooks for the municipality
332 and shall pay each county commissioner of election a per diem in
333 the amount provided for in subsection (2) of this section for each
334 day or period of not less than five (5) hours accumulated over two
335 (2) or more days the commissioners are actually employed in
336 preparing the registration books for the municipality, not to
337 exceed five (5) days. The county commissioners of election and
338 county registrar shall provide copies of the registration books
339 and pollbooks to the municipal clerk of each municipality in the
340 county. The municipality shall pay the county registrar for
341 preparing and printing the pollbooks. A municipality may secure
342 "read only" access to the Statewide Centralized Voter System and
343 print its own pollbooks using this information; however, county
344 commissioners of election shall remain responsible for preparing
345 registration books for municipalities and shall be paid for this
346 duty in accordance with this subsection.

347 (6) Every commissioner of election shall sign personally a
348 certification setting forth the number of hours actually worked in
349 the performance of the commissioner's official duties and for
350 which the commissioner seeks compensation. The certification must
351 be on a form as prescribed in this subsection. The commissioner's
352 signature is, as a matter of law, made under the commissioner's
353 oath of office and under penalties of perjury.

354 The certification form shall be as follows:

355 **COUNTY ELECTION COMMISSIONER**

356 **PER DIEM CLAIM FORM**

357 NAME: _____ COUNTY: _____

358 ADDRESS: _____ DISTRICT: _____

359 CITY: _____ ZIP: _____

360		PURPOSE	APPLICABLE	ACTUAL	PER DIEM
361	DATE	BEGINNING	ENDING	OF	MS CODE
362	WORKED	TIME	TIME	WORK	SECTION
				WORKED	EARNED
363	_____				
364	_____				
365	_____				

366 TOTAL NUMBER OF PER DIEM DAYS EARNED _____

367 PER DIEM RATE PER DAY EARNED X 85.00

368 TOTAL AMOUNT OF PER DIEM CLAIMED \$_____

369 I understand that I am signing this document under my oath as
370 a commissioner of elections and under penalties of perjury.

371 I understand that I am requesting payment from taxpayer funds
372 and that I have an obligation to be specific and truthful as to
373 the amount of hours worked and the compensation I am requesting.

374 Signed this the _____ day of _____, _____.
375 _____

376 Commissioner's Signature

377 When properly completed and signed, the certification must be
378 filed with the clerk of the county board of supervisors before any
379 payment may be made. The certification will be a public record
380 available for inspection and reproduction immediately upon the
381 oral or written request of any person.

382 Any person may contest the accuracy of the certification in
383 any respect by notifying the chairman of the commission, any
384 member of the board of supervisors or the clerk of the board of
385 supervisors of such contest at any time before or after payment is
386 made. If the contest is made before payment is made, no payment
387 shall be made as to the contested certificate until the contest is
388 finally disposed of. The person filing the contest shall be
389 entitled to a full hearing, and the clerk of the board of
390 supervisors shall issue subpoenas upon request of the contestor

391 compelling the attendance of witnesses and production of documents
392 and things. The contestor shall have the right to appeal de novo
393 to the circuit court of the involved county, which appeal must be
394 perfected within thirty (30) days from a final decision of the
395 commission, the clerk of the board of supervisors or the board of
396 supervisors, as the case may be.

397 Any contestor who successfully contests any certification
398 will be awarded all expenses incident to his contest, together
399 with reasonable attorney's fees, which will be awarded upon
400 petition to the chancery court of the involved county upon final
401 disposition of the contest before the election commission, board
402 of supervisors, clerk of the board of supervisors, or, in case of
403 an appeal, final disposition by the court. The commissioner
404 against whom the contest is decided shall be liable for the
405 payment of the expenses and attorney's fees, and the county shall
406 be jointly and severally liable for same.

407 **SECTION 2.** The Attorney General of the State of Mississippi
408 shall submit this act, immediately upon approval by the Governor,
409 or upon approval by the Legislature subsequent to a veto, to the
410 Attorney General of the United States or to the United States
411 District Court for the District of Columbia in accordance with the
412 provisions of the Voting Rights Act of 1965, as amended and
413 extended.

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