

By: Representative Reynolds

To: Apportionment and
Elections

HOUSE BILL NO. 401

1 AN ACT TO AUTHORIZE THE STATE BOARD OF ELECTION COMMISSIONERS
2 OR THE CIRCUIT COURT OF THE FIRST JUDICIAL DISTRICT OF HINDS
3 COUNTY UPON PETITION BY THE BOARD OF SUPERVISORS OF A COUNTY OR
4 GOVERNING AUTHORITIES OF A MUNICIPALITY TO POSTPONE ELECTIONS TO A
5 SPECIFIC DATE, SPECIFY ALTERNATE POLLING PLACES AND SPECIFY
6 ALTERNATE VOTING SYSTEMS IN THE EVENT A STATE OF EMERGENCY IS
7 DECLARED BY THE GOVERNOR AND THE REASONS FOR WHICH THE STATE OF
8 EMERGENCY IS DECLARED INTERFERE WITH THE ELECTORAL PROCESS; TO
9 PROVIDE THAT IF EMERGENCY CIRCUMSTANCES EXIST AND A STATE OF
10 EMERGENCY HAS NOT BEEN DECLARED BY THE GOVERNOR, THE STATE BOARD
11 OF ELECTION COMMISSIONERS OR THE CIRCUIT COURT OF THE FIRST
12 JUDICIAL DISTRICT OF HINDS COUNTY, UPON PETITION BY THE BOARD OF
13 SUPERVISORS IN THE COUNTY IN WHICH THE EMERGENCY CIRCUMSTANCES
14 EXIST OR THE GOVERNING AUTHORITIES OF THE MUNICIPALITY IN WHICH
15 THE EMERGENCY CIRCUMSTANCES EXIST, MAY TAKE ANY ACTION NECESSARY
16 TO PROVIDE A REMEDY THAT IS IN THE BEST INTEREST OF, AND PROTECTS
17 THE INTEGRITY OF, THE ELECTORAL PROCESS; TO AMEND SECTIONS
18 23-15-171, 23-15-173, 23-15-191, 23-15-193 AND 23-15-197,
19 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
20 PURPOSES.

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

22 **SECTION 1.** (1) In the event a state of emergency is
23 declared by the Governor pursuant to Section 33-15-11, and the
24 reasons for which the state of emergency is declared interfere
25 with the electoral process, the board of supervisors in the county
26 in which the emergency circumstances exist or the governing
27 authorities of the municipality in which the emergency
28 circumstances exist, may petition the State Board of Election
29 Commissioners or the Circuit Court of the First Judicial District
30 of Hinds County to:

31 (a) Mandate and direct the postponement of an election
32 until a specific date; however, the date must be the same for the
33 entire district in which the election is being held.

34 (b) Specify alternate polling places.

35 (c) Specify the use of alternate voting systems.

36 (2) If emergency circumstances exist and a state of
37 emergency has not been declared by the Governor, the board of
38 supervisors in the county in which the emergency circumstances
39 exist or the governing authorities of the municipality in which
40 the emergency circumstances exist, may petition the State Board of
41 Election Commissioners or the Circuit Court of the First Judicial
42 District of Hinds County to take any action necessary to provide a
43 remedy that is in the best interest of, and protects the integrity
44 of, the electoral process.

45 (3) No election shall be postponed for a period of time that
46 exceeds the expiration of a term of office for which the election
47 is being postponed.

48 **SECTION 2.** Section 23-15-171, Mississippi Code of 1972, is
49 amended as follows:

50 23-15-171. (1) Municipal primary elections shall be held on
51 the first Tuesday in May preceding the general municipal election
52 and, in the event a second primary shall be necessary, such second
53 primary shall be held on the third Tuesday in May preceding such
54 general municipal election. At such primary election the
55 municipal executive committee shall perform the same duties as are
56 specified by law and performed by members of the county executive
57 committee with regard to state and county primary elections. Each
58 municipal executive committee shall have as many members as there
59 are elective officers of the municipality, and such members of the
60 municipal executive committee of each political party shall be
61 elected in the primary elections held for the nomination of
62 candidates for municipal offices. The provisions of this section
63 shall govern all municipal primary elections as far as applicable,
64 but the officers to prepare the ballots and the managers and other
65 officials of the primary election shall be appointed by the
66 municipal executive committee of the party holding such primary,
67 and the returns of such election shall be made to such municipal

68 executive committee. Vacancies in the executive committee shall
69 be filled by it.

70 (2) Provided, however, that in municipalities operating
71 under a special or private charter which fixes a time for holding
72 elections, other than the time fixed by Chapter 491, Laws of 1950,
73 the first primary election shall be held exactly four (4) weeks
74 before the time for holding the general election, as fixed by the
75 charter, and the second primary election, where necessary, shall
76 be held two (2) weeks after the first primary election, unless the
77 charter of any such municipality provides otherwise, in which
78 event the provisions of the special or private charter shall
79 prevail as to the time of holding such primary elections.

80 (3) All primary elections in municipalities shall be held
81 and conducted in the same manner as is provided by law for state
82 and county primary elections.

83 (4) The date of a municipal primary election may be
84 postponed to a specific date as provided in Section 1 of House
85 Bill No. _____, 2007 Regular Session.

86 **SECTION 3.** Section 23-15-173, Mississippi Code of 1972, is
87 amended as follows:

88 23-15-173. (1) Except as otherwise provided in Section 1 of
89 House Bill No. _____, 2007 Regular Session, a general municipal
90 election shall be held in each city, town or village on the first
91 Tuesday after the first Monday of June 1985, and every four (4)
92 years thereafter, for the election of all municipal officers
93 elected by the people.

94 (2) All municipal general elections shall be held and
95 conducted in the same manner as is provided by law for state and
96 county general elections.

97 **SECTION 4.** Section 23-15-191, Mississippi Code of 1972, is
98 amended as follows:

99 23-15-191. Except as otherwise provided in Section 1 of
100 House Bill No. _____, 2007 Regular Session, the first primary shall

101 be held on the first Tuesday after the first Monday of August
102 preceding any regular or general election; and the second primary
103 shall be held three (3) weeks thereafter. Any candidate who
104 receives the highest popular vote cast for the office which he
105 seeks in the first primary shall thereby become the nominee of the
106 party for such office; provided also it be a majority of all the
107 votes cast for that office. If no candidate receive such majority
108 of popular votes in the first primary, then the two (2) candidates
109 who receive the highest popular vote for such office shall have
110 their names submitted as such candidates to a second primary, and
111 the candidate who leads in such second primary shall be nominated
112 to the office. When there is a tie in the first primary of those
113 receiving next highest vote, these two (2) and the one (1)
114 receiving the highest vote, none having received a majority, shall
115 go into the second primary, and whoever leads in such second
116 primary shall be entitled to the nomination.

117 **SECTION 5.** Section 23-15-193, Mississippi Code of 1972, is
118 amended as follows:

119 23-15-193. Except as otherwise provided in Section 1 of
120 House Bill No. _____, 2007 Regular Session, at the election in 1995,
121 and every four (4) years thereafter, there shall be elected a
122 Governor, Lieutenant Governor, Secretary of State, Auditor of
123 Public Accounts, State Treasurer, Attorney General, three (3)
124 public service commissioners, three (3) Mississippi Transportation
125 Commissioners, Commissioner of Insurance, Commissioner of
126 Agriculture and Commerce, Senators and members of the House of
127 Representatives in the Legislature, district attorneys for the
128 several districts, clerks of the circuit and chancery courts of
129 the several counties, as well as sheriffs, coroners, assessors,
130 surveyors and members of the boards of supervisors, justice court
131 judges and constables, and all other officers to be elected by the
132 people at the general state election. All such officers shall
133 hold their offices for a term of four (4) years, and until their

134 successors are elected and qualified. The state officers shall be
135 elected in the manner prescribed in Section 140 of the
136 Constitution.

137 **SECTION 6.** Section 23-15-197, Mississippi Code of 1972, is
138 amended as follows:

139 23-15-197. (1) Times for holding primary and general
140 elections for congressional offices shall be as prescribed in
141 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

142 (2) Times for holding elections for the Office of Judge of
143 the Supreme Court shall be as prescribed in Section 23-15-991 and
144 Sections 23-15-974 through 23-15-985.

145 (3) Times for holding elections for the office of circuit
146 court judge and the office of chancery court judge shall be as
147 prescribed in Sections 23-15-974 through 23-15-985, and Section
148 23-15-1015.

149 (4) Times for holding elections for the office of county
150 election commissioners shall be as prescribed in Section
151 23-15-213.

152 (5) The times for holding elections for the offices listed
153 in this section may be postponed to a specific date as provided in
154 Section 1 of House Bill No. _____, 2007 Regular Session.

155 **SECTION 7.** The Attorney General of the State of Mississippi
156 shall submit this act, immediately upon approval by the Governor,
157 or upon approval by the Legislature subsequent to a veto, to the
158 Attorney General of the United States or to the United States
159 District Court for the District of Columbia in accordance with the
160 provisions of the Voting Rights Act of 1965, as amended and
161 extended.

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