

By: Representatives Guice, Ellington

To: Apportionment and
Elections; Judiciary A

HOUSE BILL NO. 896

1 AN ACT TO AMEND SECTION 23-15-193, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT JUSTICE COURT JUDGES SHALL BE ELECTED AT THE
3 GENERAL STATE ELECTION IN A NONPARTISAN MANNER WITH A RUNOFF TWO
4 WEEKS LATER IF NECESSARY; TO AMEND SECTION 23-15-297, MISSISSIPPI
5 CODE OF 1972, TO DELETE JUSTICE COURT JUDGE CANDIDATES FROM THE
6 LIST OF CANDIDATES REQUIRED TO PAY A FEE UPON ENTERING AN ELECTION
7 FOR PARTY NOMINATION; TO AMEND SECTION 23-15-359, MISSISSIPPI CODE
8 OF 1972, TO PROVIDE THAT THIS SECTION, WHICH REQUIRES THE NAMES OF
9 ALL CANDIDATES NOMINATED FOR OFFICE TO BE PRINTED ON THE BALLOT,
10 SHALL NOT APPLY TO JUSTICE COURT JUDGES; TO AMEND SECTION
11 23-15-973, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT JUSTICE COURT
12 JUDGES SHALL HAVE THE RIGHT TO ADDRESS THE PEOPLE DURING COURT
13 TERMS; TO AMEND SECTIONS 23-15-975 AND 23-15-977, MISSISSIPPI CODE
14 OF 1972, TO INCLUDE JUSTICE COURT JUDGES UNDER THE NONPARTISAN
15 JUDICIAL ELECTION ACT; TO AMEND SECTION 23-15-197, MISSISSIPPI
16 CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR
17 RELATED PURPOSES.

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

19 **SECTION 1.** Section 23-15-193, Mississippi Code of 1972, is
20 amended as follows:

21 23-15-193. (1) At the election in 1995, and every four (4)
22 years thereafter, there shall be elected a Governor, Lieutenant
23 Governor, Secretary of State, Auditor of Public Accounts, State
24 Treasurer, Attorney General, three (3) public service
25 commissioners, three (3) Mississippi Transportation Commissioners,
26 Commissioner of Insurance, Commissioner of Agriculture and
27 Commerce, Senators and members of the House of Representatives in
28 the Legislature, district attorneys for the several districts,
29 clerks of the circuit and chancery courts of the several counties,
30 as well as sheriffs, coroners, assessors, surveyors and members of
31 the boards of supervisors * * * and constables, and all other
32 officers to be elected by the people at the general state
33 election. All * * * officers shall hold their offices for a term
34 of four (4) years, and until their successors are elected and

35 qualified. The state officers shall be elected in the manner
36 prescribed in Section 140 of the Constitution.

37 (2) Justice court judges shall be elected at the time for
38 the election of the officers provided in subsection (1) of this
39 section. The election of justice court judges shall be
40 nonpartisan. If no candidate for such office receives a majority
41 of the votes cast for such office in the general election, the
42 names of the two (2) candidates receiving the highest number of
43 votes for such office shall be placed on the ballot for a second
44 election to be held three (3) weeks later in accordance with
45 appropriate procedures followed in other elections involving
46 runoff candidates.

47 **SECTION 2.** Section 23-15-197, Mississippi Code of 1972, is
48 amended as follows:

49 23-15-197. (1) Times for holding primary and general
50 elections for congressional offices shall be as prescribed in
51 Sections 23-15-1031, 23-15-1033 and 23-15-1041.

52 (2) Times for holding elections for the office of judge of
53 the Supreme Court shall be as prescribed in Section 23-15-991 and
54 Sections 23-15-974 through 23-15-985.

55 (3) Times for holding elections for the office of circuit
56 court judge, the office of chancery court judge and the office of
57 justice court judge shall be as prescribed in Sections 23-15-974
58 through 23-15-985 and Section 23-15-1015.

59 (4) Times for holding elections for the office of county
60 election commissioners shall be as prescribed in Section
61 23-15-213.

62 **SECTION 3.** Section 23-15-297, Mississippi Code of 1972, is
63 amended as follows:

64 23-15-297. Any candidate entering the race for party
65 nominations for office shall first pay to the proper officer as
66 provided for in Section 23-15-299 for each primary election the
67 following amounts:

68 (a) Candidates for Governor not to exceed Three Hundred
69 Dollars (\$300.00).

70 (b) Candidates for Lieutenant Governor, Attorney
71 General, Secretary of State, State Treasurer, Auditor of Public
72 Accounts, Commissioner of Insurance, Commissioner of Agriculture
73 and Commerce, State Highway Commissioner and State Public Service
74 Commissioner, not to exceed Two Hundred Dollars (\$200.00).

75 (c) Candidates for district attorney, not to exceed One
76 Hundred Dollars (\$100.00).

77 (d) Candidates for State Senator, State Representative,
78 sheriff, chancery clerk, circuit clerk, tax assessor, tax
79 collector, county attorney, county superintendent of education and
80 board of supervisors, not to exceed Fifteen Dollars (\$15.00).

81 (e) Candidates for county surveyor, county
82 coroner * * * and constable, not to exceed Ten Dollars (\$10.00).

83 (f) Candidates for United States Senator, not to exceed
84 Three Hundred Dollars (\$300.00).

85 (g) Candidates for United States Representative, not to
86 exceed Two Hundred Dollars (\$200.00).

87 **SECTION 4.** Section 23-15-359, Mississippi Code of 1972, is
88 amended as follows:

89 23-15-359. (1) The ballot shall contain the names of all
90 party nominees certified by the appropriate executive committee,
91 and independent and special election candidates who have timely
92 filed petitions containing the required signatures. A petition
93 requesting that an independent or special election candidate's
94 name be placed on the ballot for any office shall be filed as
95 provided for in subsection (3) or (4) of this section, as
96 appropriate, and shall be signed by not less than the following
97 number of qualified electors:

98 (a) For an office elected by the state at large, not
99 less than one thousand (1,000) qualified electors.

100 (b) For an office elected by the qualified electors of
101 a Supreme Court district, not less than three hundred (300)
102 qualified electors.

103 (c) For an office elected by the qualified electors of
104 a congressional district, not less than two hundred (200)
105 qualified electors.

106 (d) For an office elected by the qualified electors of
107 a circuit or chancery court district, not less than one hundred
108 (100) qualified electors.

109 (e) For an office elected by the qualified electors of
110 a senatorial or representative district, not less than fifty (50)
111 qualified electors.

112 (f) For an office elected by the qualified electors of
113 a county, not less than fifty (50) qualified electors.

114 (g) For an office elected by the qualified electors of
115 a supervisors district or justice court district, not less than
116 fifteen (15) qualified electors.

117 (2) Unless the petition required above shall be filed as
118 provided for in subsection (3) or (4) of this section, as
119 appropriate, the name of the person requested to be a candidate,
120 unless nominated by a political party, shall not be placed upon
121 the ballot. The ballot shall contain the names of each candidate
122 for each office, and such names shall be listed under the name of
123 the political party such candidate represents as provided by law
124 and as certified to the circuit clerk by the State Executive
125 Committee of such political party. In the event such candidate
126 qualifies as an independent as herein provided, he shall be listed
127 on the ballot as an independent candidate.

128 (3) Petitions for offices described in paragraphs (a), (b),
129 (c) and (d) of subsection (1) of this section, and petitions for
130 offices described in paragraph (e) of subsection (1) of this
131 section for districts composed of more than one (1) county or
132 parts of more than one (1) county, shall be filed with the State

133 Board of Election Commissioners by no later than 5:00 p.m. on the
134 same date by which candidates for nominations in the political
135 party primary elections are required to pay the fee provided for
136 in Section 23-15-297, Mississippi Code of 1972; however, no
137 petition may be filed before January 1 of the year in which the
138 election for the office is held.

139 (4) Petitions for offices described in paragraphs (f) and
140 (g) of subsection (1) of this section, and petitions for offices
141 described in paragraph (e) of subsection (1) of this section for
142 districts composed of one (1) county or less, shall be filed with
143 the proper circuit clerk by no later than 5:00 p.m. on the same
144 date by which candidates for nominations in the political party
145 elections are required to pay the fee provided for in Section
146 23-15-297; however, no petition may be filed before January 1 of
147 the year in which the election for the office is held. The
148 circuit clerk shall notify the county commissioners of election of
149 all persons who have filed petitions with such clerk. Such
150 notification shall occur within two (2) business days and shall
151 contain all necessary information.

152 (5) The commissioners may also have printed upon the ballot
153 any local issue election matter that is authorized to be held on
154 the same date as the regular or general election pursuant to
155 Section 23-15-375; however, the ballot form of such local issue
156 must be filed with the commissioners of election by the
157 appropriate governing authority not less than sixty (60) days
158 previous to the date of the election.

159 (6) The provisions of this section shall not apply to
160 municipal elections or to the election of the offices of justice
161 of the Supreme Court, judge of the Court of Appeals, circuit
162 judge, chancellor, county court judge, family court judge, and
163 justice court judge.

164 (7) Nothing in this section shall prohibit special elections
165 to fill vacancies in either house of the Legislature from being

166 held as provided in Section 23-15-851. In all elections conducted
167 under the provisions of Section 23-15-851, the commissioner shall
168 have printed on the ballot the name of any candidate who, not
169 having been nominated by a political party, shall have been
170 requested to be a candidate for any office by a petition filed
171 with said commissioner by 5:00 p.m. not less than ten (10) working
172 days prior to the election, and signed by not less than fifty (50)
173 qualified electors.

174 (8) The appropriate election commission shall determine
175 whether each candidate is a qualified elector of the state, state
176 district, county or county district they seek to serve, and
177 whether each candidate meets all other qualifications to hold the
178 office he is seeking or presents absolute proof that he will,
179 subject to no contingencies, meet all qualifications on or before
180 the date of the general or special election at which he could be
181 elected to office. The election commission also shall determine
182 whether any candidate has been convicted of any felony in a court
183 of this state, or has been convicted on or after December 8, 1992,
184 of any offense in another state which is a felony under the laws
185 of this state, or has been convicted of any felony in a federal
186 court on or after December 8, 1992. Excepted from the above are
187 convictions of manslaughter and violations of the United States
188 Internal Revenue Code or any violations of the tax laws of this
189 state, unless the offense also involved misuse or abuse of his
190 office or money coming into his hands by virtue of his office. If
191 the appropriate election commission finds that a candidate either
192 (a) is not a qualified elector, (b) does not meet all
193 qualifications to hold the office he seeks and fails to provide
194 absolute proof, subject to no contingencies, that he will meet the
195 qualifications on or before the date of the general or special
196 election at which he could be elected, or (c) has been convicted
197 of a felony as described in this subsection, and not pardoned,

198 then the name of such candidate shall not be placed upon the
199 ballot.

200 (9) If after the deadline to qualify as a candidate for an
201 office or after the time for holding any party primary for an
202 office, there shall be only one (1) person who has duly qualified
203 to be a candidate for the office in the general election, the name
204 of such person shall be placed on the ballot; provided, however,
205 that if there shall be not more than one (1) person duly qualified
206 to be a candidate for each office on the general election ballot,
207 the election for all offices on the ballot shall be dispensed with
208 and the appropriate election commission shall declare each
209 candidate elected without opposition if the candidate meets all
210 the qualifications to hold the office as determined pursuant to a
211 review by the commission in accordance with the provisions of
212 subsection (8) of this section and if the candidate has filed all
213 required campaign finance disclosure reports as required by
214 Section 23-15-807.

215 (10) The petition required by this section may not be filed
216 by using the Internet.

217 **SECTION 5.** Section 23-15-973, Mississippi Code of 1972, is
218 amended as follows:

219 23-15-973. It shall be the duty of the judges of the circuit
220 court to give a reasonable time and opportunity to the candidates
221 for the office of judge of the Supreme Court, judges of the Court
222 of Appeals, circuit judge, chancellor and justice court judge to
223 address the people during court terms. In order to give further
224 and every possible emphasis to the fact that the * * * judicial
225 offices are not political but are to be held without favor and
226 with absolute impartiality as to all persons, and because of the
227 jurisdiction conferred upon the courts by this chapter, the judges
228 thereof should be as far removed as possible from any political
229 affiliations or obligations. It shall be unlawful for any
230 candidate for any of the offices mentioned in this section to

231 align himself with any candidate or candidates for any other
232 office or with any political faction or any political party at any
233 time during any primary or general election campaign. Likewise it
234 shall be unlawful for any candidate for any other office nominated
235 or to be nominated at any primary election, wherein any candidate
236 for any of the judicial offices in this section mentioned, is or
237 are to be nominated, to align himself with any one or more of the
238 candidates for the offices or to take any part whatever in any
239 nomination for any one or more of the judicial offices, except to
240 cast his individual vote. Any candidate for any office, whether
241 nominated with or without opposition, at any primary wherein a
242 candidate for any one of the judicial offices * * * mentioned in
243 this section is to be nominated who shall deliberately, knowingly
244 and willfully violate the provisions of this section shall forfeit
245 his nomination, or if elected at the following general election by
246 virtue of said nomination, his election shall be void.

247 **SECTION 6.** Section 23-15-975, Mississippi Code of 1972, is
248 amended as follows:

249 23-15-975. As used in Sections 23-15-974 through 23-15-985
250 of this subarticle, the term "judicial office" includes the office
251 of justice of the Supreme Court, judge of the Court of Appeals,
252 circuit judge, chancellor, county court judge, family court judge
253 and justice court judge. All * * * justices and judges, except
254 justice court judges, shall be full-time positions and the
255 justices and judges shall not engage in the practice of law before
256 any court, administrative agency or other judicial or
257 quasi-judicial forum except as provided by law for finalizing
258 pending cases after election to judicial office.

259 **SECTION 7.** Section 23-15-977, Mississippi Code of 1972, is
260 amended as follows:

261 23-15-977. (1) All candidates for judicial office as
262 defined in Section 23-15-975 of this subarticle shall file their
263 intent to be a candidate with the proper officials not later than

264 5:00 p.m. on the first Friday after the first Monday in May prior
265 to the general election for judicial office and shall pay to the
266 proper officials the following amounts:

267 (a) Candidates for Supreme Court judge and Court of
268 Appeals, the sum of Two Hundred Dollars (\$200.00).

269 (b) Candidates for circuit judge and chancellor, the
270 sum of One Hundred Dollars (\$100.00).

271 (c) Candidates for county judge and justice court
272 judge, the sum of Fifteen Dollars (\$15.00).

273 (2) Candidates for judicial offices listed in paragraphs (a)
274 and (b) of subsection (1) of this section shall file their intent
275 to be a candidate with, and pay the proper assessment made
276 pursuant to subsection (1) of this section to, the State Board of
277 Election Commissioners.

278 (3) Candidates for judicial offices listed in paragraph (c)
279 of subsection (1) of this section shall file their intent to be a
280 candidate with, and pay the proper assessment made pursuant to
281 subsection (1) of this section to, the circuit clerk of the proper
282 county. The circuit clerk shall notify the county commissioners
283 of election of all persons who have filed their intent to be a
284 candidate filed with, and paid the proper assessment to, such
285 clerk. Such notification shall occur within two (2) business days
286 and shall contain all necessary information.

287 **SECTION 8.** The Attorney General of the State of Mississippi
288 shall submit this act, immediately upon approval by the Governor,
289 or upon approval by the Legislature subsequent to a veto, to the
290 Attorney General of the United States or to the United States
291 District Court for the District of Columbia in accordance with the
292 provisions of the Voting Rights Act of 1965, as amended and
293 extended.

294 **SECTION 9.** This act shall take effect and be in force from
295 and after the date it is effectuated under Section 5 of the Voting

296 Rights Act of 1965, as amended and extended, whichever date is
297 later.