

By: Representative Reynolds

To: Apportionment and  
Elections

## HOUSE BILL NO. 1259

1 AN ACT TO AMEND SECTION 23-15-35, MISSISSIPPI CODE OF 1972,  
2 TO EXTEND THE TIME IN WHICH THE MUNICIPAL CLERKS ARE REQUIRED TO  
3 CONFORM MUNICIPAL VOTER REGISTRATION BOOKS WITH THE COUNTY VOTER  
4 REGISTRATION BOOKS; TO AMEND SECTIONS 23-15-171 AND 23-15-857,  
5 MISSISSIPPI CODE OF 1972, TO EXTEND THE TIME PERIOD DURING WHICH  
6 MUNICIPAL RUN-OFF AND SPECIAL ELECTIONS ARE CONDUCTED; AND FOR  
7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 23-15-35, Mississippi Code of 1972, is  
10 amended as follows:

11 **[Until January 1, 2009, this section shall read as follows:]**

12 23-15-35. (1) The clerk of the municipality shall be the  
13 registrar of voters of the municipality, and shall take the oath  
14 of office prescribed by Section 268 of the Constitution. The  
15 governing authorities shall provide suitable municipal  
16 registration books, which shall conform as nearly as practicable  
17 to the county registration books. The registrar shall, as nearly  
18 as may be practicable, and where not otherwise provided, comply  
19 with all the provisions of law regarding state and county  
20 elections in keeping and maintaining such registration books and  
21 in registering voters thereon. Applications for registration as  
22 electors of the municipality shall be made upon a triplicate form  
23 provided by and prepared at the expense of the county registrar,  
24 which form shall conform as nearly as practicable to the  
25 application for registration form provided for in Section  
26 23-15-39.

27 (2) The municipal clerk shall be authorized to register  
28 applicants as county electors. The municipal clerk shall forward  
29 notice of registration, a copy of the application for

30 registration, and any changes to the registration when they occur,  
31 either by certified mail to the county registrar or by personal  
32 delivery to the county registrar provided that a numbered receipt  
33 is signed by the registrar in return for the described documents.  
34 Upon receipt of the copy of the application for registration or  
35 changes to the registration, and if a review of the application  
36 indicates that the applicant meets all the criteria necessary to  
37 qualify as a county elector, then the county registrar shall make  
38 a determination of the county voting precinct in which the person  
39 making the application shall be required to vote. The county  
40 registrar shall send this county voting precinct information by  
41 United States first-class mail, postage prepaid, to the person at  
42 the address provided on the application. Any and all mailing  
43 costs incurred by the municipal clerk or the county registrar in  
44 effectuating this subsection shall be paid by the county board of  
45 supervisors. If a review of the copy of the application for  
46 registration or changes to the registration indicates that the  
47 applicant is not qualified to vote in the county, the county  
48 registrar shall challenge the application. The county election  
49 commissioners shall review any challenge or disqualification,  
50 after having notified the applicant by certified mail of the  
51 challenge or disqualification.

52 (3) The municipal clerk shall issue to the person making the  
53 application a copy of the application, and the county registrar  
54 shall process the application in accordance with the law regarding  
55 the handling of voter registration applications.

56 (4) The receipt of a copy of the application for  
57 registration sent pursuant to Section 23-15-39(3) shall be  
58 sufficient to allow the applicant to be registered as an elector  
59 in the municipality, provided that such application is not  
60 challenged as provided for therein.

61 **[From and after January 1, 2009, this section shall read as**  
62 **follows:]**

63           23-15-35. (1) The clerk of the municipality shall be the  
64 registrar of voters of the municipality, and shall take the oath  
65 of office prescribed by Section 268 of the Constitution. The  
66 municipal registration shall conform to the county registration  
67 which shall be a part of the official record of registered voters  
68 as contained in the Statewide Elections Management System. The  
69 municipal clerk shall comply with all the provisions of law  
70 regarding the registration of voters, including the use of the  
71 voter registration applications used by county registrars and  
72 prescribed by the Secretary of State under Sections 23-15-39 and  
73 23-15-47.

74           (2) The municipal clerk shall be authorized to register  
75 applicants as county electors. The municipal clerk shall forward  
76 notice of registration, a copy of the application for  
77 registration, and any changes to the registration when they occur,  
78 either by certified mail to the county registrar or by personal  
79 delivery to the county registrar provided that a numbered receipt  
80 is signed by the registrar in return for the described documents.  
81 Upon receipt of the copy of the application for registration or  
82 changes to the registration, and if a review of the application  
83 indicates that the applicant meets all the criteria necessary to  
84 qualify as a county elector, then the county registrar shall make  
85 a determination of the county voting precinct in which the person  
86 making the application shall be required to vote. The county  
87 registrar shall send this county voting precinct information by  
88 United States first-class mail, postage prepaid, to the person at  
89 the address provided on the application. Any and all mailing  
90 costs incurred by the municipal clerk or the county registrar in  
91 effectuating this subsection shall be paid by the county board of  
92 supervisors. If a review of the copy of the application for  
93 registration or changes to the registration indicates that the  
94 applicant is not qualified to vote in the county, the county  
95 registrar shall challenge the application. The county election

96 commissioners shall review any challenge or disqualification,  
97 after having notified the applicant by certified mail of the  
98 challenge or disqualification.

99 (3) The municipal clerk shall issue to the person making the  
100 application a copy of the application and the county registrar  
101 shall process the application in accordance with the law regarding  
102 the handling of voter registration applications.

103 (4) The receipt of a copy of the application for  
104 registration sent pursuant to Section 23-15-39(3) shall be  
105 sufficient to allow the applicant to be registered as an elector  
106 in the municipality, provided that such application is not  
107 challenged as provided for therein.

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

110 23-15-171. (1) Municipal primary elections shall be held on  
111 the first Tuesday in May preceding the general municipal election  
112 and, in the event a second primary shall be necessary, such second  
113 primary shall be held on the third Tuesday in May preceding such  
114 general municipal election. At such primary election the  
115 municipal executive committee shall perform the same duties as are  
116 specified by law and performed by members of the county executive  
117 committee with regard to state and county primary elections. Each  
118 municipal executive committee shall have as many members as there  
119 are elective officers of the municipality, and such members of the  
120 municipal executive committee of each political party shall be  
121 elected in the primary elections held for the nomination of  
122 candidates for municipal offices. The provisions of this section  
123 shall govern all municipal primary elections as far as applicable,  
124 but the officers to prepare the ballots and the managers and other  
125 officials of the primary election shall be appointed by the  
126 municipal executive committee of the party holding such primary,  
127 and the returns of such election shall be made to such municipal

128 executive committee. Vacancies in the executive committee shall be  
129 filled by it.

130 (2) Provided, however, that in municipalities operating  
131 under a special or private charter which fixes a time for holding  
132 elections, other than the time fixed by Chapter 491, Laws of 1950,  
133 the first primary election shall be held exactly four (4) weeks  
134 before the time for holding the general election, as fixed by the  
135 charter, and the second primary election, where necessary, shall  
136 be held three (3) weeks after the first primary election, unless  
137 the charter of any such municipality provides otherwise, in which  
138 event the provisions of the special or private charter shall  
139 prevail as to the time of holding such primary elections.

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

143 **SECTION 3.** Section 23-15-857, Mississippi Code of 1972, is  
144 amended as follows:

145 23-15-857. (1) When it shall happen that there is any  
146 vacancy in a city, town or village office which is elective, the  
147 unexpired term of which shall not exceed six (6) months, the same  
148 shall be filled by appointment by the governing authority or  
149 remainder of the governing authority of said city, town or  
150 village. The municipal clerk shall certify to the Secretary of  
151 State the fact of such appointment, and the person or persons so  
152 appointed shall be commissioned by the Governor.

153 (2) When it shall happen that there is any vacancy in an  
154 elective office in a city, town or village the unexpired term of  
155 which shall exceed six (6) months, the governing authority or  
156 remainder of the governing authority of said city, town or village  
157 shall make and enter on the minutes an order for an election to be  
158 held in such city, town or village to fill the vacancy and fix a  
159 date upon which such election shall be held. Such order shall be  
160 made and entered upon the minutes at the next regular meeting of

161 the governing authority after such vacancy shall have occurred, or  
162 at a special meeting to be held not later than ten (10) days after  
163 such vacancy shall have occurred, Saturdays, Sundays and legal  
164 holidays excluded, whichever shall occur first. Such election  
165 shall be held on a date not less than thirty (30) days nor more  
166 than forty-five (45) days after the date upon which the order is  
167 adopted.

168 Notice of such election shall be given by the municipal clerk  
169 by notice published in a newspaper published in the municipality.  
170 Such notice shall be published once each week for three (3)  
171 successive weeks preceding the date of such election. The first  
172 notice to be published at least thirty (30) days before the date  
173 of such election. Notice shall also be given by posting a copy of  
174 such notice at three (3) public places in such municipality not  
175 less than twenty-one (21) days prior to the date of such election.  
176 One (1) of such notices shall be posted at the city, town or  
177 village hall. In the event that there is no newspaper published  
178 in the municipality, then such notice shall be published as  
179 provided for above in a newspaper which has a general circulation  
180 within the municipality and by posting as provided for above. In  
181 addition, the governing authority may publish such notice in such  
182 newspaper for such additional times as may be deemed necessary by  
183 the governing authority.

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

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

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

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

197 The candidate receiving a majority of the votes cast in a  
198 said election shall be elected. If no candidate shall receive a  
199 majority vote at the election, the two (2) candidates receiving  
200 the highest number of votes shall have their names placed on the  
201 ballot for the election to be held two (2) weeks thereafter. The  
202 candidate receiving a majority of the votes cast in said election  
203 shall be elected. However, if no candidate shall receive a  
204 majority and there is a tie in the election of those receiving the  
205 next highest vote, those receiving the next highest vote and the  
206 candidate receiving the highest vote shall have their names placed  
207 on the ballot for the election to be held one (1) week thereafter,  
208 and whoever receives the most votes cast in such election shall be  
209 elected.

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

215 The clerk of the election commission shall then give a  
216 certificate of election to the person elected, and shall return to  
217 the Secretary of State a copy of the order of holding the election  
218 and runoff election showing the results thereof, certified by the  
219 clerk of the governing authority. The person elected shall be  
220 commissioned by the Governor.

221 However, if nineteen (19) days prior to the date of the  
222 election only one (1) person shall have qualified as a candidate,  
223 the governing authority, or remainder of the governing authority,  
224 shall dispense with the election and appoint that one (1)  
225 candidate in lieu of an election. In the event no person shall  
226 have qualified by 5:00 p.m. at least twenty (20) days prior to the

227 date of the election, the governing authority or remainder of the  
228 governing authority shall dispense with the election and fill the  
229 vacancy by appointment. The clerk of the governing authority  
230 shall certify to the Secretary of State the fact of the  
231 appointment, and the person so appointed shall be commissioned by  
232 the Governor.

233         **SECTION 4.** The Attorney General of the State of Mississippi  
234 shall submit this act, immediately upon approval by the Governor,  
235 or upon approval by the Legislature subsequent to a veto, to the  
236 Attorney General of the United States or to the United States  
237 District Court for the District of Columbia in accordance with the  
238 provisions of the Voting Rights Act of 1965, as amended and  
239 extended.

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