

By: Senator(s) Burton

To: Elections

SENATE BILL NO. 2607

1 AN ACT TO AMEND SECTIONS 23-15-129, 23-15-171, 23-15-239,
 2 23-15-263, 23-15-265, 23-15-267, 23-15-295, 23-15-303, 23-15-331,
 3 23-15-333, 23-15-335 AND 23-15-597, MISSISSIPPI CODE OF 1972, TO
 4 PROVIDE THAT MUNICIPAL AND COUNTY COMMISSIONERS OF ELECTION SHALL
 5 SUPERVISE PARTY PRIMARY ELECTIONS; TO PROVIDE THAT THE COUNTY
 6 COMMISSIONERS OF ELECTION SHALL APPOINT THE MANAGERS AND CLERKS
 7 FOR THE PRIMARY ELECTION UPON THE RECOMMENDATION OF THE COUNTY
 8 EXECUTIVE COMMITTEE; TO PROVIDE THAT AN EQUAL NUMBER OF MANAGERS
 9 AND CLERKS FROM EACH POLITICAL PARTY THAT PARTICIPATES IN A
 10 PRIMARY ELECTION SHALL BE APPOINTED AT EACH PRECINCT; TO PROVIDE
 11 THAT POLITICAL PARTY PRIMARY ELECTIONS SHALL BE CONDUCTED
 12 TOGETHER; TO PROVIDE THAT THE COUNTY COMMISSIONERS OF ELECTION
 13 SHALL CANVASS THE PRIMARY ELECTION RETURNS FOR COUNTY AND COUNTY
 14 DISTRICT OFFICES AND LEGISLATIVE DISTRICTS CONTAINING ONE COUNTY
 15 OR LESS AND CERTIFY THE RESULTS TO THE COUNTY EXECUTIVE COMMITTEE;
 16 TO PROVIDE THAT THE STATE BOARD OF ELECTION COMMISSIONERS SHALL
 17 CANVASS THE PRIMARY ELECTION RETURNS FOR STATE AND STATE DISTRICT
 18 OFFICES AND FOR LEGISLATIVE DISTRICTS CONTAINING MORE THAN ONE
 19 COUNTY OR PARTS OF MORE THAN ONE COUNTY AND CERTIFY THE RESULTS TO
 20 THE STATE EXECUTIVE COMMITTEE; TO REPEAL SECTIONS 23-15-266 AND
 21 23-15-271, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZE LOCAL
 22 EXECUTIVE COMMITTEES OF CERTAIN POLITICAL PARTIES TO ENTER INTO
 23 CERTAIN AGREEMENTS WITH COMMISSIONERS OF ELECTION REGARDING THE
 24 CONDUCT OF ELECTIONS AND CREATED ELECTION INTEGRITY ASSURANCE
 25 COMMITTEES IN EACH PARTY TO ENSURE THAT THE DUTIES OF COUNTY
 26 EXECUTIVE COMMITTEES WITH REGARD TO PRIMARY ELECTIONS ARE
 27 PERFORMED; AND FOR RELATED PURPOSES.

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

29 **SECTION 1.** Section 23-15-129, Mississippi Code of 1972, is
 30 amended as follows:

31 23-15-129. The commissioners of election and the registrars
 32 of the respective counties are hereby directed to make an
 33 administrative division of the pollbook for each county
 34 immediately following any reapportionment of the Mississippi
 35 Legislature or any realignment of supervisors districts, if
 36 necessary. Such an administrative division shall form
 37 subprecincts whenever necessary within each voting precinct so
 38 that all persons within a subprecinct shall vote on the same
 39 candidates for each public office. The polling place for all

40 subprecincts within any given voting precinct shall be the same as
41 the polling place for the voting precinct. Additional managers
42 may be appointed for subprecincts in the discretion of the
43 commissioners of election * * *.

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

46 23-15-171. (1) Municipal primary elections shall be held on
47 the first Tuesday in May preceding the general municipal election
48 and, in the event a second primary shall be necessary, such second
49 primary shall be held on the third Tuesday in May preceding such
50 general municipal election.

51 (2) At municipal primary elections the municipal executive
52 committee shall perform the same duties as are specified by law
53 and performed by members of the county executive committee with
54 regard to state and county primary elections. Each municipal
55 executive committee shall have as many members as there are
56 elective officers of the municipality, and such members of the
57 municipal executive committee of each political party shall be
58 elected in the primary elections held for the nomination of
59 candidates for municipal offices.

60 (3) The municipal commissioners of election shall supervise
61 the municipal primary elections and perform all other duties
62 specified by law to be performed by the county commissioners of
63 election with regard to state and county primary elections.

64 (4) The provisions of this section shall govern all
65 municipal primary elections as far as applicable, but * * * the
66 returns of such election shall be made to such municipal executive
67 committee. Vacancies in the executive committee shall be filled by
68 it.

69 (5) Provided, however, that in municipalities operating
70 under a special or private charter which fixes a time for holding
71 elections, other than the time fixed by Chapter 491, Laws of 1950,
72 the first primary election shall be held exactly four (4) weeks

73 before the time for holding the general election, as fixed by the
74 charter, and the second primary election, where necessary, shall
75 be held two (2) weeks after the first primary election, unless the
76 charter of any such municipality provides otherwise, in which
77 event the provisions of the special or private charter shall
78 prevail as to the time of holding such primary elections.

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

82 **SECTION 3.** Section 23-15-239, Mississippi Code of 1972, is
83 amended as follows:

84 23-15-239. (1) The * * * commissioners of election of each
85 county, in the case of all * * * elections, in conjunction with
86 the circuit clerk, shall sponsor and conduct, not less than five
87 (5) days prior to each election, training sessions to instruct
88 managers as to their duties in the proper administration of the
89 election and the operation of the polling place. No manager shall
90 serve in any election unless he has received such instructions
91 once during the twelve (12) months immediately preceding the date
92 upon which such election is held; however, nothing in this section
93 shall prevent the appointment of an alternate manager to fill a
94 vacancy in case of an emergency. The * * * commissioners of
95 election * * * shall train a sufficient number of alternates to
96 serve in the event a manager is unable to serve for any reason.

97 * * *

98 (2) The board of supervisors, in their discretion, may
99 compensate managers who attend such training sessions. The
100 compensation shall be at a rate of not less than the federal
101 hourly minimum wage nor more than Ten Dollars (\$10.00) per hour.
102 Managers shall not be compensated for more than two (2) hours of
103 attendance at the training sessions regardless of the actual
104 amount of time that they attended the training sessions.

105 (3) The time and location of the training sessions required
106 pursuant to this section shall be announced to the general public
107 by posting a notice thereof at the courthouse and by delivering a
108 copy of the notice to the office of a newspaper having general
109 circulation in the county five (5) days before the date upon which
110 the training session is to be conducted. Persons who will serve
111 as poll watchers for candidates and political parties, as well as
112 members of the general public, shall be allowed to attend the
113 sessions.

114 (4) Subject to the following annual limitations, the
115 commissioners of election shall be entitled to receive a per diem
116 in the amount of Eighty-four Dollars (\$84.00), to be paid from the
117 county general fund, for every day or period of no less than five
118 (5) hours accumulated over two (2) or more days actually employed
119 in the performance of their duties for the necessary time spent in
120 conducting training sessions as required by this section:

121 (a) In counties having less than fifteen thousand
122 (15,000) residents according to the latest federal decennial
123 census, not more than five (5) days per year;

124 (b) In counties having fifteen thousand (15,000)
125 residents according to the latest federal decennial census but
126 less than thirty thousand (30,000) residents according to the
127 latest federal decennial census, not more than eight (8) days per
128 year;

129 (c) In counties having thirty thousand (30,000)
130 residents according to the latest federal decennial census but
131 less than seventy thousand (70,000) residents according to the
132 latest federal decennial census, not more than ten (10) days per
133 year;

134 (d) In counties having seventy thousand (70,000)
135 residents according to the latest federal decennial census but
136 less than ninety thousand (90,000) residents according to the

137 latest federal decennial census, not more than twelve (12) days
138 per year;

139 (e) In counties having ninety thousand (90,000)
140 residents according to the latest federal decennial census but
141 less than one hundred seventy thousand (170,000) residents
142 according to the latest federal decennial census, not more than
143 fifteen (15) days per year;

144 (f) In counties having one hundred seventy thousand
145 (170,000) residents according to the latest federal decennial
146 census but less than two hundred thousand (200,000) residents
147 according to the latest federal decennial census, not more than
148 eighteen (18) days per year;

149 (g) In counties having two hundred thousand (200,000)
150 residents according to the latest federal decennial census but
151 less than two hundred twenty-five thousand (225,000) residents
152 according to the latest federal decennial census, not more than
153 nineteen (19) days per year;

154 (h) In counties having two hundred twenty-five thousand
155 (225,000) residents according to the latest federal decennial
156 census but less than two hundred fifty thousand (250,000)
157 residents according to the latest federal decennial census, not
158 more than twenty-two (22) days per year;

159 (i) In counties having two hundred fifty thousand
160 (250,000) residents according to the latest federal decennial
161 census but less than two hundred seventy-five thousand (275,000)
162 residents according to the latest federal decennial census, not
163 more than thirteen (13) days per year;

164 (j) In counties having two hundred seventy-five
165 thousand (275,000) residents according to the latest federal
166 decennial census or more, not more than fourteen (14) days per
167 year.

168 (5) Commissioners of election shall claim the per diem
169 authorized in subsection (4) of this section in the manner
170 provided for in Section 23-15-153(6).

171 **SECTION 4.** Section 23-15-263, Mississippi Code of 1972, is
172 amended as follows:

173 23-15-263. (1) The county commissioners of election shall
174 supervise the primary elections and perform all other duties
175 specified by law to be performed by the county commissioners of
176 election with regard to state and county primary elections.

177 (2) Unless otherwise provided in this chapter, the county
178 executive committee at primary elections shall perform all duties
179 that relate to the qualification of candidates for primary
180 elections, * * * resolve contests in regard to primary elections,
181 and perform all other duties required by law to be performed by
182 the county executive committee; however, each house of the
183 Legislature shall rule on the qualifications of the membership of
184 its respective body in contests involving the qualifications of
185 such members. The executive committee shall be subject to all the
186 penalties to which county election commissioners are subject,
187 except that Section 23-15-217 shall not apply to members of the
188 county executive committee who seek elective office.

189 (3) A member of a county executive committee shall be
190 automatically disqualified to serve on the county executive
191 committee, and shall be considered to have resigned therefrom,
192 upon his qualification as a candidate for any elective office.
193 The provisions of this subsection shall not apply to a member of a
194 county executive committee who qualifies as a candidate for a
195 municipal elective office.

196 (4) The primary election officers appointed by the
197 commissioners of election shall have the powers and perform the
198 duties, where not otherwise provided, required of such officers in
199 a general election, and any and every act or omission which by law
200 is an offense when committed in or about or in respect to such

201 general elections, shall be an offense if committed in or about or
202 in respect to a primary election; and the same shall be indictable
203 and punishable in the same way as if the election was a general
204 election for the election of state and county officers, except as
205 specially modified or otherwise provided in this chapter.

206 **SECTION 5.** Section 23-15-265, Mississippi Code of 1972, is
207 amended as follows:

208 23-15-265. * * * The commissioners of election of each
209 county shall meet not less than two (2) weeks before the date of
210 any primary election and appoint the managers and clerks for
211 same * * *. The number of managers and clerks appointed by the
212 commissioners of election shall be the same number as
213 commissioners of election are allowed to appoint pursuant to
214 Sections 23-15-231 and 23-15-235. The commissioners of election
215 shall appoint managers and clerks upon the recommendation of the
216 county executive committee. The commissioners of election shall
217 appoint an equal number of managers and clerks from each political
218 party that participates in the primary election to serve at each
219 precinct. If the county commissioners of election fail to meet on
220 the date named, supra, further notice shall be given of the time
221 and place of meeting.

222 * * *

223 **SECTION 6.** Section 23-15-267, Mississippi Code of 1972, is
224 amended as follows:

225 23-15-267. (1) The ballot boxes provided by the regular
226 commissioners of election in each county shall be used in primary
227 elections, and the commissioners of election shall distribute them
228 to the voting precincts of the county before the time for opening
229 the polls, in the same manner, as near as may be, as that provided
230 for in general elections.

231 (2) If an adjournment shall take place after the polls are
232 open and before all votes are counted, the ballot box shall be
233 securely locked so as to prevent the admission into it or the

234 taking of anything from it during the time of adjournment; and the
235 box shall be kept by one of the managers, and the key by another
236 of the managers, and the manager having the box shall carefully
237 keep it, and neither undertake to open it himself or permit it to
238 be done, or to permit any person to have access to it during the
239 time of adjournment. The box shall not be removed from the
240 polling building or place after the polls are open until the count
241 is completed if as many as three (3) electors qualified to vote at
242 the election object.

243 (3) After each election, the ballot boxes of those provided
244 by the regular commissioner of election shall be delivered, with
245 the keys thereof immediately and as soon thereafter as possible,
246 and without delay to the clerk of the circuit court of the county.

247 * * *

248 (4) The person, or persons, whose duty it is to comply with
249 the provisions of this section and who shall fail, or neglect, for
250 any cause, to deliver said boxes or any of them as * * * provided
251 for in this section shall, upon conviction, be fined not less than
252 Two Hundred Dollars (\$200.00) and be imprisoned in the county jail
253 of the residence of the person, or persons, who violates any of
254 the provisions of this section, for a period of not less than
255 thirty (30) days or more than six (6) months, and fined not more
256 than Five Hundred Dollars (\$500.00).

257 **SECTION 7.** Section 23-15-295, Mississippi Code of 1972, is
258 amended as follows:

259 23-15-295. When any person has qualified in the manner
260 provided by law as a candidate for party nomination in any primary
261 election, such person shall have the right to withdraw his name as
262 a candidate by giving notice of his withdrawal in writing to the
263 secretary of the proper executive committee at any time prior to
264 the printing of the official ballots, and in the event of such
265 withdrawal the name of such candidate shall not be printed on the
266 ballot. When a candidate for party nomination for a state or

267 district office who has qualified with the state executive
268 committee withdraws as a candidate as provided for in this section
269 after the sample of the official ballot has been approved and
270 certified by the State Executive Committee, the Secretary or
271 Chairman of the State Executive Committee shall forthwith notify
272 the commissioners of election of each county affected or involved
273 of the fact of such withdrawal and such notification shall
274 authorize the commissioners of election to omit the name of the
275 withdrawn candidate from the ballot if such notification is
276 received prior to the printing of the ballot. In the case of the
277 withdrawal of any candidate, the fee paid by such candidate shall
278 be retained by the state or county executive committee, as the
279 case may be.

280 **SECTION 8.** Section 23-15-303, Mississippi Code of 1972, is
281 amended as follows:

282 23-15-303. When two (2) or more political parties or
283 political organizations are holding primary elections, each shall
284 be conducted together and at the same time.

285 The board of supervisors or the supervisor of the district in
286 which the voting precinct is located shall have authority, and it
287 is made its and his duty when requested, to specifically designate
288 the respective places where the precinct primary election * * *
289 shall be held where there may be a dispute as to the room or exact
290 place for holding such precinct elections.

291 **SECTION 9.** Section 23-15-331, Mississippi Code of 1972, is
292 amended as follows:

293 23-15-331. It shall be the duty of the state executive
294 committee of each political party to furnish to the commissioners
295 of election of each county, not less than fifty (50) days prior to
296 the primary election, the names of all state and state district
297 candidates and all candidates for legislative districts composed
298 of more than one (1) county or parts of more than one (1) county
299 who have qualified as provided by law, and in accordance with the

300 requirements of Section 23-15-333 a sample of the official ballot
301 to be used in the primary, the general form of which shall be
302 followed as nearly as practicable.

303 **SECTION 10.** Section 23-15-333, Mississippi Code of 1972, is
304 amended as follows:

305 23-15-333. (1) The commissioners of election shall have
306 printed all necessary ballots, for use in primary elections. The
307 commissioners of election shall have printed all necessary
308 absentee ballots forty-five (45) days prior to the election as
309 required by law. The ballots shall contain the names of all the
310 candidates to be voted for at such election, and there shall be
311 left on each ballot one (1) blank space under the title of each
312 office for which a nominee is to be elected; and in the event of
313 the death of any candidate whose name shall have been printed on
314 the ballot, the name of the candidate duly substituted in the
315 place of the deceased candidate may be written in such blank space
316 by the voter. Except as otherwise provided in subsection (2) of
317 this section, the order in which the titles to the various offices
318 shall be printed, and the size, print and quality of the paper of
319 the ballot is left to the discretion of the commissioners of
320 election. * * * However, * * * in all cases the arrangement of
321 the names of the candidates for each office shall be alphabetical.
322 No ballot shall be used except those so printed.

323 (2) The titles for the various offices shall be listed in
324 the following order:

- 325 (a) Candidates for national office;
- 326 (b) Candidates for statewide office;
- 327 (c) Candidates for state district office;
- 328 (d) Candidates for legislative office;
- 329 (e) Candidates for countywide office;
- 330 (f) Candidates for county district office.

331 The order in which the titles for the various offices are
332 listed within each of the categories listed in this subsection is
333 left to the discretion of the commissioners of election.

334 (3) The commissioners of election shall also prepare full
335 instructions for the guidance of electors at elections as to
336 obtaining ballots, the manner of marking them, and the mode of
337 obtaining new ballots in the place of those spoiled by accident.
338 The instructions shall be printed in large, clear type on "Cards
339 of Instruction," and the commissioners of election shall furnish
340 the same in sufficient numbers for the use of electors. The cards
341 shall be preserved by the officers of election and returned by
342 them to the county executive committee and they may be used, if
343 applicable, in subsequent elections.

344 * * *

345 **SECTION 11.** Section 23-15-335, Mississippi Code of 1972, is
346 amended as follows:

347 23-15-335. (1) The commissioners of election shall
348 designate a person whose duty it shall be to distribute all
349 necessary ballots for use in a primary election, and shall
350 designate one (1) among the managers at each polling place to
351 receive and receipt for the blank ballots to be used at that
352 place. When the blank ballots are delivered to a local manager,
353 the distributor shall take from the local manager a receipt
354 therefor signed in duplicate by both the distributor and the
355 manager, one of which receipts the distributor shall deliver to
356 the circuit clerk and the other shall be retained by the local
357 manager and said last mentioned duplicate receipt shall be
358 enclosed in the ballot box with the voted ballots when the polls
359 have been closed and the votes have been counted. The printer of
360 the ballots shall take a receipt from the distributor of the
361 ballots for the total number of the blank ballots delivered to the
362 distributor. The printer shall secure all ballots printed by him
363 in such a safe manner that no person can procure them or any of

364 them, and he shall deliver no blank ballot or ballots to any
365 person except the distributor above mentioned, and then only upon
366 his receipt therefor as above specified. The distributor of the
367 blank ballots shall so securely hold the same that no person can
368 obtain any of them, and he shall not deliver any of them to any
369 person other than to the authorized local managers and upon their
370 respective receipts therefor. The commissioners of election shall
371 see to it that the total blank ballots delivered to the
372 distributor, shall correspond with the total of the receipts
373 executed by the local managers.

374 * * *

375 (2) Any person charged with any of the duties prescribed in
376 this section who shall willfully or with culpable carelessness
377 violate the same shall be guilty of a misdemeanor.

378 **SECTION 12.** Section 23-15-597, Mississippi Code of 1972, is
379 amended as follows:

380 23-15-597. * * * The commissioners of election shall meet on
381 the first or second day after each primary election, shall receive
382 and canvass the returns which must be made within the time fixed
383 by law for returns of general elections and certify the result to
384 the county executive committee. * * * The county executive
385 committee shall announce the name of the nominees for county and
386 county district offices and legislative offices for districts
387 containing one (1) county or less, and the names of those
388 candidates to be submitted to the second primary. The vote for
389 state and state district offices and legislative offices for
390 districts containing more than one (1) county or parts of more
391 than one (1) county shall be tabulated by precincts and certified
392 to and returned to the State Executive Committee, such returns to
393 be mailed by registered letter or any safe mode of transmission
394 within thirty-six (36) hours after the returns are canvassed and
395 the result ascertained. The State Executive Committee shall meet
396 a week from the day following the first primary election held for

397 state and state district offices and legislative offices for
398 districts containing more than one (1) county or parts of more
399 than one (1) county, and shall proceed to canvass the returns and
400 to declare the result, and announce the names of those nominated
401 for the different offices in the first primary and the names of
402 those candidates whose names are to be submitted to the second
403 primary election. The State Executive Committee shall also meet a
404 week from the day on which the second primary election was held
405 and receive and canvass the returns for state and district
406 offices, if any, and legislative offices for districts containing
407 more than one (1) county or parts of more than one (1) county, if
408 any, voted on in such second primary. An exact and full duplicate
409 of all tabulations by precincts as certified under this section
410 shall be filed with the circuit clerk of the county who shall
411 safely preserve the same in his office.

412 * * *

413 **SECTION 13.** To repeal Sections 23-15-266 and 23-15-271,
414 Mississippi Code of 1972, which authorize local executive
415 committees of certain political parties to enter into certain
416 agreements with commissioners of election regarding the conduct of
417 elections and created election integrity assurance committees in
418 each party to ensure that the duties of county executive
419 committees with regard to primary elections are performed.

420 **SECTION 14.** The Attorney General of the State of Mississippi
421 shall submit this act, immediately upon approval by the Governor,
422 or upon approval by the Legislature subsequent to a veto, to the
423 Attorney General of the United States or to the United States
424 District Court for the District of Columbia in accordance with the
425 provisions of the Voting Rights Act of 1965, as amended and
426 extended.

427 **SECTION 15.** This act shall take effect and be in force from
428 and after the date it is effectuated under Section 5 of the Voting
429 Rights Act of 1965, as amended and extended.