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Chapter No. 509

11/HR40/R329SG

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HOUSE BILL NO. 773

Originated in House _____ Clerk

HOUSE BILL NO. 773

AN ACT TO AMEND SECTION 23-15-977, MISSISSIPPI CODE OF 1972, TO PROVIDE THE PROCEDURES TO BE FOLLOWED IF ONLY ONE PERSON HAS QUALIFIED AS A CANDIDATE FOR A JUDICIAL OFFICE AND THAT PERSON DIES, RESIGNS OR IS OTHERWISE DISQUALIFIED FROM HOLDING THAT OFFICE BEFORE THE GENERAL ELECTION; TO AMEND SECTION 23-15-365, MISSISSIPPI CODE OF 1972, TO EXCLUDE NONPARTISAN JUDICIAL ELECTIONS FROM THE PROVISION OF LAW REGARDING WRITE-IN BALLOTS; TO AMEND SECTIONS 23-15-833 AND 23-15-849, MISSISSIPPI CODE OF 1972, TO REVISE HOW VACANCIES FOR CIRCUIT AND CHANCERY COURT JUDGES ARE FILLED; TO PROVIDE A PROCEDURE FOR CREATION OF A TEMPORARY COUNTY EXECUTIVE COMMITTEE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 23-15-977, Mississippi Code of 1972, is amended as follows:

23-15-977. (1) Except as otherwise provided in this section, all candidates for judicial office as defined in Section 23-15-975 of this subarticle shall file their intent to be a candidate with the proper officials not later than 5:00 p.m. on the first Friday after the first Monday in May prior to the general election for judicial office and shall pay to the proper officials the following amounts:

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

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

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

Candidates for judicial office may not file their intent to be a candidate and pay the proper assessment before January 1 of the year in which the election for the judicial office is held.

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

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

(4) If only one (1) person files his intent to be a candidate for a judicial office and that person subsequently dies, resigns or is otherwise disqualified from holding the judicial office after the deadline provided for in subsection (1) of this section but more than seventy (70) days before the date of the general election, the Governor, upon notification of the death, resignation or disqualification of the person, shall issue a proclamation authorizing candidates to file their intent to be a candidate for that judicial office for a period of not less than seven (7) nor more than ten (10) days from the date of the proclamation.

(5) If only one (1) person qualifies as a candidate for a judicial office and that person subsequently dies, resigns or is otherwise disqualified from holding the judicial office within seventy (70) days before the date of the general election, the judicial office shall be considered vacant for the new term and the vacancy shall be filled as provided in by law.

SECTION 2. Section 23-15-365, Mississippi Code of 1972, is amended as follows:

23-15-365. (1) There shall be left on each ballot one (1) blank space under the title of each office to be voted for, and in the event of the death, resignation, withdrawal or removal of any candidate whose name shall have been printed on the official ballot, the name of the candidate duly substituted in the place of such candidate may be written in such blank space by the voter.

(2) The provisions of subsection (1) of this section shall not apply to elections conducted under the Nonpartisan Judicial Election Act.

SECTION 3. Section 23-15-833, Mississippi Code of 1972, is amended as follows:

23-15-833. Except as otherwise provided by law, the first Tuesday after the first Monday in November of each year shall be designated the regular special election day, and on that day an election shall be held to fill any vacancy in county, county district, and district attorney elective offices, and any vacancy in the office of circuit judge or chancellor.

All special elections, or elections to fill vacancies, shall in all respects be held, conducted and returned in the same manner as general elections, except that where no candidate receives a majority of the votes cast in such election, then a runoff election shall be held three (3) weeks after such election and the two (2) candidates who receive the highest popular votes for such office shall have their names submitted as such candidates to the said runoff and the candidate who leads in such runoff election shall be elected to the office. When there is a tie in the first election of those receiving the next highest vote, these two (2) and the one receiving the highest vote, none having received a majority, shall go into the runoff election and whoever leads in such runoff election shall be entitled to the office.

In those years when the regular special election day shall occur on the same day as the general election, the names of candidates in any special election and the general election shall

be placed on the same ballot, but shall be clearly distinguished as general election candidates or special election candidates.

At any time a special election is held on the same day as a party primary election, the names of the candidates in the special election may be placed on the same ballot, but shall be clearly distinguished as special election candidates or primary election candidates.

SECTION 4. Section 23-15-849, Mississippi Code of 1972, is amended as follows:

23-15-849. (1) Vacancies in the office of circuit judge or chancellor shall be filled for the unexpired term by the qualified electors at the next regular special election * * * occurring more than nine (9) months after the existence of the vacancy to be filled, and the term of office of the person elected to fill a vacancy shall commence on the first Monday in January following his election. Upon the occurring of such a vacancy, the Governor shall appoint a qualified person from the district in which the vacancy exists to hold the office and discharge the duties thereof until the vacancy shall be filled by election as provided in this subsection.

(2) (a) If half or more than half of the term remains, vacancies in the office of judge of the Supreme Court or Court of Appeals shall be filled for the unexpired term by the qualified electors at the next regular election for state officers or for representatives in Congress occurring more than nine (9) months after the existence of the vacancy to be filled, and the term of office of the person elected to fill a vacancy shall commence on the first Monday in January following his election. If less than half of the term remains, vacancies in the office of judge of the Supreme Court or Court of Appeals shall be filled for the remaining unexpired term solely by appointment as provided in this subsection.

(b) Upon occurrence of a vacancy, the Governor shall appoint a qualified person from the district in which the vacancy exists to hold the office and discharge the duties thereof as follows:

(i) If less than half of the term remains, the appointee shall serve until expiration of the term;

(ii) If half or more than half of the term remains, the appointee shall serve until the vacancy shall be filled by election as provided in subsection (1) of this section for judges of the circuit and chancery courts. Elections to fill vacancies in the office of judge of the Supreme Court or Court of Appeals shall be held, conducted, returned and the persons elected commissioned in accordance with the law governing regular elections for judges of the Supreme Court or Court of Appeals insofar as they may be applicable.

(c) This subsection (2) shall apply to all gubernatorial appointees to the Supreme Court or Court of Appeals who have not stood for special election as of July 2, 2002, as if Laws, 2002, Chapter 586, were in full force and effect on the day of each of their appointments.

SECTION 5. (1) If there be any political party, or parties, in any county which shall not have a party executive committee for such county, such political party, or parties, shall within thirty (30) days of the date for which a candidate for a county office is required to qualify in such county, select qualified electors of that county and of that party's political faith to serve on a temporary county executive committee until members of a county executive committee are elected at the next regular election for executive committees. The temporary county executive committee shall be selected in the following manner: The chairman of the state executive committee of the party desiring to select a temporary county executive committee, upon petition of five (5) or more members of that political faith, shall call a mass meeting of

the qualified electors of their political faith who reside in such county to meet at some convenient place within such county, at a time to be designated in the call, and at such mass convention the members of that political faith shall select a temporary county executive committee which shall serve until members of a county executive committee are elected at the next regular election for executive committees. The public shall be given notice of such mass meeting as provided in subsection (4) of this section. The chairman of the state executive committee shall authorize the call within five (5) calendar days of receipt of the petition. If the chairman of the state executive committee is either incapacitated, unavailable or nonresponsive and does not authorize the mass call within five (5) calendar days of receipt of the petition, any elected officer of the state executive committee may authorize the call within five (5) calendar days. If no elected officer of the state executive committee acts to approve such petition after an additional five (5) calendar days from the date, the chair of the state executive committee not taking action as provided by this section, the petitioners shall be authorized to produce the call themselves.

(2) If no county executive committee is selected or otherwise formed before an election, the state executive committee may serve as the temporary county executive committee and exercise all of the duties of the county executive committee for the county election. After a state executive committee has fulfilled its duties as the temporary county executive committee, as soon as practicable thereafter, the state executive committee shall select a county executive committee no later than before the next county election.

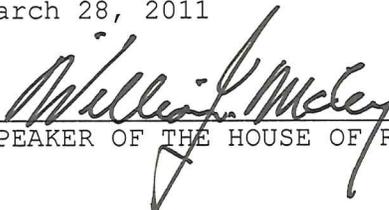
(3) A person who has been convicted of a felony in a court of this state or any other state or a court of the United States, shall be barred from serving as a member of a county executive committee.

(4) The state executive committee shall publish a copy of its call for a meeting in some newspaper published in the county affected for three (3) weeks preceding the date set for the mass convention, or if there be no newspaper published in the county, then in some newspaper having general circulation in the county and by posting notices in three (3) public places in the county, one (1) of which shall be the county courthouse or the location where the county board of supervisors meets to conduct business not less than three (3) weeks before the date for the mass convention.

SECTION 6. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 7. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

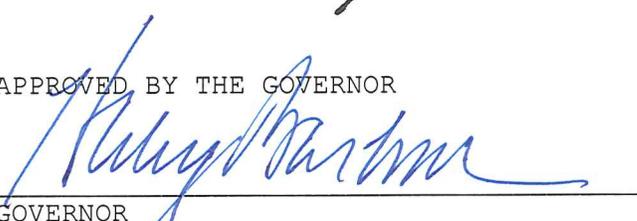
PASSED BY THE HOUSE OF REPRESENTATIVES
March 28, 2011


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 27, 2011


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

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