MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Massengill

To: Apportionment and Elections

HOUSE BILL NO. 800

AN ACT TO PROVIDE THAT THE OFFICE OF ELECTION COMMISSIONER SHALL BE A NONPARTISAN OFFICE; TO PROVIDE THAT THE NAMES OF CANDIDATES FOR THE OFFICE OF ELECTION COMMISSIONER SHALL BE LISTED AS NONPARTISAN ON A BALLOT; TO AMEND SECTIONS 23-15-213, 23-15-367 AND 23-15-511, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTION 23-15-531.3, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. The office of election commissioner is a nonpartisan office and a candidate for election to the office is prohibited from campaigning or qualifying for the office based on party affiliation. To ensure that campaigns for the nonpartisan office of election commissioner remain nonpartisan and without any connection to a political party, political parties and any committee or political committee affiliated with a political party shall not engage in fundraising on behalf of a candidate or officeholder of the nonpartisan office of election commissioner, and a political party or any committee or political committee affiliated with a political party shall not make any contribution to a candidate for the nonpartisan office of election commissioner

or the political committee of a candidate for the nonpartisan office of election commissioner. A political party or any committee or political committee affiliated with a political party shall not publicly endorse a candidate for the nonpartisan office of election commissioner. A candidate or the political committee of a candidate for the nonpartisan office of election commissioner shall not accept a contribution from a political party or any committee or political committee affiliated with a political party.

SECTION 2. (1) The names of candidates for the office of election commissioner which appear on the ballot at the general election shall be grouped together on a separate portion of the ballot and clearly identified as nonpartisan.

(2) The names of all candidates for the office of election commissioner shall be listed in alphabetical order on any ballot, and no reference to political party affiliation shall appear on any ballot with respect to the nonpartisan office of election commissioner or the candidate for the nonpartisan office of election commissioner.

SECTION 3. Section 23-15-213, Mississippi Code of 1972, is amended as follows:

[Until December 31, 2022, this section shall read as follows:]

23-15-213. (1) At the general election in 2020, there shall be elected five (5) election commissioners for each county whose

terms of office shall commence on the first Monday of January following their election. Each of the commissioners shall be required to attend a training seminar provided by the Secretary of State and satisfactorily complete a skills assessment, and before acting, shall take and subscribe the oath of office prescribed by the Constitution. The oath shall be filed in the office of the clerk of the chancery court. Upon filing the oath of office, the election commissioner may be provided access to the Statewide Elections Management System for the purpose of performing his or her duties. While engaged in their duties, the commissioners shall be conservators of the peace in the county, with all the duties and powers of such.

(2) The qualified electors of each supervisors district shall elect, at the general election in 2020, in their district one (1) election commissioner. The election commissioners from board of supervisors' Districts One, Three and Five shall serve for a term of four (4) years. The election commissioners from board of supervisors' Districts Two and Four shall serve for a term of three (3) years. No more than one (1) commissioner shall be a resident of and reside in each supervisors district of the county; it being the purpose of this section that the county board of election commissioners shall consist of one (1) person from each supervisors district of the county and that each commissioner be elected from the supervisors district in which he or she resides.

(3) Candidates for county election commissioner shall qualify by filing with the clerk of the board of supervisors of their respective counties a petition personally signed by not less than fifty (50) qualified electors of the supervisors district in which they reside, requesting that they be a candidate, by 5:00 p.m. not later than the first Monday in June of the year in which the election occurs and unless the petition is filed within the required time, their names shall not be placed upon the ballot. *** * ***

(4) The petition shall have attached thereto a certificate of the county registrar showing the number of qualified electors on each petition, which shall be furnished by the registrar on request. The board shall determine the sufficiency of the petition, and if the petition contains the required number of signatures and is filed within the time required, the president of the board shall verify that the candidate is a resident of the supervisors district in which he or she seeks election and that the candidate is otherwise qualified as provided by law, and shall certify that the candidate is qualified to the chair or secretary of the county election commission and the names of the candidates shall be placed upon the ballot for the ensuing election. No county election commissioner shall serve or be considered as elected until he or she has received a majority of the votes cast for the position or post for which he or she is a candidate. If a majority vote is not received in the first election, then the two

(2) candidates receiving the most votes for each position or post shall be placed upon the ballot for a second election to be held three (3) weeks later in accordance with appropriate procedures followed in other elections involving runoff candidates.

(5) Upon taking office, the county election commissioners shall organize by electing a chair and a secretary.

(6) It shall be the duty of the chair to have the official ballot printed and distributed at each general or special election.

[From and after January 1, 2023, this section shall read as follows:]

23-15-213. (1) There shall be elected five (5) election commissioners for each county whose terms of office shall commence on the first Monday of January following their election and who shall serve for a term of four (4) years. Each of the commissioners shall be required to attend a training seminar provided by the Secretary of State and satisfactorily complete a skills assessment, and before acting, shall take and subscribe the oath of office prescribed by the Constitution. The oath shall be filed in the office of the clerk of the chancery court. Upon filing the oath of office, the election commissioner may be provided access to the Statewide Elections Management System for the purpose of performing his or her duties. While engaged in their duties, the commissioners shall be conservators of the peace in the county, with all the duties and powers of such.

(2) (a) At the general election in 2024 and every four (4) years thereafter, the qualified electors of the board of supervisors' Districts One, Three and Five shall elect in their district one (1) election commissioner.

(b) At the general election in 2023 and every four (4) years thereafter, the qualified electors of the board of supervisors' Districts Two and Four shall elect in their district one (1) election commissioner.

(c) No more than one (1) commissioner shall be a resident of and reside in each supervisors district of the county; it being the purpose of this section that the county board of election commissioners shall consist of one (1) person from each supervisors district of the county and that each commissioner be elected from the supervisors district in which he or she resides.

(3) Candidates for county election commissioner shall qualify by filing with the clerk of the board of supervisors of their respective counties a petition personally signed by not less than fifty (50) qualified electors of the supervisors district in which they reside, requesting that they be a candidate, by 5:00 p.m. not later than the first Monday in June of the year in which the election occurs and unless the petition is filed within the required time, their names shall not be placed upon the ballot. *** * ***

(4) The petition shall have attached thereto a certificate of the county registrar showing the number of qualified electors

on each petition, which shall be furnished by the registrar on request. The board shall determine the sufficiency of the petition, and if the petition contains the required number of signatures and is filed within the time required, the president of the board shall verify that the candidate is a resident of the supervisors district in which he or she seeks election and that the candidate is otherwise qualified as provided by law, and shall certify that the candidate is qualified to the chair or secretary of the county election commission and the names of the candidates shall be placed upon the ballot for the ensuing election. No county election commissioner shall serve or be considered as elected until he or she has received a majority of the votes cast for the position or post for which he or she is a candidate. If a majority vote is not received in the first election, then the two (2) candidates receiving the most votes for each position or post shall be placed upon the ballot for a second election to be held three (3) weeks later in accordance with appropriate procedures followed in other elections involving runoff candidates.

(5) In the first meeting in January of each year, the county election commissioners shall organize by electing a chair and a secretary, who shall serve a one *** * *** year term. The county election commissioners shall provide the names of the chair and secretary to the Secretary of State and provide notice of any change in officers which may occur during the year.

(6) It shall be the duty of the chair to have the official ballot printed and distributed at each general or special election.

SECTION 4. Section 23-15-367, Mississippi Code of 1972, is amended as follows:

23-15-367. (1) Except as otherwise provided by Sections 23-15-974 through 23-15-985 *** * ***, subsection (2) of this section and the provisions of Sections 1 and 2 of this act, the size, print and quality of paper of the official ballot is left to the discretion of the officer charged with printing the official ballot.

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

(a) Candidates, electors or delegates for the following national offices:

(i) President;

(ii) United States Senator or United States Representative;

(b) Candidates for the following statewide office: Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, Auditor of Public Accounts, Commissioner of Agriculture and Commerce, Commissioner of Insurance;

(c) Candidates for the following state district offices: Mississippi Transportation Commissioner, Public Service Commissioner, District Attorney;

(d) Candidates for the following legislative offices: Senate and House of Representatives;

(e) Candidates for countywide office;

(f) Candidates for county district office.

The order in which the titles for the various offices are listed within paragraphs (e) and (f) is left to the discretion of the county election commissioners. Nominees of the political parties, qualified to conduct primary elections as defined in Section 23-15-291, shall be listed first alphabetically by the candidate's last name, followed by any other candidates listed alphabetically by last name.

(3) It is the duty of the Secretary of State, with the approval of the Governor, to furnish the designated election commissioner of each county a sample of the official ballot, not less than fifty-five (55) days before the election, the general form of which shall be followed as nearly as practicable.

SECTION 5. Section 23-15-511, Mississippi Code of 1972, is amended as follows:

23-15-511. The ballots shall, as far as practicable, be in the same order of arrangement as provided for paper ballots that are to be counted manually, except that the information may be printed in vertical or horizontal rows. Nothing in this chapter shall *** * *** prohibit the information being presented to the voters from being printed on both sides of a single ballot. In those years when a special election *** * *** occurs 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 by the election commissioners or officials in charge of the election, but the general election candidates shall be clearly distinguished from the 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 by the officials in charge of the election, but shall be clearly distinguished as special election candidates or primary election candidates.

Ballots shall be printed in plain clear type in black ink and upon clear white materials of such size and arrangement as to be compatible with the OMR equipment. Absentee ballots shall be prepared and printed in the same form and shall be on the same size and texture as the regular official ballots, except that they shall be printed on tinted paper; or the ink used to print the ballots shall be of a color different from that of the ink used to print the regular official ballots. Arrows may be printed on the ballot to indicate the place to mark the ballot, which may be to the right or left of the names of candidates and propositions. <u>Except as otherwise provided in Sections 1 and 2 of this act,</u> the titles of offices may be arranged in vertical columns on the ballot and shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected. In case there are more

candidates for an office than can be printed in one (1) column, the ballot shall be clearly marked that the list of candidates is continued on the following column. Except as otherwise provided in Sections 1 and 2 of this act, the names of candidates for each office shall be printed in vertical columns, grouped by the offices that they seek. In partisan elections, the party designation of each candidate, which may be abbreviated, shall be printed following his or her name.

One (1) sample ballot, which shall be a facsimile of the official ballot and instructions to the voters, shall be provided for each precinct and shall be posted in each polling place on election day.

A separate ballot security envelope or suitable equivalent in which the voter can place his or her ballot after voting, shall be provided to conceal the choices the voter has made. Absentee voters will receive a similar ballot security envelope provided by the county in which the absentee voter will insert their voted ballot, which then can be inserted into a return envelope to be mailed back to the election official. Absentee ballots will not be required to be folded when a ballot security envelope is provided.

SECTION 6. Section 23-15-531.3, Mississippi Code of 1972, is brought forward as follows:

23-15-531.3. (1) The ballots for DRE units shall be of such size and arrangement as will suit the construction of the DRE

screen and shall be in plain, clear type that is easily readable by persons with normal vision.

(2) (a) If the DRE unit has the capacity for color display, the names of all candidates in a particular race shall be displayed in the same color, font and size, and the political party or affiliation of candidates may be displayed in a color different from that used to display the names of the candidates, but all political parties or affiliations shall be displayed in the same color. All political party names shall be displayed in the same size and font.

(b) All ballot questions, local options, referenda and constitutional amendments shall be displayed in the same color.

SECTION 7. Sections 1 and 2 of this act shall be codified as new sections in Chapter 15, Title 23, Mississippi Code of 1972.

SECTION 8. This act shall take effect and be in force from and after July 1, 2021.