MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Harness

To: Judiciary B;
Constitution

HOUSE BILL NO. 873

AN ACT TO AMEND SECTION 23-15-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A PERSON WHO IS OTHERWISE A QUALIFIED ELECTOR AND HAS BEEN CONVICTED OF VOTE FRAUD OR OF ANY CRIME LISTED IN SECTION 241, MISSISSIPPI CONSTITUTION OF 1890, OR OF ANY CRIME INTERPRETED AS DISENFRANCHISING IN LATER ATTORNEY GENERAL OPINIONS, SHALL HAVE HIS OR HER RIGHT TO VOTE SUSPENDED UPON CONVICTION BUT SHALL HAVE HIS OR HER RIGHT TO VOTE AUTOMATICALLY RESTORED ONCE HE OR SHE HAS SATISFIED ALL OF THE SENTENCING REQUIREMENTS OF THE CONVICTION; TO AMEND SECTIONS 23-15-19, 23-15-125, 23-15-151, 23-15-153 AND 23-15-165, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO BRING FORWARD SECTIONS 97-39-3 AND 99-19-37, 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. Section 23-15-11, Mississippi Code of 1972, is amended as follows:

23-15-11. (1) Every inhabitant of this state, except persons adjudicated to be non compos mentis, shall be a qualified elector in and for the county, municipality and voting precinct of his or her residence and shall be entitled to vote at any election upon compliance with Section 23-15-563, if he or she:

(a) *** * *** Is a citizen of the United States of America *** * ***;

(b) Is eighteen (18) years old and upwards * * *;

(c) * * * Has resided in this state for thirty (30) days and for thirty (30) days in the county in which he or she seeks to vote, and for thirty (30) days in the incorporated municipality in which he or she seeks to vote * * *;

(d) * * * Has been duly registered as an elector under Section 23-15-33 * * *; and

(e) * * * Has never been convicted of vote fraud or of any crime listed in Section 241, Mississippi Constitution of 1890 * * *.

If the thirtieth day to register before an election falls on a Sunday or legal holiday, the registration applications submitted on the business day immediately following the Sunday or legal holiday shall be accepted and entered in the Statewide Elections Management System for the purpose of enabling voters to vote in the next election.

(2) A person who is otherwise a qualified elector under the provisions of subsection (1) and has been convicted of vote fraud or of any crime listed in Section 241, Mississippi Constitution of 1890, or of any crime interpreted as disenfranchising in later Attorney General opinions, shall have his or her right to vote suspended upon conviction but shall have his or her right to vote automatically restored once he or she has satisfied all of the sentencing requirements of the conviction.

(3) Any person who will be eighteen (18) years of age or older on or before the date of the general election and who is duly registered to vote not less than thirty (30) days before the primary election associated with the general election, may vote in the primary election even though the person has not reached his or her eighteenth birthday at the time that the person seeks to vote at the primary election.

(4) No others than those specified in this section shall be entitled, or shall be allowed, to vote at any election.

SECTION 2. Section 23-15-19, Mississippi Code of 1972, is amended as follows:

23-15-19. Any person who has been convicted of vote fraud *** * ***, any crime listed in Section 241, Mississippi Constitution of 1890, or of any crime interpreted as disenfranchising in later Attorney General opinions, such crimes defined as "disenfranchising," shall *** * *** have his or her right to vote suspended upon conviction but shall have his or her right to vote automatically restored once he or she has satisfied all of the sentencing requirements of the conviction. Whenever any person shall be convicted in the circuit court of his or her county of a disenfranchising crime, the county registrar shall thereupon remove his or her name from the Statewide Elections Management System *** * *** until he or she has satisfied all of the sentencing requirements of the conviction. Whenever any person shall be convicted of a disenfranchising crime in any other court

of any county, the presiding judge of the court shall, on demand, certify the fact in writing to the registrar of the county in which the voter resides, who shall *** * *** remove the name of the person from the Statewide Elections Management System and retain the certificate as a record of his or her office until he or she has satisfied all of the sentencing requirements of the conviction.

SECTION 3. Section 23-15-125, Mississippi Code of 1972, is amended as follows:

23-15-125. The pollbook of each voting precinct shall designate the voting precinct for which it is to be used, and shall be ruled in appropriate columns, with printed or written headings, as follows: date of registration; voter registration number; name of electors; date of birth; and a number of blank columns for the dates of elections. All qualified applicants who register with the registrar shall be entered in the Statewide Elections Management System. Only the names of those qualified applicants who register within thirty (30) days before an election shall appear on the pollbooks of the election; however, if the thirtieth day to register before an election falls on a Sunday or legal holiday, the registration applications submitted on the business day immediately following the legal holiday shall be accepted and entered in the Statewide Elections Management System for the purpose of enabling voters to vote in the next election. When county election commissioners determine that any elector is

disqualified from voting, by reason of death, conviction of a disenfranchising crime, removal from the jurisdiction, or other legal cause, that fact shall be noted in the Statewide Elections Management System and the voter's name shall be removed from the Statewide Elections Management System, the state's voter roll and the county's pollbooks. Nothing in this section shall preclude the use of electronic pollbooks. A person who is otherwise a qualified elector under the provisions of Section 23-15-11 and has been convicted of vote fraud or of any crime listed in Section 241, Mississippi Constitution of 1890, or of any crime interpreted as disenfranchising in later Attorney General opinions, shall have his or her right to vote suspended upon conviction but shall have his or her right to vote automatically restored once he or she has satisfied all of the sentencing requirements of the conviction. Once the person has satisfied all of the sentencing requirements, the voter's name shall be automatically restored into the Statewide Elections Management System, the state's voter roll and the county's pollbooks.

SECTION 4. Section 23-15-151, Mississippi Code of 1972, is amended as follows:

23-15-151. The circuit clerk of each county is authorized and directed to prepare and keep in his or her office a full and complete list, in alphabetical order, of persons convicted of voter fraud *** * ***, of any crime listed in Section 241, Mississippi Constitution of 1890 or of any crime interpreted as

disenfranchising in later Attorney General opinions. A certified copy of any enrollment by one clerk to another will be sufficient authority for the enrollment of the name, or names, in another county. A list of persons convicted of voter fraud, any crime listed in Section 241, Mississippi Constitution of 1890, or any crime interpreted as disenfranchising in later Attorney General opinions, shall also be entered into the Statewide Elections Management System on a quarterly basis. *** * *** A person who is otherwise a qualified elector under the provisions of Section 23-15-11 and has been convicted of vote fraud, of any crime listed in Section 241, Mississippi Constitution of 1890, or of any crime interpreted as disenfranchising in later Attorney General opinions, shall have his or her right to vote suspended upon conviction but shall have his or her right to vote automatically restored once he or she has satisfied all of the sentencing requirements of the conviction. Once the person has satisfied all of the sentencing requirements, the voter's name shall be automatically restored into the Statewide Elections Management System, the state's voter roll and the county's pollbooks.

SECTION 5. Section 23-15-153, Mississippi Code of 1972, is amended as follows:

23-15-153. (1) At least during the following times, the election commissioners shall meet at the office of the registrar or the office of the election commissioners to carefully revise the county voter roll as electronically maintained by the

Statewide Elections Management System and remove from the roll the names of all voters who have requested to be purged from the voter roll, died, received an adjudication of non compos mentis, been convicted of a disenfranchising crime and had his or her right to vote suspended, or otherwise become disqualified as electors for any cause, and shall register the names of all persons who have duly applied to be registered but have been illegally denied registration:

(a) On the Tuesday after the second Monday in January 1987 and every following year;

(b) On the first Tuesday in the month immediately preceding the first primary election for members of Congress in the years when members of Congress are elected;

(c) On the first Monday in the month immediately preceding the first primary election for state, state district legislative, county and county district offices in the years in which those offices are elected; and

(d) On the second Monday of September preceding the general election or regular special election day in years in which a general election is not conducted.

Except for the names of those voters who are duly qualified to vote in the election, no name shall be permitted to remain in the Statewide Elections Management System; however, no name shall be purged from the Statewide Elections Management System based on a change in the residence of an elector except in accordance with

procedures provided for by the National Voter Registration Act of 1993. Except as otherwise provided by Section 23-15-573, no person shall vote at any election whose name is not in the county voter roll electronically maintained by the Statewide Elections Management System.

(2) Except as provided in this section, and subject to the following annual limitations, the election commissioners shall be entitled to receive a per diem in the amount of One Hundred Dollars ($100.00), to be paid from the county general fund, for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the county voter roll as electronically maintained by the Statewide Elections Management System as required in subsection (1) of this section:

(a) In counties having less than fifteen thousand (15,000) residents according to the latest federal decennial census, not more than fifty (50) days per year, with no more than fifteen (15) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(b) In counties having fifteen thousand (15,000) residents according to the latest federal decennial census but less than thirty thousand (30,000) residents according to the latest federal decennial census, not more than seventy-five (75)

days per year, with no more than twenty-five (25) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(c) In counties having thirty thousand (30,000) residents according to the latest federal decennial census but less than seventy thousand (70,000) residents according to the latest federal decennial census, not more than one hundred (100) days per year, with no more than thirty-five (35) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(d) In counties having seventy thousand (70,000) residents according to the latest federal decennial census but less than ninety thousand (90,000) residents according to the latest federal decennial census, not more than one hundred twenty-five (125) days per year, with no more than forty-five (45) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(e) In counties having ninety thousand (90,000) residents according to the latest federal decennial census but less than one hundred seventy thousand (170,000) residents according to the latest federal decennial census, not more than one hundred fifty (150) days per year, with no more than fifty-five (55) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(f) In counties having one hundred seventy thousand (170,000) residents according to the latest federal decennial census but less than two hundred thousand (200,000) residents according to the latest federal decennial census, not more than one hundred seventy-five (175) days per year, with no more than sixty-five (65) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(g) In counties having two hundred thousand (200,000) residents according to the latest federal decennial census but less than two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census, not more than one hundred ninety (190) days per year, with no more than seventy-five (75) additional days allowed for the conduct of each election in excess of one (l) occurring in any calendar year;

(h) In counties having two hundred twenty-five thousand (225,000) residents according to the latest federal decennial census but less than two hundred fifty thousand (250,000) residents according to the latest federal decennial census, not more than two hundred fifteen (215) days per year, with no more than eighty-five (85) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(i) In counties having two hundred fifty thousand (250,000) residents according to the latest federal decennial census but less than two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census, not

more than two hundred thirty (230) days per year, with no more than ninety-five (95) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year;

(j) In counties having two hundred seventy-five thousand (275,000) residents according to the latest federal decennial census or more, not more than two hundred forty (240) days per year, with no more than one hundred five (105) additional days allowed for the conduct of each election in excess of one (1) occurring in any calendar year.

(3) In addition to the number of days authorized in subsection (2) of this section, the board of supervisors of a county may authorize, in its discretion, the election commissioners to receive a per diem in the amount provided for in subsection (2) of this section, to be paid from the county general fund, for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties in the conduct of an election or actually employed in the performance of their duties for the necessary time spent in the revision of the county voter roll as electronically maintained by the Statewide Elections Management System as required in subsection (1) of this section, not to exceed five (5) days.

(4) (a) The election commissioners shall be entitled to receive a per diem in the amount of One Hundred Dollars ($100.00), to be paid from the county general fund, not to exceed ten (10)

days for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the necessary time spent in the revision of the county voter roll as electronically maintained by the Statewide Elections Management System before any special election. For purposes of this paragraph, the regular special election day shall not be considered a special election. The annual limitations set forth in subsection (2) of this section shall not apply to this paragraph.

(b) The election commissioners shall be entitled to receive a per diem in the amount of One Hundred Fifty Dollars ($150.00), to be paid from the county general fund, for the performance of their duties on the day of any primary, runoff, general or special election. The annual limitations set forth in subsection (2) of this section shall apply to this paragraph.

(c) The board of supervisors may, in its discretion, pay the election commissioners an additional amount not to exceed Fifty Dollars ($50.00) for the performance of their duties at any election occurring from July 1, 2020, through December 31, 2020, which shall be considered additional pandemic pay. Such compensation shall be payable out of the county general fund, and may be payable from federal funds available for such purpose, or a combination of both funding sources.

(5) The election commissioners shall be entitled to receive a per diem in the amount of One Hundred Dollars ($100.00), to be

paid from the county general fund, not to exceed fourteen (14) days for every day or period of no less than five (5) hours accumulated over two (2) or more days actually employed in the performance of their duties for the necessary time spent in the revision of the county voter roll as electronically maintained by the Statewide Elections Management System and in the conduct of a runoff election following either a general or special election.

(6) The election commissioners shall be entitled to receive only one (1) per diem payment for those days when the election commissioners discharge more than one (1) duty or responsibility on the same day.

(7) In preparation for a municipal primary, runoff, general or special election, the county registrar shall generate and distribute the master voter roll and pollbooks from the Statewide Elections Management System for the municipality located within the county. The municipality shall pay the county registrar for the actual cost of preparing and printing the municipal master voter roll pollbooks. A municipality may secure "read only" access to the Statewide Elections Management System and print its own pollbooks using this information.

(8) County election commissioners who perform the duties of an executive committee with regard to the conduct of a primary election under a written agreement authorized by law to be entered into with an executive committee shall receive per diem as provided for in subsection (2) of this section. The days that

county election commissioners are employed in the conduct of a primary election shall be treated the same as days county election commissioners are employed in the conduct of other elections.

(9) In addition to any per diem authorized by this section, any election commissioner shall be entitled to the mileage reimbursement rate allowable to federal employees for the use of a privately owned vehicle while on official travel on election day.

(10) Every election commissioner shall sign personally a certification setting forth the number of hours actually worked in the performance of the commissioner's official duties and for which the commissioner seeks compensation. The certification must be on a form as prescribed in this subsection. The commissioner's signature is, as a matter of law, made under the commissioner's oath of office and under penalties of perjury.

The certification form shall be as follows:

COUNTY ELECTION COMMISSIONER

PER DIEM CLAIM FORM

NAME: _____ COUNTY: _____

ADDRESS: _____ DISTRICT: _____

CITY: _____ ZIP: _____

DATE WORKED	BEGINNING TIME	ENDING TIME	PURPOSE OF WORK	APPLICABLE MS CODE SECTION	ACTUAL HOURS WORKED	PER DIEM DAYS EARNED

_____

TOTAL NUMBER OF PER DIEM DAYS EARNED

EXCLUDING ELECTION DAYS _____

PER DIEM RATE PER DAY EARNED X $100.00

TOTAL NUMBER PER DIEM DAYS EARNED

FOR ELECTION DAYS _____

PER DIEM RATE PER DAY EARNED X $150.00

TOTAL AMOUNT OF PER DIEM CLAIMED $_____

I understand that I am signing this document under my oath as an election commissioner and under penalties of perjury.

I understand that I am requesting payment from taxpayer funds and that I have an obligation to be specific and truthful as to the amount of hours worked and the compensation I am requesting.

Signed this the _____ day of _____, ____.

_____

Commissioner's Signature

When properly completed and signed, the certification must be filed with the clerk of the county board of supervisors before any payment may be made. The certification will be a public record available for inspection and reproduction immediately upon the oral or written request of any person.

Any person may contest the accuracy of the certification in any respect by notifying the chair of the commission, any member of the board of supervisors or the clerk of the board of supervisors of the contest at any time before or after payment is

made. If the contest is made before payment is made, no payment shall be made as to the contested certificate until the contest is finally disposed of. The person filing the contest shall be entitled to a full hearing, and the clerk of the board of supervisors shall issue subpoenas upon request of the contestor compelling the attendance of witnesses and production of documents and things. The contestor shall have the right to appeal de novo to the circuit court of the involved county, which appeal must be perfected within thirty (30) days from a final decision of the commission, the clerk of the board of supervisors or the board of supervisors, as the case may be.

Any contestor who successfully contests any certification will be awarded all expenses incident to his or her contest, together with reasonable attorney's fees, which will be awarded upon petition to the chancery court of the involved county upon final disposition of the contest before the election commission, board of supervisors, clerk of the board of supervisors, or, in case of an appeal, final disposition by the court. The commissioner against whom the contest is decided shall be liable for the payment of the expenses and attorney's fees, and the county shall be jointly and severally liable for same.

(11) Any election commissioner who has not received a certificate issued by the Secretary of State pursuant to Section 23-15-211 indicating that the election commissioner has received the required elections seminar instruction and that the election

commissioner is fully qualified to conduct an election, shall not receive any compensation authorized by this section or Section 23-15-239.

SECTION 6. Section 23-15-165, Mississippi Code of 1972, is amended as follows:

23-15-165. (1) The Office of the Secretary of State, in cooperation with the county registrars and election commissioners, shall procure, implement and maintain an electronic information processing system and programs capable of maintaining a centralized database of all registered voters in the state. The system shall encompass software and hardware, at both the state and county level, software development training, conversion and support and maintenance for the system. This system shall be known as the "Statewide Elections Management System" and shall constitute the official record of registered voters in every county of the state.

(2) The Office of the Secretary of State shall develop and implement the Statewide Elections Management System so that the registrar and election commissioners of each county shall:

(a) Verify that an applicant that is registering to vote in that county is not registered to vote in another county;

(b) Be notified automatically that a registered voter in its county has registered to vote in another county;

(c) Receive regular reports of death, changes of address and convictions for disenfranchising crimes, which cause a

voter to have his or her right to vote suspended, that apply to voters registered in the county; * * *

(d) Receive regular reports of voters who have satisfied all of the sentencing requirements of his or her conviction and automatically restore the voter's name into the Statewide Elections Management System, the state's voter roll and the county's pollbooks; and

(* * *e) Retain all present functionality related to, but not limited to, the use of voter roll data and to implement such other functionality as the law requires to enhance the maintenance of accurate county voter records and related jury selection and redistricting programs.

(3) As a part of the procurement and implementation of the system, the Office of the Secretary of State shall, with the assistance of the advisory committee, procure services necessary to convert current voter registration records in the counties into a standard, industry accepted file format that can be used on the Statewide Elections Management System. Thereafter, all official voter information shall be maintained on the Statewide Elections Management System. The standard industry accepted format of data was reviewed and approved by a majority of the advisory committee created in subsection (5) of this section after consultation with the Circuit Clerks Association and the format may not be changed without consulting the Circuit Clerks Association.

(4) The Secretary of State may, with the assistance of the advisory committee, adopt rules and regulations necessary to administer the Statewide Elections Management System. The rules and regulations shall at least:

(a) Provide for the establishment and maintenance of a centralized database for all voter registration information in the state;

(b) Provide procedures for integrating data into the centralized database;

(c) Provide security to ensure that only the registrar, or his or her designee or other appropriate official, as the law may require, can add information to, delete information from and modify information in the system;

(d) Provide the registrar or his or her designee or other appropriate official, as the law may require, access to the system at all times, including the ability to download copies of the industry standard file, for all purposes related to their official duties, including, but not limited to, exclusive access for the purpose of printing all local pollbooks;

(e) Provide security and protection of all information in the system and monitor the system to ensure that unauthorized access is not allowed;

(f) Provide a procedure that will allow the registrar, or his or her designee or other appropriate official, as the law

may require, to identify the precinct to which a voter should be assigned; and

(g) Provide a procedure for phasing in or converting existing manual and computerized voter registration systems in counties to the Statewide Elections Management System.

(5) The Secretary of State established an advisory committee to assist in developing system specifications, procurement, implementation and maintenance of the Statewide Elections Management System. The committee included two (2) representatives from the Circuit Clerks Association, appointed by the association; two (2) representatives from the Election Commissioners Association of Mississippi, appointed by the association; one (1) member of the Mississippi Association of Supervisors, or its staff, appointed by the association; the Director of the Stennis Institute of Government at Mississippi State University, or his or her designee; the Executive Director of the Department of Information Technology Services, or his or her designee; two (2) persons knowledgeable about elections and information technology appointed by the Secretary of State; and the Secretary of State, who shall serve as the chair of the advisory committee.

(6) (a) Social security numbers, telephone numbers and date of birth and age information in statewide, district, county and municipal voter registration files shall be exempt from and shall not be subject to inspection, examination, copying or reproduction under the Mississippi Public Records Act of 1983.

(b) Copies of statewide, district, county or municipal voter registration files, excluding social security numbers, telephone numbers and date of birth and age information, shall be provided to any person in accordance with the Mississippi Public Records Act of 1983 at a cost not to exceed the actual cost of production.

SECTION 7. Section 97-39-3, Mississippi Code of 1972, is brought forward as follows:

97-39-3. If any person shall fight a duel, or give or accept a challenge to fight a duel, or knowingly carry or deliver such challenge or the acceptance thereof, or be second to either party to any duel, whether such act be done in the state or out of it, or who shall go out of the state to fight a duel, or to assist in the same as second, or to send, accept, or carry a challenge, shall be disqualified from holding any office, be disenfranchised, and incapable of holding or being elected to any post of honor, profit or emolument, civil or military, under the constitution and laws of this state; and the appointment of any such person to office, as also all votes given to any such person, are illegal, and none of the votes given to such person for any office shall be taken or counted.

SECTION 8. Section 99-19-37, Mississippi Code of 1972, is brought forward as follows:

99-19-37. (1) Any person who has lost the right of suffrage by reason of conviction of crime and has not been pardoned

therefrom, who thereafter served honorably in any branch of the Armed Forces of the United States during the periods of World War I or World War II as hereinafter defined and shall have received an honorable discharge, or release therefrom, shall by reason of such honorable service, have the full right of suffrage restored, provided, however, this does not apply to any one having an unfinished or suspended sentence.

(2) For the purposes of this section the period of World War I shall be from April 6, 1917 to December 1, 1918, and the period of World War II shall be from December 7, 1941 to December 31, 1946.

(3) In order to have restored, and to exercise, the right of franchise under the provisions of this section a person affected hereby shall have his discharge, or release, from the Armed Forces of the United States recorded in the office of the chancery clerk of the county in which such person desires to exercise the right of franchise and if such discharge, or release, appears to be an honorable discharge, or release, and shows such person to have served honorably during either of the periods stated in subsection (2) of this section such person shall have the full right of suffrage restored as though an act had been passed by the Legislature in accordance with Section 253 of the Constitution of the State of Mississippi restoring the right of suffrage to such person.

SECTION 9. This act shall take effect and be in force from and after July 1, 2021.

ST: Voting rights; restore upon satisfaction of all the sentencing requirements of a conviction.