MISSISSIPPI LEGISLATURE REGULAR SESSION 2022

By: Representative Blackmon

To: Apportionment and Elections

HOUSE BILL NO. 430

AN ACT TO AMEND SECTIONS 23-15-35 AND 23-15-171, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN THE EVENT THAT THE MUNICIPAL EXECUTIVE COMMITTEE AND THE ELECTION INTEGRITY ASSURANCE COMMITTEE FAIL TO CERTIFY THE RESULTS OF A MUNICIPAL PRIMARY ELECTION, THE MUNICIPAL CLERK SHALL CERTIFY THE ELECTION RESULTS TO THE STATE EXECUTIVE COMMITTEE AND THE SECRETARY OF STATE AS OTHERWISE PROVIDED BY LAW; TO AMEND SECTION 23-15-611, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IF THE MUNICIPAL ELECTION COMMISSION AND THE ELECTION INTEGRITY ASSURANCE COMMITTEE FAIL TO CERTIFY THE RESULTS OF THE MUNICIPAL GENERAL ELECTION, THE MUNICIPAL CLERK SHALL CERTIFY THE ELECTION RESULTS TO THE SECRETARY OF STATE AS OTHERWISE PROVIDED BY LAW; TO BRING FORWARD SECTION 23-15-266, 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 23-15-35, Mississippi Code of 1972, is amended as follows:

23-15-35. (1) The clerk of the municipality shall be the registrar of voters of the municipality, and shall take the oath of office prescribed by Section 268 of the Constitution. The municipal registration shall conform to the county registration which shall be a part of the official record of registered voters as contained in the Statewide Elections Management System. The municipal clerk shall comply with all the provisions of law

regarding the registration of voters, including the use of the voter registration applications used by county registrars and prescribed by the Secretary of State under Sections 23-15-39 and 23-15-47.

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

county, the county registrar shall challenge the application. The county election commissioners shall review any challenge or disqualification, after having notified the applicant by certified mail of the challenge or disqualification.

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

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

(5) The municipal clerk of each municipality shall provide the county registrar in which the municipality is located the information necessary to conform the municipal registration to the county registration which shall be a part of the official record of registered voters as contained in the Statewide Elections Management System. If any changes to the information occur as a result of redistricting, annexation or other reason, it shall be the responsibility of the municipal clerk to timely provide the changes to the county registrar.

(6) In the event that the municipal executive committee and the Election Integrity Assurance Committee fail to certify the results of a municipal primary election, the municipal clerk shall

certify the election results to the State Executive Committee and the Secretary of State as otherwise provided by law.

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

23-15-171. (1) Municipal primary elections shall be held on the first Tuesday in April preceding the general municipal election and, in the event a second primary shall be necessary, such second primary shall be held on the fourth Tuesday in April preceding such general municipal election. The candidate receiving a majority of the votes cast in the election shall be the party nominee. If no candidate shall receive a majority vote at the election, the two (2) candidates receiving the highest number of votes shall have their names placed on the ballot for the second primary election. The candidate receiving the most votes cast in the second primary election shall be the party nominee. However, if no candidate shall receive a majority vote at the first primary, and there is a tie in the election of those receiving the next highest vote, those candidates receiving the next highest vote and the candidate receiving the highest vote shall have their names placed on the ballot for the second primary election, and whoever receives the most votes cast in the second primary election shall be the party nominee. *** * *** In the event that the municipal executive committee and the Election Integrity Assurance Committee fail to certify the results of a municipal primary election, the municipal clerk shall certify the election

results to the State Executive Committee and the Secretary of State as otherwise provided by law. Each municipal executive committee shall have as many members as there are elective officers of the municipality, and the members of the municipal executive committee of each political party shall be elected in the primary elections held for the nomination of candidates for municipal offices. The provisions of this section shall govern all municipal primary elections as far as applicable, but the officers to prepare the ballots and the poll managers and other officials of the primary election shall be appointed by the municipal executive committee of the party holding the primary, and the returns of such election shall be made to such municipal executive committee. Vacancies in the executive committee shall be filled by it.

(2) Provided, however, that in municipalities operating under a special or private charter which fixes a time for holding elections, other than the time fixed by Chapter 491, Laws of 1950, the first primary election shall be held on the first Tuesday, two (2) months before the time for holding the general election, as fixed by the charter, and the second primary election, where necessary, shall be held three (3) weeks after the first primary election, unless the charter of any such municipality provides otherwise, in which event the provisions of the special or private charter shall prevail as to the time of holding such primary elections.

(3) All primary elections in municipalities shall be held and conducted in the same manner as is provided by law for state and county primary elections. At the primary election the municipal executive committee shall perform the same duties as are specified by law and performed by members of the county executive committee with regard to state and county primary elections.

SECTION 3. Section 23-15-611, Mississippi Code of 1972, is amended as follows:

23-15-611. (1) In municipal elections, poll managers shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in each voting precinct for each of the candidates or ballot measures and make a return thereof to the municipal election commissioners. On the day following the election, the election commissioners shall canvass the returns so received from all voting precincts and shall, within six (6) days after the election, deliver to each person receiving the highest number of votes a certificate of election. If it shall appear that any two (2) or more of the candidates receiving the highest number of votes shall have received an equal number of votes, the election shall be decided by a toss of a coin or by lot fairly and publicly drawn under the direction of the election commissioners.

(2) (a) Within six (6) days after any election, the municipal election commissioners shall transmit a statement to the Secretary of State certifying the name or names of the person or

persons elected, and such person or persons shall be issued commissions by the Governor. The statement shall also include vote totals for each candidate for each office and vote totals for and against ballot measures, if any, including the vote totals for each candidate and ballot measure in each precinct in the municipality.

(b) The statements required by this subsection (2) shall contain a certification, signed and dated by a majority of the municipal election commissioners, which shall read as follows:

"We, the undersigned municipal election commissioners, do hereby certify that this statement contains the official vote for the election reflected therein."

(c) The statements required by this subsection (2) shall be transmitted to the Secretary of State on such forms and by such methods as may be required by rules and regulations promulgated by the Secretary of State.

(d) If the municipal election commission and the Election Integrity Assurance Committee fail to certify the results of the election, the municipal clerk shall certify the election results to the Secretary of State as otherwise provided by law.

(* * *e) If the statement certifying the names of the persons elected is not transmitted to the Secretary of State as required by this subsection (2), the Secretary of State may issue a show cause order directing the municipal election commissioners to provide to the Secretary of State written response containing

the reasons for their failure to transmit the statement. The municipal election commissioners shall file their response to the show cause order with the Secretary of State within five (5) working days after the issuance of the show cause order. If the statement certifying the names of the persons elected is not transmitted to the Secretary of State within five (5) working days after the issuance of the show cause order, the Secretary of State may petition a court of competent jurisdiction to compel the municipal election commissioners to comply with this subsection (2). If the statement certifying the names of the persons elected is received by the Secretary of State within five (5) days after the issuance of the show cause order, a response to the show cause order shall not be required.

SECTION 4. Section 23-15-266, Mississippi Code of 1972, is brought forward as follows:

23-15-266. A county or municipal executive committee shall be eligible to enter into written agreements with a circuit or municipal clerk or a county or municipal election commission as provided for in Section 23-15-239(2), 23-15-265(2), 23-15-267(4), 23-15-333(4), 23-15-335(2) or 23-15-597(2), only if the political party with which such county or municipal executive committee is affiliated:

(a) Has cast for its candidate for Governor in the last two (2) gubernatorial elections ten percent (10%) of the total vote cast for governor; or

(b) Has cast for its candidate for Governor in three (3) of the last five (5) gubernatorial elections twenty-five percent (25%) of the total vote cast for Governor.

SECTION 5. This act shall take effect and be in force from and after July 1, 2022.

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ST: Municipal clerk; authorize to certify the results of a municipal election under certain circumstances.