



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

August 18, 2025

The Honorable Michael Watson
Mississippi Secretary of State
401 Mississippi Street
Jackson, Mississippi 39205

Re: 2025 House Bill 291

Dear Secretary Watson:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, House Bill 291 of the 2025 Regular Legislative Session (“HB 291”) modified the threshold for obtaining office from a plurality of votes requirement to a majority of votes requirement for several offices. However, while the amendment to Mississippi Code Annotated Section 23-15-193(2) generally applies to all candidates listed in Section 23-15-193(1), it appears that more specific sections also amended in HB 291, or specifically brought forward without amendment, will carve out state legislative offices and state district offices from the new majority of votes requirement to maintain a plurality of votes requirement. Based on this understanding, you ask the following questions.

Questions Presented

1. Is the threshold to obtain office for a legislative district composed of one county or less still a plurality of votes pursuant to Section 23-15-601?
2. Is the threshold to obtain office for a legislative district composed of more than one county still a plurality of votes pursuant to Section 23-15-605?
3. Is the threshold to obtain office for a state district office (i.e. Public Service Commissioner or Transportation Commissioner) still a plurality of votes pursuant to Section 23-15-605?

Brief Response

1. Yes. The threshold to obtain office for a legislative district composed of one county or less is still a plurality of votes pursuant to Section 23-15-601.
2. Yes. The threshold to obtain office for a legislative district composed of more than one county is still a plurality of votes pursuant to Section 23-15-605.
3. Yes. The threshold to obtain office for a state district office (i.e. Public Service Commissioner or Transportation Commissioner) is still a plurality of votes pursuant to Section 23-15-605.

Applicable Law and Discussion

As noted in your request, HB 291 modified the threshold for obtaining office from a plurality of votes (more votes than any other candidate) requirement to a majority of votes (more than half of the total number of votes) requirement for certain offices.¹ See MS AG Op., *Tate* at *1 (Aug. 14, 2003) (defining majority). Following HB 291, Section 23-15-193 now provides:

(1) At the election in 2023, and every four (4) years thereafter, there shall be elected a Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, Attorney General, three (3) public service commissioners, three (3) Mississippi Transportation Commissioners, Commissioner of Insurance, Commissioner of Agriculture and Commerce, Senators and members of the House of Representatives in the Legislature, district attorneys for the several districts, clerks of the circuit and chancery courts of the several counties, as well as sheriffs, coroners, assessors, surveyors and members of the boards of supervisors, justice court judges and constables, and all other officers to be elected by the people at the general state election. All such officers shall hold their offices for a term of four (4) years, and until their successors are elected and qualified. The state officers shall be elected in the manner prescribed in Section 140 of the Constitution.

(2) The candidate that receives a majority of votes cast for the office at the general election shall be elected. If no candidate receives a majority number of votes cast at the election, then the two (2) candidates who receive the highest number of votes cast shall have their names placed on the ballot for the runoff election to be held four (4) weeks later. The candidate who receives a majority of the votes cast in the runoff election shall be elected. However, if no candidate receives a majority vote cast at the election, and there is a tie in the election of those receiving the next highest vote, then those candidates receiving the next highest vote and the candidate receiving the highest number of votes cast shall have their names placed on the ballot for the runoff election to be held four (4) weeks later, and whoever receives the majority of votes cast in the runoff election shall be elected. If it appears that two (2) or more candidates for office have an equal number of votes after the runoff

¹ “This act shall take effect and be in force from and after July 1, 2025.” H.B. 291 (Miss. 2025).

election, the interested candidates shall appear before the Chief Justice of the Mississippi Supreme Court within two (2) days after the canvass and the tie shall be determined by a toss of a coin or by lot fairly and publicly drawn, and a certificate of election shall be given accordingly.

(emphasis added). The amendments to Section 23-15-193 are shown in the emphasized text. Previously, these phrases respectively read “[t]he *state* officers” and “candidates for *state* office.” Miss. Code Ann. § 23-15-193 (2024) (emphasis added).

Given the amendments, you first ask if the threshold to obtain office for a legislative district composed of one county or less is still a plurality of votes pursuant to Section 23-15-601. As also amended by HB 291, Section 23-15-601 provides in relevant part,

When the result of the election shall have been ascertained by the poll managers they . . . shall, on the night of the election, deliver to the election commissioners, at the courthouse, a statement of the whole number of votes given for each person and for what office; and the election commissioners shall canvass the returns, ascertain and declare the result, and, within ten (10) days after the day of the election, *shall deliver a certificate of the election to the person having the greatest number of votes for representative in the Legislature of districts composed of one (1) county or less.*

(emphasis added). Previously, the last sentence ended in “shall deliver a certificate of the election to the person having the greatest number of votes for representative in the Legislature of districts composed of one (1) county or less, *or other county office, board of supervisors, justice court judge and constable.*” Miss. Code Ann. § 23-15-193 (2024) (emphasis added).

The Mississippi Supreme Court has provided that where “statutes are conflicting, we must engage in statutory interpretation to discern the legislative intent.” *King v. Mississippi Mil. Dep’t*, 245 So. 3d 404, 409 (Miss. 2018). Under the rules of statutory interpretation, “[s]tatutes ‘on the same subject, although in apparent conflict, should if possible be construed in harmony with each other to give effect to each.’” *Buckel v. Chaney*, 47 So. 3d 148, 158 (Miss. 2010) (quoting *Tunica Cnty v. Hampton Co. Nat’l Sur.*, 27 So. 3d 1128, 1134 (Miss. 2009)). Further, “all statutes *in pari materia* are taken into consideration, and a legislative intent [is] deduced from a consideration as a whole.” *Id.* “The best evidence of legislative intent is the text of the statute; the Court may also look to the statute’s historical background, purpose, and objectives.” *Thompson v. DeSoto Cnty. Intervention Ct.*, 337 So. 3d 1035, 1039 (Miss. 2022) (quoting *McDaniel v. Cochran*, 158 So. 3d 992, 996 (Miss. 2014)).

Examining the limited historical background of HB 291, we first note the bill’s title: “County and county district officers; require to have runoff election if no candidate receives majority after general election.” The Mississippi Supreme Court has stated that, although not dispositive, “reviewing an enacting bill’s title may be helpful in determining legislative intent when the statute’s language is ambiguous.” *Hinton v. Sportsman’s Guide, Inc.*, 285 So. 3d 142, 152 (Miss. 2019) (internal citation omitted). Further, when HB 291 was first introduced, the proposed amended text of Section 23-15-193(2) provided, “The state officers, county officers and county

district officers that receive a majority of votes cast for the office at the general election shall be elected.” 2025 MS H.B 291 (Jan. 10, 2025) (emphasis added). And correspondingly, the proposed amended text of Section 23-15-601(1) removed its application to “other county office, board of supervisors, justice court judge, and constable,” indicating these candidates would no longer be subject to the plurality of votes requirement set forth therein. *See supra*. It can thus be inferred that the legislature’s intent behind HB 291 is to require county and county district officers specifically—not all general election candidates, such as legislators and state district officers—to utilize majority voting with run-offs when necessary. Accordingly, it is the opinion of this office that the threshold to obtain office for a legislative district composed of one county or less is still a plurality of votes pursuant to Section 23-15-601.

You next ask if the threshold to obtain office for a legislative district composed of more than one county is still a plurality of votes pursuant to Section 23-15-605. HB 291 brought forward Section 23-15-605, which provides in relevant part:

The Secretary of State, immediately after receiving the returns of an election, not longer than thirty (30) days after the election, shall sum up the whole number of votes given for each candidate *other than candidates for state offices, legislative offices composed of one (1) county or less, county offices and county district offices*, according to the statements of the votes certified to him or her and ascertain the person or persons having the largest number of votes for each office, and declare such person or persons to be duly elected.

(emphasis added).² In MS AG Op., *Butler* at *2 (Nov. 2, 2023), this office stated that “state legislators are often distinguished from statewide offices such as Governor, Lieutenant Governor, Secretary of State, Auditor of Public Accounts, State Treasurer, and Attorney General in Mississippi election statutes.” (citing Miss. Code Ann. §§ 23-15-296, 23-15-333, 23-15-367, 23-15-605, and 23-15-923 and noting these statutes “[list] legislative offices separately from statewide or state district offices”). State legislative offices are likewise not “county offices” or “county district offices,” and thus are not included in the exempted offices set forth in Section 23-15-605. Accordingly, it is our opinion that the threshold to obtain office for a legislative district composed of more than one county is still a plurality of votes pursuant to Section 23-15-605.

Finally, you ask if the threshold to obtain office for a state district office (i.e. Public Service Commissioner or Transportation Commissioner) is still a plurality of votes pursuant to Section 23-15-605. In MS AG Op., *Butler* at *1, this office opined, “[t]he term ‘the state officers’ as [previously] used in Section 23-15-193 includes only the statewide elected offices of Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, Auditor of Public Accounts, Commissioner of Agriculture and Commerce, and Commissioner of Insurance as referenced in Section 140 of the Mississippi Constitution.” The term “does not apply to state district officers or legislators.” *Id.* As such, a state district office is not included in the exempted offices set forth in Section 23-15-605. For this reason and the reasons stated above, it is the opinion

² We note that legislative districts composed of one county or less are excluded from Section 23-15-605 not because they are subject to a majority vote but because the election commissioners ascertain and declare the results in these districts whereas the Secretary of State has such duties under Section 23-15-605.

Hon. Michael Watson

August 18, 2025

Page 5

of this office that the threshold to obtain office for a state district office (i.e. Public Service Commissioner or Transportation Commissioner) is still a plurality of votes pursuant to Section 23-15-605.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General

OFFICIAL OPINION