



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

December 4, 2025

The Honorable Cecelia Bounds
Circuit Clerk, Greene County
Post Office Box 310
Leakesville, Mississippi 39451

Re: Absentee Voting in Runoff Elections

Dear Ms. Bounds:

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

Background

You ask about two conflicting interpretations regarding the precise point at which absentee voting may commence for a runoff election in statewide or multi-county district races (e.g. legislative or judicial contests). One interpretation is that absentee voting may begin as soon as local county officials certify their election results. Another view holds that absentee voting cannot begin until all counties involved in the shared races have certified their local results, transmitted the same to the Secretary of State, and a finalized ballot has been created in the Statewide Election Management System (“SEMS”) by the appropriate state election officials. These differing interpretations have resulted in inconsistencies across counties within shared districts, with some issuing absentee ballots earlier than others.¹

Question Presented

Under Mississippi law, may absentee voting in a runoff election begin once an individual county certifies its results and determines the ballot locally, or must absentee voting wait until all counties in a multi-county or statewide district have completed certification, and a finalized ballot is available in SEMS?

¹ We understand from a later conversation with you that in the past, some counties have allowed electors to rank candidates for a given office in order of preference, which is known as ranked-choice voting or instant runoff voting. Notably, this practice was prohibited effective July 1, 2024, except for “electors who are entitled to vote absentee ballot under the federal Uniformed and Overseas Citizens Absentee Voting Act (“UOCAVA”), 52 USC Section 20301 et seq., as amended.” Miss. Code Ann. § 23-15-893. This opinion does not speak to those ballots cast by military and overseas voters voting by a ranked-choice absentee ballot pursuant to UOCAVA and related administrative rules.

Brief Response

Absentee voting in a runoff election cannot begin until all counties in a multi-county or statewide district have completed certification, the appropriate state executive committee or the Secretary of State has tabulated the votes, the two candidates receiving the highest number of votes cast for the entire voting district have been determined, and the ballot has been approved at the state level.

Applicable Law and Discussion

We note that opinions of this office are limited to prospective questions of state law in accordance with Mississippi Code Annotated Section 7-5-25. We do not opine on or interpret rules or regulations promulgated by another state officer. You may wish to contact the Secretary of State for any applicable election rules or regulations adopted in accordance with Sections 23-15-165 or 23-15-603(5). We offer the following statutory interpretation for future guidance.

For elections requiring an officer to be elected by a majority of votes, Mississippi law generally provides that if no candidate receives a majority of votes cast at the election, the two candidates with the highest number of votes shall have their names placed on the ballot for the runoff election to be held four weeks later. *See* Miss. Code Ann. §§ 23-15-191 (Primary Elections), 23-15-305 (requiring a majority of votes cast for party nominees), 23-15-193² (Officers Chosen at General Elections), and 23-15-833 (Special Elections Generally).

Local election commissioners are required to “transmit to the Secretary of State . . . a statement of the whole number of votes given in their county and the whole number of votes given in each precinct in their county, for each candidate for any office at the election.” Miss. Code Ann. § 23-15-603. “The statements certified by the election commissioners and transmitted to the Secretary of State, as required by this section, shall be tabulated by the Secretary of State. Certified county vote totals shall represent the final results of the election.” *Id.*

Pursuant to Section 23-15-211, the State Board of Election Commissioners approves the state ballot “for statewide, Supreme Court, Court of Appeals, congressional district, circuit and chancery court district, and other state district offices.” With respect to primary elections, the appropriate state executive committee supervises the nominations for state, state district, and legislative primaries. Miss. Code Ann. § 23-15-293. To determine the candidates for the primary runoff, Section 23-15-597(1), in pertinent part, provides the following procedure:

The State Executive Committee shall meet one (1) week from the day following the first primary election held for state, state district offices and legislative offices, and shall proceed to canvass the returns and to declare the result, and announce the

² Section 23-15-193 was amended in the 2025 legislative session to require most candidates running in the state general election to secure a majority vote to be elected. Laws 2025, H.B. No. 291, §1; *see also* MS AG Op., *Watson* (Aug. 18, 2025) (opining that pursuant to H.B. 291 only a plurality of votes is required for certain legislative districts and state district offices). To the extent they conflict, H.B. 291 supersedes and renders obsolete MS AG Op., *Butler* (Nov. 2, 2023) in which we opined that the requirement for a runoff election did not apply to state district officers or legislators.

The Honorable Cecelia Bounds

December 4, 2025

Page 3

names of those nominated for the different offices in the first primary and the names of those candidates whose names are to be submitted to the second primary election.

Accordingly, for these multi-county or state level offices, the determination of which candidates' names are on the ballot for the runoff is not made at the individual county level but at the state level and based upon the votes from all of the counties included in the voting district. As a practical matter, the top two candidates in a multi-county or statewide election cannot be definitively determined until the votes from each county included in the voting district have been certified and tabulated by the appropriate state executive committee or the Secretary of State. For these reasons, it is the opinion of this office that absentee voting in a runoff election cannot begin until all counties in a multi-county or statewide district have completed certification, the appropriate state executive committee or Secretary of State has tabulated the votes, two candidates receiving the highest number of votes cast for the entire district have been determined, and the ballot has been approved at the state level.

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/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General