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Miss. Code Ann. § 23-15-857

MISSISSIPPI CODE of 1972

*** Current through the 2014 Regular Session and 1st and 2nd Extraordinary Sessions ***

TITLE 23. ELECTIONS
CHAPTER 15. MISSISSIPPI ELECTION CODE
ARTICLE 25. VACANCIES IN OFFICE

Miss. Code Ann. § 23-15-857 (2014)

§ 23-15-857. Appointments to fill vacancies in city, town, or village offices; elections to fill such offices; procedure where no person or only one person has qualified as candidate

(1) When it shall happen that there is any vacancy in a city, town or village office which is elective, the unexpired term of which shall not exceed six (6) months, the same shall be filled by appointment by the governing authority or remainder of the governing authority of said city, town or village. The municipal clerk shall certify to the Secretary of State the fact of such appointment, and the person or persons so appointed shall be commissioned by the Governor.

(2) When it shall happen that there is any vacancy in an elective office in a city, town or village the unexpired term of which shall exceed six (6) months, the governing authority or remainder of the governing authority of said city, town or village shall make and enter on the minutes an order for an election to be held in such city, town or village to fill the vacancy and fix a date upon which such election shall be held. Such order shall be made and entered upon the minutes at the next regular meeting of the governing authority after such vacancy shall have occurred, or at a special meeting to be held not later than ten (10) days after such vacancy shall have occurred, Saturdays, Sundays and legal holidays excluded, whichever shall occur first. Such election shall be held on a date not less than thirty (30) days nor more than forty-five (45) days after the date upon which the order is adopted.

Notice of such election shall be given by the municipal clerk by notice published in a newspaper published in the municipality. Such notice shall be published once each week for three (3) successive weeks preceding the date of such election. The first notice to be published at least thirty (30) days before the date of such election. Notice shall also be given by posting a copy of such notice at three (3) public places in such municipality not less than twenty-one (21) days prior to the date of such election. One (1) of such notices shall be posted at the city, town or village hall. In the event that there is no newspaper published in the municipality, then such notice shall be published as provided for above in a newspaper which has a general circulation within the municipality and by posting as provided for above. In addition, the governing authority may publish such notice in such newspaper for such additional times as may be deemed necessary by the governing authority.

Each candidate shall qualify by petition filed with the municipal clerk by 5:00 p.m. at least twenty (20) days before the date of the election and such petition shall be signed by not less than the following number of qualified electors:

(a) For an office of a city, town or village having a population of one thousand (1,000) or more, not less than fifty (50) qualified electors.

(b) For an office of a city, town or village having a population of less than one thousand (1,000), not less than fifteen (15) qualified electors.

No qualifying fee shall be required of any candidate, and the election provided for herein shall be held as far as practicable in the same manner as municipal general elections.


The candidate receiving a majority of the votes cast in said election shall be elected. 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 election to be held two (2) weeks thereafter. The candidate receiving a majority of the votes cast in said election shall be elected. However, if no candidate shall receive a majority and there is a tie in the election of those receiving the next highest vote, those receiving the next highest vote and the candidate receiving the highest vote shall have their names placed on the ballot for the election to be held two (2) weeks thereafter, and whoever receives the most votes cast in such election shall be elected.



Should the election to be held two (2) weeks thereafter result in a tie vote, the candidate to prevail shall be decided by lot, fairly and publicly drawn under the supervision by the election commission with the aid of two (2) or more qualified electors of the municipality.

The clerk of the election commission shall then give a certificate of election to the person elected, and shall return to the Secretary of State a copy of the order of holding the election and runoff election showing the results thereof, certified by the clerk of the governing authority. The person elected shall be commissioned by the Governor.

However, if nineteen (19) days prior to the date of the election only one (1) person shall have qualified as a candidate, the governing authority, or remainder of the governing authority, shall dispense with the election and appoint that one (1) candidate in lieu of an election. In the event no person shall have qualified by 5:00 p.m. at least twenty (20) days prior to the date of the election, the governing authority or remainder of the governing authority shall dispense with the election and fill the vacancy by appointment. The clerk of the governing authority shall certify to the Secretary of State the fact of the appointment, and the person so appointed shall be commissioned by the Governor.

HISTORY: SOURCES: Derived from 1972 Code § 21-11-9 [Codes 1892, § 3031; 1906, § 3436; Hemingway's 1917, § 5996; 1930, § 2598; 1942, § 3374-64; Laws, 1950, ch. 491, § 64; Laws, 1971, ch. 494, § 1; repealed by Laws, 1986, ch. 495, § 329]; en, Laws, 1986, ch. 495, § 261; Laws, 2000, ch. 592, § 14; Laws, 2004, ch. 512, § 1; Laws, 2007, ch. 434, § 2, eff June 15, 2007 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the amendment of this section.)

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