



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

February 1, 2021

The Honorable Rob Roberson
Board Attorney, Oktibbeha County Board of Supervisors
212 East Main Street
Starkville, Mississippi 39759

Re: Residency requirement for county and municipal candidates

Dear Representative Roberson:

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

Question Presented

Does Mississippi Code Annotated Section 23-15-300, which requires a two-year residency for candidates for county and municipal offices, require candidates to live in the particular district they are seeking to represent as an alderman or supervisor or just in the county or municipality generally?

Brief Response

Section 23-15-300 is clear that a supervisor must live in the district he or she seeks to represent, and the specific language “or other territory that he or she seeks to represent in such office” is broad enough to include municipal wards. Therefore, candidates for a municipal ward office, in a municipality with a population of 1,000 or more, according to the latest federal decennial census, must have been a resident of the ward they seek to serve for a minimum of two years prior to the date of the election.

Applicable Law

Section 23-15-300 provides:

(1) Any candidate for any municipal, county or county district office shall be a resident of the municipality, county, county district or other territory that he or she seeks to represent in such office for two (2) years immediately preceding the day of election. The provisions of this section shall not apply to any municipality with less than one thousand (1,000) residents according to the latest federal decennial census.

(2) A candidate shall prove in his or her qualifying information that he or she meets the applicable residency requirement or provide absolute proof, subject to no contingencies, that he or she will meet the residency requirement on or before the date of the election at which the candidate could be elected to office. The appropriate election official or executive committee, whichever is applicable, with whom a candidate files qualifying information shall review and determine whether the candidate meets the applicable residency requirement according to the procedures in Section 23-15-299. The appropriate election commission shall review and determine whether a candidate required to file qualifying information with it meets the applicable residency requirement according to the procedures in Section 23-15-359.

(3) If the qualifications for an elected office include a specific residency requirement, the residency requirement in this section shall not apply.

(4) This section shall apply to elections held from and after January 1, 2020.

Miss. Code Ann. § 23-15-300 (emphasis added). Based on a plain reading of this statute, a candidate for a county district office, which includes the office of supervisor, must meet the two-year residency requirement in the supervisor district he or she seeks to serve.

In addition, this office is of the opinion that the language “or other territory that he or she seeks to represent in such office” includes municipal wards.¹ Therefore, candidates for a municipal ward office, in a municipality with a population of 1,000 or more, according to the latest federal decennial census, must have been a resident of the ward they seek to serve for a minimum of two years prior to the date of the election.

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/ Phil Carter

Phil Carter
Special Assistant Attorney General

¹ Whether a statute is ambiguous, or not, the ultimate goal of its interpretation is to discern and give effect to the legislative intent. *See Nissan N. Am., Inc. v. Tillman*, 273 So. 3d 710, 715 (Miss. 2019) (quoting *Wayne Cty. Sch. Dist. v. Morgan*, 224 So. 3d 539, 542 (Miss. 2017)). Finding that a municipal ward falls within the meaning of the phrase “other territory,” under Section 23-15-300 is consistent with the express legislative intent of Senate Bill 2030 (Reg. Sess. 2019), the legislation that was codified as Section 23-15-300. S.B. 2030 (Reg. Sess. 2019), Legislative History Project, Miss. Coll. Sch. of Law, https://law-db.mc.edu/legislature/bill_details.php?id=7985&session=2019.