

By: Representative Gibbs

To: Apportionment and
Elections

HOUSE BILL NO. 1081

1 AN ACT TO AMEND SECTIONS 23-15-631, 23-15-715 AND 23-15-721,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE ALL PERSONS WHO ARE
3 ELIGIBLE TO VOTE BY ABSENTEE BALLOT TO DO SO BY MAIL; AND FOR
4 RELATED PURPOSES.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

6 SECTION 1. Section 23-15-631, Mississippi Code of 1972, is
7 amended as follows:

8 23-15-631. (1) The registrar shall enclose with each ballot
9 provided to an absent elector separate printed instructions
10 furnished by him containing the following:

11 (a) All absentee voters * * * who mark their ballots in
12 the office of the registrar of their county of the residence shall
13 use the registrar of that county as the witness. * * * Neither
14 the registrar nor his deputy shall be required to go out of the
15 registrar's office to serve as an attesting witness.

16 (b) Upon receipt of the enclosed ballot, you will not
17 mark same except in view or sight of the attesting witness. In
18 the sight or view of the attesting witness, mark the ballot
19 according to instructions.

20 (c) After marking the ballot, fill out and sign the
21 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
22 signature shall be across the flap of the envelope so as to insure
23 the integrity of the ballot. All absent electors shall have the
24 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
25 the flap on back of the envelope. Place necessary postage on the
26 envelope and deposit it in the post office or some government
27 receptacle provided for deposit of mail so that the absent

28 elector's ballot, excepting presidential absentee ballots, will
29 reach the registrar in which your precinct is located not later
30 than 5:00 p.m. on the day preceding the date of the election, or
31 by personally delivering such ballot to the registrar's office not
32 later than 12:00 noon on the Saturday immediately preceding
33 elections held on Tuesday, the Thursday immediately preceding
34 elections held on Saturday, and the second day immediately
35 preceding elections held on other days.

36 Any notary public, United States postmaster, assistant United
37 States postmaster, United States postal supervisor, clerk in
38 charge of a contract postal station, or any officer having
39 authority to administer an oath or take an acknowledgment may be
40 an attesting witness; provided, however, that in the case of an
41 absent elector who is temporarily or permanently physically
42 disabled, the attesting witness may be any person eighteen (18)
43 years of age or older and such person is not required to have the
44 authority to administer an oath. If a postmaster, assistant
45 postmaster, postal supervisor, or clerk in charge of a contract
46 postal station acts as an attesting witness, his signature on the
47 elector's certificate must be authenticated by the cancellation
48 stamp of their respective post offices. If one or the other
49 officers herein named acts as attesting witness, his signature on
50 the elector's certificate, together with his title and address,
51 but no seal, shall be required. Any affidavits made by an absent
52 elector who is in the Armed Forces may be executed before a
53 commissioned officer, warrant officer, or noncommissioned officer
54 not lower in grade than sergeant rating or any person authorized
55 to administer oaths.

56 (d) When the application accompanies the ballot it
57 shall not be returned in the same envelope as the ballot but shall
58 be returned in a separate preaddressed envelope provided by the
59 registrar.

60 (e) A person who is a candidate for public office may
61 not be an attesting witness for any absentee ballot upon which the
62 person's name appears.

63 (f) Any voter casting an absentee ballot who declares
64 that he requires assistance to vote by reason of blindness,
65 temporary or permanent physical disability or inability to read or
66 write, shall be entitled to receive assistance in the marking of
67 his absentee ballot and in completing the affidavit on the
68 absentee ballot envelope. The voter may be given assistance by
69 anyone of the voter's choice other than a candidate whose name
70 appears on the absentee ballot being marked, or the voter's
71 employer, or agent of that employer. In order to ensure the
72 integrity of the ballot, any person who provides assistance to an
73 absentee voter shall be required to sign and complete the
74 "Certificate of Person Providing Voter Assistance" on the absentee
75 ballot envelope.

76 (2) The foregoing instructions required to be provided by
77 the registrar to the elector shall also constitute the substantive
78 law pertaining to the handling of absentee ballots by the elector
79 and registrar.

80 SECTION 2. Section 23-15-715, Mississippi Code of 1972, is
81 amended as follows:

82 23-15-715. Any elector desiring an absentee ballot as
83 provided in this subarticle may secure same if:

84 (a) Not more than forty-five (45) days nor later than
85 12:00 noon on the Saturday immediately preceding elections held on
86 Tuesday, the Thursday immediately preceding elections held on
87 Saturday, or the second day immediately preceding the date of
88 elections held on other days, he may appear in person before the
89 registrar of the county in which he resides, or for municipal
90 elections he shall appear in person before the city clerk of the
91 municipality in which he resides and, when the elector so appears,
92 he shall execute and file an application as provided in Section

93 23-15-627 and vote by absentee ballot, except that if the ballot
94 has not been printed by forty-five (45) days preceding the
95 election, the elector may appear and file an application anytime
96 before the election. Then the absentee ballot shall be mailed by
97 the circuit clerk to the elector as soon as the ballot has been
98 printed.

99 (b) Within forty-five (45) days next prior to any
100 election, any elector who does not desire to vote in the office of
101 the registrar as provided for in paragraph (a) of this
102 section * * * may make application for an absentee ballot by
103 mailing the appropriate application to the registrar. * * * Such
104 person * * * may obtain absentee ballots by mail under the
105 provisions of this subsection and as provided by Section
106 23-15-713. Applications * * * shall be sworn to and subscribed
107 before an official who is authorized to administer oaths or other
108 official authorized to witness absentee balloting as provided in
109 this chapter, said application to be accompanied by such verifying
110 affidavits as required by this chapter. The applications of
111 persons having a temporary or permanent physical disability shall
112 not be required to be accompanied by an affidavit but shall be
113 witnessed and signed by a person eighteen (18) years of age or
114 older. The registrar shall send to such absent voter a proper
115 absentee voter ballot within twenty-four (24) hours, or as soon
116 thereafter as the ballots are available, containing the names of
117 all candidates who qualify or the proposition to be voted on in
118 such election, and with such ballot there shall be sent an
119 official envelope containing upon it in printed form the recitals
120 and data hereinafter required.

121 SECTION 3. Section 23-15-721, Mississippi Code of 1972, is
122 amended as follows:

123 23-15-721. (1) Electors * * * obtaining an absentee ballot
124 under the provisions of paragraph (b) of Section 23-15-715 shall
125 appear before any official authorized to administer oaths or other

126 official authorized to witness absentee balloting as provided in
127 this chapter. The elector shall exhibit to such official his
128 absentee ballot unmarked and thereupon proceed in secret to fill
129 in his ballot. After the elector has properly marked the ballot
130 and properly folded it, he shall deposit it in the envelope
131 furnished him. After he has sealed the envelope he shall deliver
132 it to the official before whom he is appearing and shall subscribe
133 and swear to the elector's certificate provided for in Section
134 23-15-635, which affidavit shall be printed on the back of the
135 envelope as provided for in Section 23-15-635.

136 (2) Electors who are temporarily or permanently physically
137 disabled shall sign the elector's certificate and the certificate
138 of attesting witness shall be signed by any person eighteen (18)
139 years of age or older.

140 (3) After the completion of the requirements of this
141 section, the elector shall mail the envelope containing the ballot
142 to the registrar in the county wherein said elector is qualified
143 to vote. Said ballots must be received by the registrar prior to
144 5:00 p.m. on the day preceding the election to be counted.

145 SECTION 4. The Attorney General of the State of Mississippi
146 shall submit this act, immediately upon approval by the Governor,
147 or upon approval by the Legislature subsequent to a veto, to the
148 Attorney General of the United States or to the United States
149 District Court for the District of Columbia in accordance with the
150 provisions of the Voting Rights Act of 1965, as amended and
151 extended.

152 SECTION 5. This act shall take effect and be in force from
153 and after the date it is effectuated under Section 5 of the Voting
154 Rights Act of 1965, as amended and extended.