

By: Representative Reynolds

To: Apportionment and  
Elections

HOUSE BILL NO. 1123

1 AN ACT TO AMEND SECTIONS 23-15-461, 23-15-465, 23-15-469,  
2 23-15-471, 23-15-477, 23-15-479 AND 23-15-481, MISSISSIPPI CODE OF  
3 1972, TO DISCONTINUE THE USE OF BALLOT CARDS OR PUNCH CARDS FOR  
4 VOTING BY OCTOBER 1, 2004; AND FOR RELATED PURPOSES.

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

6 SECTION 1. Section 23-15-461, Mississippi Code of 1972, is  
7 amended as follows:

8 23-15-461. As used in this chapter, unless otherwise  
9 specified:

10 "Automatic tabulating equipment" includes apparatus necessary  
11 to automatically examine and count votes as designated on  
12 ballots \* \* \* and tabulate the results.

13 \* \* \*

14 "Ballot labels" means the cards, papers, booklet, pages or  
15 other material, containing the names of offices and candidates and  
16 the statements of measures to be voted on, which are placed on the  
17 voting device.

18 "Ballot" means a paper ballot on which votes are recorded, or  
19 alternatively may mean \* \* \* ballot labels.

20 "Counting center" means one or more locations used for the  
21 automatic counting of ballots.

22 "Electronic voting system" means a system in which votes are  
23 recorded on a paper ballot \* \* \* by means of marking \* \* \*, and  
24 such votes are subsequently counted and tabulated by automatic  
25 tabulating equipment at one or more counting centers.

26 "Voting device" means an apparatus which the voter uses to  
27 record his votes by marking \* \* \* a paper ballot or tabulating

28 card, which votes are subsequently counted by electronic  
29 tabulating equipment.

30 SECTION 2. Section 23-15-465, Mississippi Code of 1972, is  
31 amended as follows:

32 23-15-465. No electronic voting system, consisting of a  
33 marking or voting device in combination with automatic tabulating  
34 equipment, shall be acquired or used in accordance with Sections  
35 23-15-461 through 23-15-485 unless it shall:

36 (a) Provide for voting in secrecy when used with voting  
37 booths;

38 (b) Permit each voter to vote at any election for all  
39 persons and offices for whom and for which he is lawfully entitled  
40 to vote; to vote for as many persons for an office as he is  
41 entitled to vote for; to vote for or against any question upon  
42 which he is entitled to vote; and the automatic tabulating  
43 equipment shall reject choices recorded on his \* \* \* paper ballot  
44 if the number of choices exceeds the number which he is entitled  
45 to vote for the office or on the measure;

46 (c) Permit each voter, at presidential elections, by  
47 one (1) mark \* \* \* to vote for the candidates of that party for  
48 President, Vice President, and their presidential electors, or to  
49 vote individually for the electors of his choice when permitted by  
50 law;

51 (d) Permit each voter, at other than primary elections,  
52 to vote for the nominees of one or more parties and for  
53 independent nominees;

54 (e) Permit each voter to vote for candidates only in  
55 the primary in which he is qualified to vote;

56 (f) Permit each voter to vote for persons whose names  
57 are not on the printed ballot or ballot labels;

58 (g) Prevent the voter from voting for the same person  
59 more than once for the same office;

60 (h) Be suitably designed for the purpose used, of  
61 durable construction, and may be used safely, efficiently and  
62 accurately in the conduct of elections and counting ballots;

63 (i) Be provided with means for sealing the voting or  
64 marking device against any further voting after the close of the  
65 polls and the last voter has voted;

66 (j) When properly operated, record correctly and count  
67 accurately every vote cast;

68 (k) Be provided with a mechanical model for instructing  
69 voters, and be so constructed that a voter may readily learn the  
70 method of operating it;

71 (l) Be safely transportable, and include a light to  
72 enable voters to read the ballot labels and instructions.

73 SECTION 3. Section 23-15-469, Mississippi Code of 1972, is  
74 amended as follows:

75 23-15-469. Ballots and ballot labels shall, as far as  
76 practicable, be in the same order of arrangement as provided for  
77 paper ballots, except that such information may be printed in  
78 vertical or horizontal rows, or in a number of separate pages  
79 which are placed on the voting device. Ballot labels shall be  
80 printed in plain clear type in black ink and upon clear white  
81 materials of such size and arrangement as to fit the construction  
82 of the voting device. Arrows may be printed on the ballot labels  
83 to indicate the place to mark the ballot, which may be to the  
84 right or left of the names of candidates and propositions. The  
85 titles of offices may be arranged in vertical columns or on a  
86 series of separate pages, and shall be printed above or at the  
87 side of the names of candidates so as to indicate clearly the  
88 candidates for each office and the number to be elected. In case  
89 there are more candidates for an office than can be printed in one  
90 (1) column or on one (1) ballot page, the ballot or ballot label  
91 shall be clearly marked that the list of candidates is continued  
92 on the following column or page, and, so far as possible, the same

93 number of names shall be printed on each column or page. The  
94 names of candidates for each office shall be printed in vertical  
95 columns or on separate pages, grouped by the offices which they  
96 seek. In partisan elections, the party designation of each  
97 candidate, which may be abbreviated, shall be printed following  
98 his name.

99 Two (2) sample ballots, which shall be facsimile copies of  
100 the official ballot or ballot labels, and instructions to voters,  
101 shall be provided for each precinct and shall be posted in each  
102 polling place on election day.

103 Sample ballots may be printed on a single page or on a number  
104 of pages stapled together. A separate write-in ballot, which may  
105 be in the form of a paper ballot, card or envelope in which the  
106 voter places his ballot card after voting, shall be provided if  
107 required to permit voters to write in the title of the office and  
108 the name of a person not on the printed ballot for whom he wishes  
109 to vote.

110 SECTION 4. Section 23-15-471, Mississippi Code of 1972, is  
111 amended as follows:

112 23-15-471. The official ballots, ballot labels, \* \* \* sample  
113 ballots and other necessary forms and supplies of the form and  
114 description required by this chapter or required for the conduct  
115 of elections with an electronic voting system shall be prepared  
116 and furnished by the same officials, in the same manner and time,  
117 and delivered to the same officials as provided by law with  
118 respect to paper ballots. \* \* \*

119 SECTION 5. Section 23-15-477, Mississippi Code of 1972, is  
120 amended as follows:

121 23-15-477. Not less than thirty (30) minutes before the  
122 opening of the polls, the voting precinct election officers shall  
123 arrive at the polling place and set up the voting booths so that  
124 they will be in clear view of the election officers; open the  
125 voting devices, place them in the voting booths, and examine them

126 to see that they have the correct ballot labels by comparing them  
127 with the sample ballots, and are in proper working order; and open  
128 and check the ballots, \* \* \* supplies, records and forms, and post  
129 the sample ballots and instructions to voters. Each voter shall  
130 be instructed how to operate the voting device before he enters  
131 the voting booth. If he needs additional instruction after  
132 entering the voting booth, two (2) election officers may, if  
133 necessary, enter the booth and give him such additional  
134 instructions. Any voter who spoils his ballot \* \* \* may return it  
135 and secure another. The word "SPOILED" shall be written across  
136 the face of the ballot and it shall be placed in the envelope for  
137 spoiled ballots. \* \* \* As soon as the polls have been closed and  
138 the last qualified voter has voted, the voting devices shall be  
139 sealed against further voting. All unused ballots \* \* \* shall be  
140 placed in a container which shall be sealed and returned to the  
141 officials in charge of the election.

142 SECTION 6. Section 23-15-479, Mississippi Code of 1972, is  
143 amended as follows:

144 23-15-479. The managers shall prepare a report in duplicate  
145 of the number of voters who have voted, as indicated by the poll  
146 list, and shall place this report in the ballot box, which  
147 thereupon shall be sealed with a paper seal signed by the managers  
148 so that no additional ballots may be deposited or removed from the  
149 ballot box. Two (2) managers shall forthwith deliver the ballot  
150 box to the counting center or other designated place and receive a  
151 signed, numbered receipt therefor. The poll list, register of  
152 voters, unused ballots \* \* \*, spoiled ballots, and other records  
153 and supplies, shall be returned as directed by the officials in  
154 charge of the election.

155 SECTION 7. Section 23-15-481, Mississippi Code of 1972, is  
156 amended as follows:

157 23-15-481. Prior to the start of the count of the ballots,  
158 the commissioners of elections, in conjunction with the circuit

159 clerks or officials in charge of the election shall have the  
160 automatic tabulating equipment tested to ascertain that it will  
161 accurately count the votes cast for all offices and on all  
162 measures. Public notice of the time and place of the test shall  
163 be given at least forty-eight (48) hours prior thereto by  
164 publication once in one or more daily or weekly newspapers  
165 published in the county, city or jurisdiction where such equipment  
166 is used, if a newspaper is published therein, otherwise in a  
167 newspaper of general circulation therein. The test shall be  
168 witnessed by representatives of the political parties, candidates,  
169 the press and the public. It shall be conducted by processing a  
170 preaudited group of ballots so \* \* \* marked as to record a  
171 predetermined number of valid votes for each candidate and on each  
172 measure, and shall include for each office one or more ballots  
173 which have votes in excess of the number allowed by law in order  
174 to test the ability of the automatic tabulating equipment to  
175 reject such votes. If any error is detected, the cause therefor  
176 shall be ascertained and corrected and an errorless count shall be  
177 made and certified to by the officials in charge before the count  
178 is started. The tabulating equipment shall pass the same test at  
179 the conclusion of the count before the election returns are  
180 approved as official. On completion of the count, the programs,  
181 test materials and ballots shall be sealed and retained as  
182 provided for paper ballots.

183 SECTION 8. The Attorney General of the State of Mississippi  
184 shall submit this act, immediately upon approval by the Governor,  
185 or upon approval by the Legislature subsequent to a veto, to the  
186 Attorney General of the United States or to the United States  
187 District Court for the District of Columbia in accordance with the  
188 provisions of the Voting Rights Act of 1965, as amended and  
189 extended.

190 SECTION 9. This act shall take effect and be in force from  
191 and after October 1, 2004, provided that it is effectuated under

192 Section 5 of the Voting Rights Act of 1965, as amended and  
193 extended.