HOUSE BILL NO. 1123

1972, TO DISCONTINUE THE USE OF BALLOT CARDS OR PUNCH CARDS FOR
VOTING BY OCTOBER 1, 2004; AND FOR RELATED PURPOSES.

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

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

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

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

***

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

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

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

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

"Voting device" means an apparatus which the voter uses to
record his votes by marking *** a paper ballot or tabulating
card, which votes are subsequently counted by electronic tabulating equipment.

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

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

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

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

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

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

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

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

(g) Prevent the voter from voting for the same person more than once for the same office.
(h) Be suitably designed for the purpose used, of durable construction, and may be used safely, efficiently and accurately in the conduct of elections and counting ballots;

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

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

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

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

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

23-15-469. Ballots and ballot labels shall, as far as practicable, be in the same order of arrangement as provided for paper ballots, except that such information may be printed in vertical or horizontal rows, or in a number of separate pages which are placed on the voting device. Ballot labels shall be printed in plain clear type in black ink and upon clear white materials of such size and arrangement as to fit the construction of the voting device. Arrows may be printed on the ballot labels to indicate the place to mark the ballot, which may be to the right or left of the names of candidates and propositions. The titles of offices may be arranged in vertical columns or on a series of separate pages, and shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected. In case there are more candidates for an office than can be printed in one (1) column or on one (1) ballot page, the ballot or ballot label shall be clearly marked that the list of candidates is continued on the following column or page, and, so far as possible, the same...
number of names shall be printed on each column or page. The names of candidates for each office shall be printed in vertical columns or on separate pages, grouped by the offices which they seek. In partisan elections, the party designation of each candidate, which may be abbreviated, shall be printed following his name.

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

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

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

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

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

23-15-477. Not less than thirty (30) minutes before the opening of the polls, the voting precinct election officers shall arrive at the polling place and set up the voting booths so that they will be in clear view of the election officers; open the voting devices, place them in the voting booths, and examine them.
to see that they have the correct ballot labels by comparing them
with the sample ballots, and are in proper working order; and open
and check the ballots, * * * supplies, records and forms, and post
the sample ballots and instructions to voters. Each voter shall
be instructed how to operate the voting device before he enters
the voting booth. If he needs additional instruction after
entering the voting booth, two (2) election officers may, if
necessary, enter the booth and give him such additional
instructions. Any voter who spoils his ballot * * * may return it
and secure another. The word "SPOILED" shall be written across
the face of the ballot and it shall be placed in the envelope for
spoiled ballots. * * * As soon as the polls have been closed and
the last qualified voter has voted, the voting devices shall be
sealed against further voting. All unused ballots * * * shall be
placed in a container which shall be sealed and returned to the
officials in charge of the election.

amended as follows:

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

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

23-15-481. Prior to the start of the count of the ballots,
the commissioners of elections, in conjunction with the circuit
clerks or officials in charge of the election shall have the
automatic tabulating equipment tested to ascertain that it will
accurately count the votes cast for all offices and on all
measures. Public notice of the time and place of the test shall
be given at least forty-eight (48) hours prior thereto by
publication once in one or more daily or weekly newspapers
published in the county, city or jurisdiction where such equipment
is used, if a newspaper is published therein, otherwise in a
newspaper of general circulation therein. The test shall be
witnessed by representatives of the political parties, candidates,
the press and the public. It shall be conducted by processing a
preaudited group of ballots so marked as to record a
predetermined number of valid votes for each candidate and on each
measure, and shall include for each office one or more ballots
which have votes in excess of the number allowed by law in order
to test the ability of the automatic tabulating equipment to
reject such votes. If any error is detected, the cause therefor
shall be ascertained and corrected and an errorless count shall be
made and certified to by the officials in charge before the count
is started. The tabulating equipment shall pass the same test at
the conclusion of the count before the election returns are
approved as official. On completion of the count, the programs,
test materials and ballots shall be sealed and retained as
provided for paper ballots.

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

SECTION 9. This act shall take effect and be in force from
and after October 1, 2004, provided that it is effectuated under
Section 5 of the Voting Rights Act of 1965, as amended and extended.