

By: Representatives Gunn, Staples,
Fillingane, Denny, Mayhall, Stevens,
Rotenberry, Ellington, Carlton, Lott, Fleming

To: Apportionment and
Elections

HOUSE BILL NO. 928

1 AN ACT TO AMEND SECTIONS 23-15-581, 23-15-597, 23-15-601 AND
2 23-15-603, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT WHEN IT IS
3 SHOWN THAT THE NUMBER OF LEGAL VOTES REJECTED AND/OR THE NUMBER OF
4 ILLEGAL VOTES COUNTED IN AN ELECTION, WHEN ADDED TOGETHER, EXCEED
5 THE MARGIN OF VICTORY IN THE ELECTION, THEN A REVOTE SHALL BE HELD
6 AT THE REQUEST OF ANY CANDIDATE IN ALL PRECINCTS WHERE SUCH ERRORS
7 OCCURRED; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** When it is shown that the number of legal votes
10 rejected and/or the number of illegal votes counted in an
11 election, when added together, exceed the margin of victory in the
12 election, then a revote shall be held at the request of any
13 candidate in all precincts where such errors occurred.

14 **SECTION 2.** Section 23-15-581, Mississippi Code of 1972, is
15 amended as follows:

16 23-15-581. (1) When the polls shall be closed, the managers
17 shall then publicly open the box and immediately proceed to count
18 the ballots, at the same time reading aloud the names of the
19 persons voted for, which shall be taken down and called by the
20 clerks in the presence of the managers. During the holding of the
21 election and the counting of the ballots, the whole proceedings
22 shall be in fair and full view of the voting public without
23 unnecessary interference, delay or encroachment upon the good
24 order of the duties and proceedings of the managers and other
25 officers of the election. Candidates or their duly authorized
26 representatives shall have the right to reasonably view and
27 inspect the ballots as and when they are taken from the box and
28 counted, and to reasonably view and inspect the tally sheets,
29 papers and other documents used in said election during the

30 proceedings, but not including, of course, the secret ballots
31 being voted and placed and held in the box. There shall be no
32 unnecessary delay and no adjournment except as provided by law.

33 (2) When it is shown that the number of legal votes rejected
34 and/or the number of illegal votes counted in an election, when
35 added together, exceed the margin of victory in the election, then
36 a revote shall be held at the request of any candidate in all
37 precincts where such errors occurred.

38 **SECTION 3.** Section 23-15-597, Mississippi Code of 1972, is
39 amended as follows:

40 23-15-597. (1) (a) The county executive committee shall
41 meet on the first or second day after each primary election, shall
42 receive and canvass the returns which must be made within the time
43 fixed by law for returns of general elections and declare the
44 result, and announce the name of the nominees for county and
45 county district offices and legislative offices for districts
46 containing one (1) county or less, and the names of those
47 candidates to be submitted to the second primary. The vote for
48 state and state district offices and legislative offices for
49 districts containing more than one (1) county or parts of more
50 than one (1) county shall be tabulated by precincts and certified
51 to and returned to the State Executive Committee, such returns to
52 be mailed by registered letter or any safe mode of transmission
53 within thirty-six (36) hours after the returns are canvassed and
54 the result ascertained. The State Executive Committee shall meet
55 a week from the day following the first primary election held for
56 state and state district offices and legislative offices for
57 districts containing more than one (1) county or parts of more
58 than one (1) county, and shall proceed to canvass the returns and
59 to declare the result, and announce the names of those nominated
60 for the different offices in the first primary and the names of
61 those candidates whose names are to be submitted to the second
62 primary election. The State Executive Committee shall also meet a

63 week from the day on which the second primary election was held
64 and receive and canvass the returns for state and district
65 offices, if any, and legislative offices for districts containing
66 more than one (1) county or parts of more than one (1) county, if
67 any, voted on in such second primary. An exact and full duplicate
68 of all tabulations by precincts as certified under this section
69 shall be filed with the circuit clerk of the county who shall
70 safely preserve the same in his office.

71 (b) When it is shown that the number of legal votes
72 rejected and/or the number of illegal votes counted in an
73 election, when added together, exceed the margin of victory in the
74 election, then a revote shall be held at the request of any
75 candidate in all precincts where such errors occurred.

76 (2) (a) If it is eligible under Section 23-15-266, the
77 county executive committee may enter into a written agreement with
78 the circuit clerk or the county election commission authorizing
79 the circuit clerk or the county election commission to perform any
80 of the duties required of the county executive committee pursuant
81 to this section. Any agreement entered into pursuant to this
82 subsection shall be signed by the chairman of the county executive
83 committee and the circuit clerk or the chairman of the county
84 election commission, as appropriate. The county executive
85 committee shall notify the State Executive Committee and the
86 Secretary of State of the existence of such agreement.

87 (b) If it is eligible under Section 23-15-266, the
88 municipal executive committee may enter into a written agreement
89 with the municipal clerk or the municipal election commission
90 authorizing the municipal clerk or the municipal election
91 commission to perform any of the duties required of the municipal
92 executive committee pursuant to this section. Any agreement
93 entered into pursuant to this subsection shall be signed by the
94 chairman of the municipal executive committee and the municipal
95 clerk or the chairman of the municipal election commission, as

96 appropriate. The municipal executive committee shall notify the
97 State Executive Committee and the Secretary of State of the
98 existence of such agreement.

99 **SECTION 4.** Section 23-15-601, Mississippi Code of 1972, is
100 amended as follows:

101 23-15-601. (1) When the result of the election shall have
102 been ascertained by the managers they, or one (1) of their number,
103 or some fit person designated by them, shall, by noon of the
104 second day after the election, deliver to the commissioners of
105 election, at the courthouse, a statement of the whole number of
106 votes given for each person and for what office; and the
107 commissioners of election shall canvass the returns, ascertain and
108 declare the result, and, within ten (10) days after the day of the
109 election, shall deliver a certificate of his election to the
110 person having the greatest number of votes for representative in
111 the Legislature of districts composed of one (1) county or less,
112 or other county office, board of supervisors, justice court judge
113 and constable. If it appears that two (2) or more candidates for
114 Representative of the county, or part of the county, or for any
115 county office, board of supervisors, justice court judge or
116 constable standing highest on the list, and not elected, have an
117 equal number of votes, the election shall be decided by lot fairly
118 and publicly drawn by the commissioners, with the aid of two (2)
119 or more respectable electors of the county, and a certificate of
120 election shall be given accordingly. The foregoing provisions
121 shall apply to Senators, if the county be a senatorial district.

122 (2) The commissioners of election shall transmit to the
123 Secretary of State, on such forms and by such methods as may be
124 required by rules and regulations promulgated by the Secretary of
125 State, a statement of the total number of votes cast in the county
126 for each candidate for each office and the total number of votes
127 cast for such candidates in each precinct in the district in which
128 the candidate ran.

129 (3) When it is shown that the number of legal votes rejected
130 and/or the number of illegal votes counted in an election, when
131 added together, exceed the margin of victory in the election, then
132 a revote shall be held at the request of any candidate in all
133 precincts where such errors occurred.

134 **SECTION 5.** Section 23-15-603, Mississippi Code of 1972, is
135 amended as follows:

136 23-15-603. (1) (a) The commissioners of election shall,
137 within ten (10) days after the general election, transmit to the
138 Secretary of State, to be filed in his office, a statement of the
139 whole number of votes given in their county and the whole number
140 of votes given in each precinct in their county, for each
141 candidate for any office at the election; but the returns of every
142 election for Governor, Lieutenant Governor, Secretary of State,
143 Attorney General, Auditor of Public Accounts, State Treasurer,
144 Commissioner of Insurance and other state officers, shall each be
145 made out separately, sealed up together and transmitted to the
146 seat of government, directed to the Secretary of State, and
147 endorsed the "VOTE FOR STATE OFFICERS," to be delivered by the
148 Secretary of State to the Speaker of the House of Representatives
149 at the next ensuing session of the Legislature. In addition to
150 the other information required pursuant to this subsection, the
151 returns for state officers shall contain a statement of the whole
152 number of votes given in each House of Representative district or
153 portion thereof for each candidate for state office at the
154 election.

155 (b) When it is shown that the number of legal votes
156 rejected and/or the number of illegal votes counted in an
157 election, when added together, exceed the margin of victory in the
158 election, then a revote shall be held at the request of any
159 candidate in all precincts where such errors occurred.

160 (2) Constitutional amendments shall be voted for at the time
161 fixed by the concurrent resolution. The election, whether held

162 separately or with other elections, shall be conducted, in all
163 respects, as required for elections generally. The commissioners
164 of election shall, within ten (10) days after the election,
165 transmit to the Secretary of State a statement of the whole number
166 of votes given in their county and the whole number of votes given
167 in each precinct in their county for or against constitutional
168 amendments.

169 (3) The statements certified by the election commissioners
170 and transmitted to the Secretary of State, as required by this
171 section, shall be tabulated by the Secretary of State and
172 submitted to each branch of the Legislature, at the session next
173 ensuing. Certified county vote totals shall represent the final
174 results of the election.

175 (4) The statements required by this section shall contain a
176 certification, signed and dated by a majority of the commissioners
177 of election, which shall read as follows:

178 "We, the undersigned commissioners of election, do
179 hereby certify that this statement of the whole number of
180 votes contains the official vote for the election reflected
181 therein."

182 (5) The statements required by this section shall be
183 transmitted to the Secretary of State on such forms and by such
184 methods as may be required by rules and regulations promulgated by
185 the Secretary of State.

186 **SECTION 6.** The Attorney General of the State of Mississippi
187 shall submit this act, immediately upon approval by the Governor,
188 or upon approval by the Legislature subsequent to a veto, to the
189 Attorney General of the United States or to the United States
190 District Court for the District of Columbia in accordance with the
191 provisions of the Voting Rights Act of 1965, as amended and
192 extended.

193 **SECTION 7.** This act shall take effect and be in force from
194 and after the date it is effectuated under Section 5 of the Voting
195 Rights Act of 1965, as amended and extended.