

By: Representative Banks

To: Apportionment and
Elections

HOUSE BILL NO. 1295

1 AN ACT TO AMEND SECTIONS 23-15-415 AND 23-15-473, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT A CANDIDATE MAY INSPECT A VOTING
3 MACHINE OR VOTING DEVICE AT LEAST THREE DAYS BEFORE AN ELECTION;
4 TO BRING FORWARD SECTION 23-15-429, MISSISSIPPI CODE OF 1972, FOR
5 PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 23-15-415, Mississippi Code of 1972, is
8 amended as follows:

9 23-15-415. It shall be the duty of the authorities in charge
10 of any election where a voting machine is to be used, to have the
11 machine at the proper polling place or places before the time
12 fixed for opening of the polls, and the counters set at zero, and
13 otherwise in good and proper order for use at such election. For
14 the purpose of placing ballots in the ballot frames of the
15 machine, putting it in order, setting, testing and adjusting and
16 delivering the machine, the authorities in charge of elections may
17 employ one or more competent persons, to be known as custodian or
18 custodians of voting machines, who shall be fully competent,
19 thoroughly instructed, and sworn to perform his duties honestly
20 and faithfully, and for such purpose shall be appointed and
21 instructed at least thirty (30) days before the election. All
22 voting machines to be used in an election shall be properly
23 prepared at least three (3) days prior to the election day. When
24 a voting machine has been properly prepared for election, it shall
25 be locked against voting and sealed; and the keys thereof shall be
26 delivered to the registrar, together with a written report made by
27 the custodian or official preparing the machine, stating that it
28 is in every way properly prepared for the election. Any candidate

29 may inspect a voting machine at least three (3) days before an
30 election. After the voting machine has been transferred to the
31 polling place, it shall be the duty of the managers to provide
32 ample protection against molestation or injury to the machine.
33 All voting machines used in any election shall be provided with a
34 screen, hood or curtain which shall be so made and adjusted as to
35 conceal the voter and his action while voting.

36 **SECTION 2.** Section 23-15-473, Mississippi Code of 1972, is
37 amended as follows:

38 23-15-473. The circuit court clerk shall be the custodian of
39 voting devices acquired by a county, who shall be charged with the
40 proper storage, maintenance and repair of voting devices, and the
41 preparation of them for voting prior to elections. After they
42 have been prepared for an election and at least three (3) days
43 before an election, the voting devices shall be available for
44 public inspection, including inspection by a candidate, at a time
45 and place designated by the custodian. Thereafter they shall be
46 locked or sealed before delivery to the managers of the election.
47 The custodian shall immediately repair, replace or remove any
48 voting device which fails to function properly on election day.
49 The clerk of any municipality which acquires voting devices shall
50 be the custodian of such voting devices and perform the same
51 functions.

52 If a voting device at a polling place malfunctions and cannot
53 be repaired or replaced quickly and there is no other device in
54 the polling place that can be used to perform the function of the
55 device that malfunctions, unofficial ballots made as nearly as
56 possible in the form of the official ballot may be used until the
57 voting device is repaired or replaced. Such ballots shall be
58 received by the managers and placed by them in a receptacle in
59 such case to be provided by the managers, and counted with the
60 votes registered on the voting device; and the result shall be
61 declared the same as though there had been no accident to the

62 voting device; the ballots thus voted shall be preserved and
63 returned as herein directed, with a certificate or statement
64 setting forth how and why the same were voted.

65 **SECTION 3.** Section 23-15-429, Mississippi Code of 1972, is
66 brought forward as follows:

67 23-15-429. Prior to the opening of the polls, the managers
68 and clerks of each voting precinct shall meet at the polling place
69 at the time set for opening of the polls, at each election, and
70 shall proceed to arrange the furniture, stationery and voting
71 machine for the conduct of the election. The keys to the voting
72 machines shall be delivered to the managers before the time set
73 for opening the polls, in a sealed envelope, on which shall be
74 written or printed the number and location of the voting machine,
75 and the number of the seal and the number registered on the
76 protective counter or device, as reported by the custodian or
77 official preparing the machine. Before opening the envelope, all
78 managers and clerks present shall examine the number on the seal
79 on the machine, also the number registered on the protective
80 counter, and shall see if they are the same as the number written
81 on the envelope; and if they are not the same, the machine must
82 not be opened until the custodian, or other authorized person,
83 shall have been notified and shall have presented himself at the
84 polling place for the purpose of re-examining such machine and
85 shall certify that it is properly arranged.

86 If the numbers on the envelope are the same as those on the
87 machine, the election officers shall proceed to open the doors
88 concealing the counters, and each officer shall carefully examine
89 every counter and see that it registers zero, and the same shall
90 be subject to the inspection of official watchers. The machine
91 shall remain locked against voting until the polls are formally
92 opened, and shall not be operated except by voters in voting. If
93 any counter is found not to register zero, the manager shall
94 immediately notify the officials in charge of the election or the

95 custodian, who shall, if practicable, adjust the counters at zero;
96 but if it shall be impracticable to so adjust such counters before
97 the time set for opening the polls, the managers shall immediately
98 make a written statement of the designating letter and number of
99 such counter, together with the number registered thereon, and
100 shall sign and post same upon the wall of the polling room, where
101 it shall remain throughout election day, and, in filling out the
102 statement of canvass, they shall subtract such number from the
103 number then registered thereon.

104 **SECTION 4.** The Attorney General of the State of Mississippi
105 shall submit this act, immediately upon approval by the Governor,
106 or upon approval by the Legislature subsequent to a veto, to the
107 Attorney General of the United States or to the United States
108 District Court for the District of Columbia in accordance with the
109 provisions of the Voting Rights Act of 1965, as amended and
110 extended.

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