

March 14, 2005

THE MISSISSIPPI HOUSE OF REPRESENTATIVES:

GOVERNOR'S VETO MESSAGE FOR HOUSE BILL 318

I am returning House Bill Number 318: "AN ACT TO AMEND SECTION 23-15-369, MISSISSIPPI CODE OF 1972, TO REVISE THE FORM OF THE BALLOT ON PROPOSED CONSTITUTIONAL AMENDMENTS; TO INCREASE THE MAXIMUM NUMBER OF WORDS THAT MAY APPEAR ON THE BALLOT AS AN EXPLANATORY STATEMENT OF THE CHIEF PURPOSE OF THE MEASURE; TO AUTHORIZE AN ELECTOR WHO IS TEMPORARILY OR PERMANENTLY PHYSICALLY DISABLED AND WHOSE VOTING PRECINCT IS NOT ACCESSIBLE DUE TO SUCH TEMPORARY OR PERMANENT PHYSICAL DISABILITY TO HAVE HIS OR HER BALLOT MADE AVAILABLE TO THE NEAREST WARD OR VOTING PRECINCT THAT IS ACCESSIBLE TO SUCH ELECTOR; AND FOR RELATED PURPOSES" without my approval, and assign the following reasons for my veto.

After full consideration, I am vetoing House Bill 318. This legislation addresses two different topics: the wording of explanatory statements for proposed constitutional amendments and access to polling precincts by people with physical disabilities. While I do not object to the constitutional ballot provisions, the sections affecting persons with disabilities contradict federal law and would contribute to voter confusion.

This legislation seeks to grant extra time to local governments as they comply with the Help America Vote Act of 2002, 42 U.S.C. 15301-15545 ("HAVA"). In particular, there is a concern about the ability of local governments to comply with Section 301(a) of HAVA, which requires that "each voting system used in an election for federal office" meet certain requirements, among which is Section 301 (a)(3)(A), that each voting system "be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters." House Bill 318, in effect, would attempt to alter this federal requirement by requiring at least one polling place in each county supervisor's district which is compliant with the Americans with Disabilities Act.

The U.S. Department of Justice communicated to the Secretary of State's office in a March 4, 2005, letter their position that Congress has set the deadline for compliance with these sections. While I appreciate the spirit of the Legislature's effort to assist local governments, the State of Mississippi simply does not have the authority to change that deadline. While it is a non-binding letter and not an official opinion, it is clear from the March 4, 2005, letter that a proposal such as House Bill 318 would not gain the necessary approval from the U.S. Justice Department. Therefore, I cannot support such an effort.

Furthermore, separate precincts for persons with disabilities would create two different systems of voting on Election Day and inevitably lead to confusion among voters and election workers. On Election Day, a person should vote in the precinct in which he or she is registered. Separating persons with disabilities would create an undue burden on those attempting to participate in the democratic process.

For these reasons, I urge the members to sustain the veto and reject House Bill Number 318.

Respectfully submitted,

Haley Barbour
Governor