

By: Representative Martinson

To: Apportionment and
Elections

HOUSE BILL NO. 364

1 AN ACT TO AMEND SECTION 23-15-911, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A CANDIDATE MAY REQUIRE THE CIRCUIT CLERK TO COPY
3 THE BALLOTS LOCATED IN THE BALLOT BOX AFTER ANY PRIMARY OR GENERAL
4 ELECTION; TO AUTHORIZE THE CIRCUIT CLERK TO CHARGE THE CANDIDATE
5 THE ACTUAL COST OF COPYING THE BALLOTS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 23-15-911, Mississippi Code of 1972, is
8 amended as follows:

9 23-15-911. (1) When the returns for a box and the contents
10 of the ballot box and the conduct of the election * * * have been
11 canvassed and reviewed by the county election commission in the
12 case of general elections or the county executive committee in the
13 case of primary elections, all the contents of the box required to
14 be placed and sealed in the ballot box by the managers shall be
15 replaced * * * by the election commission or executive committee,
16 as the case may be, and the box shall be * * * resealed and
17 delivered to the circuit clerk, who shall safely keep and secure
18 the same against any tampering * * *. At any time within twelve
19 (12) days after the canvass and examination of the box and its
20 contents by the election commission or executive committee, as the
21 case may be, any candidate or his representative authorized in
22 writing by him, shall have the right of full examination of said
23 box and its contents upon three (3) days' notice of his
24 application * * * served upon the opposing candidate or
25 candidates, or upon any member of their family over the age of
26 eighteen (18) years, which examination shall be conducted in the
27 presence of the circuit clerk or his deputy who shall be charged
28 with the duty to see that none of the contents of the box are

29 removed from the presence of the clerk or in any way tampered
30 with. The candidate or his representatives have the right to
31 require the circuit clerk to photocopy any and all contents of the
32 boxes including, but not limited to, all ballots, recapitulation
33 tallies, pollbooks, voter signature registers and any other items
34 from the election. Upon the completion of the examination, the
35 box shall be resealed with all its contents * * *. * * * If any
36 contest or complaint before the court shall arise over the box, it
37 shall be kept intact and sealed until the court hearing and
38 another ballot box, if necessary, shall be furnished for the
39 precinct involved.

40 (2) The provisions of this section allowing the examination
41 of ballot boxes shall apply in the case of an election contest
42 regarding the seat of a member of the state Legislature. In such
43 a case, the results of the examination shall be reported by the
44 applicable circuit clerk to the Clerk of the House of
45 Representatives or the Secretary of the Senate, as the case may
46 be.

47 (3) The election commissioners or the executive committee,
48 as the case may be, must recount, recanvass and recertify the
49 election if the candidate who is questioning the election can show
50 that a possible error or errors were made such that, if they were
51 corrected, would change the outcome of the election. If upon
52 recanvassing and recertification the outcome of the election would
53 be changed, those in charge of the election will correctly
54 recertify the results, declare the winner of the election and
55 notify the Secretary of State as to the change in the vote count.

56 (4) There will be no charge to the candidate who requested
57 the recanvassing, if the results of the election have changed or
58 if an error was found. The candidate shall pay the per diem of
59 the election commissioners if the results of the election did not
60 change or an error was not found.

61 **SECTION 2.** The Attorney General of the State of Mississippi
62 shall submit this act, immediately upon approval by the Governor,
63 or upon approval by the Legislature subsequent to a veto, to the
64 Attorney General of the United States or to the United States
65 District Court for the District of Columbia in accordance with the
66 provisions of the Voting Rights Act of 1965, as amended and
67 extended.

68 **SECTION 3.** This act shall take effect and be in force from
69 and after the date it is effectuated under Section 5 of the Voting
70 Rights Act of 1965, as amended and extended.