

***** Pending *****
AMENDMENT NO 1 PROPOSED TO

Cmte Sub for Senate Bill No. 2723

BY: Senator(s) Burton

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

32 **SECTION 1.** Sections 1 through 9 of this act may be cited as
33 the "Mississippi Early Voting Act."

34 **SECTION 2.** Any qualified elector may vote early as provided
35 in Sections 1 through 9 of this act in the office of the
36 registrar; however, once the elector votes early, his vote shall
37 be irrevocable and he shall not be allowed to vote in person on
38 the day of the election.

39 **SECTION 3.** (1) Every person who desires to vote early shall
40 be required to complete an application for early voting and
41 present to the registrar identification as required by Section 6
42 of this act. The registrar shall be responsible for furnishing an
43 early voting application form to any elector who appears at his
44 office and desires to vote early and shall determine whether the
45 person who makes an application to vote early is qualified to vote
46 in the election.

47 (2) The registrar shall be responsible for printing
48 applications for early voting as provided in this subsection. At
49 least forty-five (45) days prior to any election, the registrar
50 shall order a sufficient number of applications to be printed;

51 however, in the event a special election is called and set at a
52 date which makes it impractical or impossible to print
53 applications for absent elector's ballot forty-five (45) days
54 prior to the election, the registrar shall print the applications
55 as soon as practicable after such election is called.

56 (3) The registrar shall be authorized to disburse
57 applications for early voting to any qualified elector who appears
58 in his office to vote early.

59 (4) The registrar shall keep an accurate list of all persons
60 who vote early by precinct, which list shall be kept in a
61 conspicuous place accessible to the public near the entrance to
62 his office. The registrar shall furnish to each precinct manager
63 an accurate list of the names of all persons in each respective
64 precinct who vote early to be utilized by them in performing their
65 duties under this act. A duplicate of the list shall be posted in
66 a conspicuous place at the polling place for public notice. The
67 application on file with the registrar shall be kept by the
68 registrar until after the election has been certified and all
69 litigation associated with any election challenge is final,
70 whichever is the later.

71 (5) The application shall be substantially in the following
72 form:

73 "OFFICIAL APPLICATION FOR EARLY VOTING

74 I, _____, duly qualified and registered in the ____ Precinct
75 of the County of _____, and State of Mississippi, desire to vote
76 early.

77 I hereby make application to vote early for the election to
78 be held in _____, on _____.

79 I realize that I can be fined up to Five Thousand Dollars
80 (\$5,000.00) and sentenced up to five (5) years in the Penitentiary
81 for making a false statement in this application. (This sentence
82 is to be in bold print.)

83 DO NOT SIGN WITHOUT READING. (This sentence is to be in bold
84 print.)

85 IN WITNESS WHEREOF I have hereunto set my hand and seal this
86 the ____ day of _____, 2____.

87 _____
88 (Signature of elector)

89 SWORN TO AND SUBSCRIBED before me this the ____ day of _____,
90 2____.

91 _____
92 (Registrar or deputy registrar)

93 **SECTION 4.** Persons who vote early shall do so in the office
94 of the registrar and shall, except as otherwise provided in
95 Sections 1 through 9 of this act, vote in the same manner as he
96 would if he voted on the day of the election; however, the
97 registrar shall ensure that the vote of the voter is assigned to
98 the correct precinct and the vote shall be added to the vote
99 totals of the appropriate precinct.

100 **SECTION 5.** (1) All persons who desire to vote early must do
101 so in the office of the registrar not more than thirty (30) days
102 prior to the election and not later than 7:00 p.m. on the Thursday
103 immediately preceding elections held on Tuesday or the fourth day
104 immediately preceding the date of elections held on other days.

105 (2) The registrar's office shall remain open for early
106 voting until 7:00 p.m. on the Thursday immediately preceding
107 elections held on Tuesday or the fourth day immediately preceding
108 the date of elections held on other days.

109 **SECTION 6.** (1) Each person who shall appear to vote early
110 at the registrar's office shall be required to identify himself
111 to the registrar or deputy registrar by presenting current and
112 valid photo identification, a government document that shows the
113 name and address of the person or a social security card that

114 shows the name of the person, before such person shall be allowed
115 to vote.

116 (2) The identification required by subsection (1) of this
117 section shall include, but not be limited to, the following:

118 (a) A current and valid Mississippi driver's license;

119 (b) A current and valid identification card issued by a
120 branch, department, agency or entity of the State of Mississippi;

121 (c) A current and valid United States passport;

122 (d) A current and valid employee identification card
123 containing a photograph of the elector and issued by any branch,
124 department, agency or entity of the United States government, the
125 State of Mississippi, or any county, municipality, board,
126 authority or other entity of this state;

127 (e) A current and valid employee identification card
128 containing a photograph of the elector and issued by any employer
129 of the elector in the ordinary course of the employer's business;

130 (f) A current and valid student identification card
131 containing a photograph of the elector from any public or private
132 college, university, or postgraduate, technical or professional
133 school located within the State of Mississippi;

134 (g) A current and valid Mississippi license to carry a
135 pistol or revolver;

136 (h) A current and valid pilot's license issued by the
137 Federal Aviation Administration or other authorized agency of the
138 United States;

139 (i) A current and valid United States military
140 identification card; and

141 (j) Official voter registration card.

142 (3) Any person who utilizes the provisions of this section
143 to intimidate a voter, or to prevent from voting a person who is
144 otherwise qualified to vote, shall, upon conviction, be sentenced
145 to pay a fine of not less than Five Thousand Dollars (\$5,000.00),

or by imprisonment for not less than one (1) year nor more than five (5) years, or both.

SECTION 7. (1) On the day of the election, the managers of the election shall compare the name of each person who offers to vote with the names on the list of early voters provided by the registrar. If the name of the voter appears on the list of early voters, he shall be informed that he is listed as voting early and not permitted to vote. If the elector feels that he is being prevented from voting in error, he shall be allowed to cast an affidavit ballot.

(2) At the close of the regular balloting and at the close of the polls, the election managers of each voting precinct shall first take list of early voters provided by the registrar and mark "VOTED" in the pollbook or poll list as the persons listed as voting early had been present and voted in person.

(3) After the votes have been counted the officials shall preserve the list of early voters return it to the registrar.

SECTION 8. All laws relating to elections now in force in this state shall apply to all voting under Sections 1 through 9 of this act so far as they may be applicable thereto, and so far as they are not inconsistent with the provisions of this act.

SECTION 9. Any person who makes a false statement on an early voting application shall be guilty of a felony and, upon conviction, shall be fined not more than Five Thousand Dollars (\$5,000.00) and sentenced to not more than five (5) years in prison.

SECTION 10. Section 23-15-627, Mississippi Code of 1972, is amended as follows:

23-15-627. The registrar shall be responsible for furnishing an absentee ballot application form to any elector authorized to receive an absentee ballot. Absentee ballot applications shall be furnished to a person only upon the oral or written request of the

178 elector who seeks to vote by absentee ballot; however, the parent,
179 child, spouse, sibling, legal guardian, those empowered with a
180 power of attorney for that elector's affairs or agent of the
181 elector may orally request an absentee ballot application on
182 behalf of the elector. An absentee ballot application must have
183 the seal of the circuit or municipal clerk affixed to it and be
184 initialed by the registrar or his deputy in order to be utilized
185 to obtain an absentee ballot. A reproduction of an absentee
186 ballot application shall not be valid unless it is a reproduction
187 provided by the office of the registrar of the jurisdiction in
188 which the election is being held and which contains the seal and
189 initials required by this section. Such application shall be
190 substantially in the following form:

191 "OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

192 I, _____, duly qualified and registered in the ____ Precinct
193 of the County of _____, and State of Mississippi, coming within
194 the purview of the definition 'ABSENT ELECTOR' will be absent from
195 the county of my residence on election day, or unable to vote in
196 person because (check appropriate reason):

197 () (PRESIDENTIAL APPLICANT ONLY:) I am currently a
198 resident of Mississippi or have moved therefrom within thirty (30)
199 days of the coming presidential election.

200 () I am an enlisted or commissioned member, male or female,
201 of any component of the United States Armed Forces and am a
202 citizen of Mississippi, or spouse or dependent of such member.

203 () I am a member of the Merchant Marine or the American Red
204 Cross and am a citizen of Mississippi or spouse or dependent of
205 such member.

206 () I am a disabled war veteran who is a patient in any
207 hospital and am a citizen of Mississippi or spouse or dependent of
208 such veteran.

209 () I am a civilian attached to and serving outside of the
210 United States with any branch of the Armed Forces or with the
211 Merchant Marine or American Red Cross, and am a citizen of
212 Mississippi or spouse or dependent of such civilian.

213 () I am a citizen of Mississippi temporarily residing
214 outside the territorial limits of the United States and the
215 District of Columbia.

216 () I am a student, teacher or administrator at a college,
217 university, junior or community college, high, junior high,
218 elementary or grade school, whose studies or employment at such
219 institution necessitates my absence from the county of my voting
220 residence or spouse or dependent of such student, teacher or
221 administrator who maintains a common domicile outside the county
222 of my voting residence with such student, teacher or
223 administrator.

224 * * *

225 () I have a temporary or permanent physical disability.

226 () I am sixty-five (65) years of age or older.

227 () I am the parent, spouse or dependent of a person with a
228 temporary or permanent physical disability who is hospitalized
229 outside his county of residence or more than fifty (50) miles away
230 from his residence, and I will be with such person on election
231 day.

232 () I am a member of the congressional delegation, or spouse
233 or dependent of a member of the congressional delegation.

234 * * *

235 I hereby make application for an official ballot, or ballots,
236 to be voted by me at the election to be held in _____, on _____.

237 Mail 'Absent Elector's Ballot' to me at the following address
238 _____ * * *.

239 I realize that I can be fined up to Five Thousand Dollars
240 (\$5,000.00) and sentenced up to five (5) years in the Penitentiary

241 for making a false statement in this application and for selling
242 my vote and violating the Mississippi Absentee Voter Law. (This
243 sentence is to be in bold print.)

244 If you are temporarily or permanently disabled, you are not
245 required to have this application notarized or signed by an
246 official authorized to administer oaths for absentee balloting.
247 You are required to sign this application in the proper place and
248 have a person eighteen (18) years of age or older witness your
249 signature and sign this application in the proper place.

250 DO NOT SIGN WITHOUT READING. (This sentence is to be in bold
251 print.)

252 IN WITNESS WHEREOF I have hereunto set my hand and seal this
253 the ____ day of _____, 2____.

254 _____
255 (Signature of absent elector)

256 SWORN TO AND SUBSCRIBED before me this the ____ day of _____,
257 2____.

258 _____
259 (Official authorized to administer oaths
260 for absentee balloting.)

261 TO BE SIGNED BY WITNESS FOR VOTERS TEMPORARILY OR PERMANENTLY
262 DISABLED:

263 I HEREBY CERTIFY that this application for an absent
264 elector's ballot was signed by the above-named disabled elector in
265 my presence and that I am at least eighteen (18) years of age,
266 this the ____ day of _____, 2____.

267 _____
268 (Signature of witness)

269 CERTIFICATE OF DELIVERY

270 I hereby certify that _____ (print name of voter)
271 has requested that I, _____ (print name of person

272 delivering application), deliver to the voter this absentee ballot
273 application.

274 _____
275 (Signature of person delivering application)

276 _____
277 (Address of person delivering application)"

278 **SECTION 11.** Section 23-15-631, Mississippi Code of 1972, is
279 amended as follows:

280 23-15-631. (1) The registrar shall enclose with each ballot
281 provided to an absent elector separate printed instructions
282 furnished by him containing the following:

283 * * *

284 (a) Upon receipt of the enclosed ballot, you will not
285 mark same except in view or sight of the attesting witness. In
286 the sight or view of the attesting witness, mark the ballot
287 according to instructions.

288 (b) After marking the ballot, fill out and sign the
289 "ELECTOR'S CERTIFICATE" on back of the envelope so that the
290 signature shall be across the flap of the envelope so as to insure
291 the integrity of the ballot. All absent electors shall have the
292 attesting witness sign the "ATTESTING WITNESS CERTIFICATE" across
293 the flap on back of the envelope. Place necessary postage on the
294 envelope and deposit it in the post office or some government
295 receptacle provided for deposit of mail so that the absent
296 elector's ballot, excepting presidential absentee ballots, will
297 reach the registrar in which your precinct is located not later
298 than 5:00 p.m. on the day preceding the date of the
299 election * * *.

300 Any notary public, United States postmaster, assistant United
301 States postmaster, United States postal supervisor, clerk in
302 charge of a contract postal station, or any officer having
303 authority to administer an oath or take an acknowledgment may be

304 an attesting witness; provided, however, that in the case of an
305 absent elector who is temporarily or permanently physically
306 disabled, the attesting witness may be any person eighteen (18)
307 years of age or older and such person is not required to have the
308 authority to administer an oath. If a postmaster, assistant
309 postmaster, postal supervisor, or clerk in charge of a contract
310 postal station acts as an attesting witness, his signature on the
311 elector's certificate must be authenticated by the cancellation
312 stamp of their respective post offices. If one or the other
313 officers herein named acts as attesting witness, his signature on
314 the elector's certificate, together with his title and address,
315 but no seal, shall be required. Any affidavits made by an absent
316 elector who is in the Armed Forces may be executed before a
317 commissioned officer, warrant officer, or noncommissioned officer
318 not lower in grade than sergeant rating or any person authorized
319 to administer oaths.

320 (c) When the application accompanies the ballot it
321 shall not be returned in the same envelope as the ballot but shall
322 be returned in a separate preaddressed envelope provided by the
323 registrar.

324 (d) A person who is a candidate for public office may
325 not be an attesting witness for any absentee ballot upon which the
326 person's name appears.

327 (e) Any voter casting an absentee ballot who declares
328 that he requires assistance to vote by reason of blindness,
329 temporary or permanent physical disability or inability to read or
330 write, shall be entitled to receive assistance in the marking of
331 his absentee ballot and in completing the affidavit on the
332 absentee ballot envelope. The voter may be given assistance by
333 anyone of the voter's choice other than a candidate whose name
334 appears on the absentee ballot being marked, or the voter's
335 employer, or agent of that employer. In order to ensure the

336 integrity of the ballot, any person who provides assistance to an
337 absentee voter shall be required to sign and complete the
338 "Certificate of Person Providing Voter Assistance" on the absentee
339 ballot envelope.

340 (2) The foregoing instructions required to be provided by
341 the registrar to the elector shall also constitute the substantive
342 law pertaining to the handling of absentee ballots by the elector
343 and registrar.

344 **SECTION 12.** Section 23-15-637, Mississippi Code of 1972, is
345 amended as follows:

346 23-15-637. Absentee ballots * * *, excluding presidential
347 ballots as provided for in Sections 23-15-731 and 23-15-733, must
348 be received by mail by the registrar by 5:00 p.m. on the date
349 preceding the election; any received after such time shall be
350 handled as provided in Section 23-15-647 and shall not be
351 counted. * * * The registrar shall deposit all absentee ballots
352 which have been timely cast in the ballot boxes upon receipt.

353 **SECTION 13.** Section 23-15-713, Mississippi Code of 1972, is
354 amended as follows:

355 23-15-713. For the purpose of this subarticle, any duly
356 qualified elector may vote as provided in this subarticle if he be
357 one who falls within the following categories:

358 (a) Any qualified elector who is a bona fide student,
359 teacher or administrator at any college, university, junior
360 college, high, junior high, or elementary grade school whose
361 studies or employment at such institution necessitates his absence
362 from the county of his voting residence on the date of any
363 primary, general or special election, or the spouse and dependents
364 of said student, teacher or administrator if such spouse or
365 dependent(s) maintain a common domicile, outside of the county of
366 his voting residence, with such student, teacher or administrator.

367 (b) Any qualified elector who is required to be away
368 from his place of residence on any election day due to his
369 employment as an employee of a member of the Mississippi
370 congressional delegation and the spouse and dependents of such
371 person if he or she shall be residing with such absentee voter
372 away from the county of the spouse's voting residence.

373 * * *

374 (c) Any person who has a temporary or permanent
375 physical disability and who, because of such disability, is unable
376 to vote in person without substantial hardship to himself or
377 others, or whose attendance at the voting place could reasonably
378 cause danger to himself or others.

379 (d) The parent, spouse or dependent of a person with a
380 temporary or permanent physical disability who is hospitalized
381 outside of his county of residence or more than fifty (50) miles
382 distant from his residence, if the parent, spouse or dependent
383 will be with such person on election day.

384 (e) Any person who is sixty-five (65) years of age or
385 older.

386 (f) Any member of the Mississippi congressional
387 delegation absent from Mississippi on election day, and the spouse
388 and dependents of such member of the congressional delegation.

389 * * *

390 **SECTION 14.** Section 23-15-715, Mississippi Code of 1972, is
391 amended as follows:

392 23-15-715. Any elector desiring an absentee ballot as
393 provided in this subarticle may secure an absentee ballot if * * *
394 within forty-five (45) days next prior to any election, any
395 elector who * * * is temporarily residing outside the county, or
396 any person who has a temporary or permanent physical disability,
397 persons who are sixty-five (65) years of age or older, or any
398 person who is the parent, spouse or dependent of a temporarily or

399 permanently physically disabled person who is hospitalized outside
400 of his county of residence or more than fifty (50) miles away from
401 his residence and such parent, spouse or dependent will be with
402 such person on election day, may make application for an absentee
403 ballot by mailing the appropriate application to the registrar.
404 Only persons temporarily residing out of the county of their
405 residence, persons having a temporary or permanent physical
406 disability, persons who are sixty-five (65) years of age or older,
407 or any person who is the parent, spouse or dependent of a
408 temporarily or permanently physically disabled person who is
409 hospitalized outside of his county of residence or more than fifty
410 (50) miles away from his residence, and such parent, spouse or
411 dependent will be with such person on election day, may obtain
412 absentee ballots by mail under the provisions of this section and
413 as provided by Section 23-15-713. Applications of persons
414 temporarily residing outside the county shall be sworn to and
415 subscribed before an official who is authorized to administer
416 oaths or other official authorized to witness absentee balloting
417 as provided in this chapter, the application shall be accompanied
418 by the verifying affidavits as required by this chapter. The
419 applications of persons having a temporary or permanent physical
420 disability shall not be required to be accompanied by an affidavit
421 but shall be witnessed and signed by a person eighteen (18) years
422 of age or older. The registrar shall send to the absent voter a
423 proper absentee voter ballot within twenty-four (24) hours, or as
424 soon thereafter as the ballots are available, containing the names
425 of all candidates who qualify or the proposition to be voted on in
426 such election, and with such ballot there shall be sent an
427 official envelope containing upon it in printed form the recitals
428 and data hereinafter required.

SECTION 15. Section 23-15-719, Mississippi Code of 1972, which provides the manner in which absent voters vote in the registrar's office, is repealed.

SECTION 16. 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 17. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

Further, amend by striking the title in its entirety and inserting in lieu thereof the following:

AN ACT TO AUTHORIZE EARLY VOTING IN ELECTIONS; TO PROVIDE THAT IF A PERSON VOTES EARLY, HE SHALL NOT BE ALLOWED TO VOTE IN PERSON ON THE DAY OF THE ELECTION; TO REQUIRE EVERY PERSON WHO DESIRES TO VOTE EARLY TO COMPLETE AN APPLICATION FOR EARLY VOTING AND PRESENT CERTAIN TYPES OF IDENTIFICATION TO THE REGISTRAR BEFORE BEING ALLOWED TO VOTE EARLY; TO PROVIDE FOR THE PRINTING AND DISTRIBUTION OF EARLY VOTING APPLICATIONS; TO PROVIDE THAT THE REGISTRAR SHALL KEEP A LIST OF PERSONS WHO VOTE EARLY BY PRECINCT; TO PROVIDE THAT THE LIST SHALL BE POSTED AT THE REGISTRAR'S OFFICE; TO PROVIDE THAT LISTS OF THE PERSONS WHO VOTE EARLY SHALL BE PROVIDED TO THE MANAGERS OF ELECTION; THE REQUIRE THE LIST TO BE POSTED AT THE PRECINCT; TO PROVIDE FOR THE FORM OF THE EARLY VOTING APPLICATION; TO PROVIDE THAT EARLY VOTING SHALL BE CONDUCTED IN THE OFFICE OF THE REGISTRAR; TO REQUIRE THAT THE REGISTRAR SHALL ENSURE THAT THE VOTE OF THE VOTER IS ASSIGNED TO THE CORRECT PRECINCT AND THE VOTE SHALL BE ADDED TO THE VOTE TOTALS OF THE APPROPRIATE PRECINCT; TO PROVIDE THAT ALL PERSONS WHO DESIRE TO VOTE EARLY MUST DO SO IN THE OFFICE OF THE REGISTRAR NOT MORE THAN 30 DAYS PRIOR TO THE ELECTION TO VOTE EARLY AND NOT LATER THAN 5:00 P.M. ON THE THURSDAY IMMEDIATELY PRECEDING ELECTIONS HELD ON TUESDAY OR THE FOURTH DAY IMMEDIATELY PRECEDING THE DATE OF ELECTIONS HELD ON OTHER DAYS; TO PRESCRIBE THE DUTIES OF THE MANAGERS OF ELECTION ON ELECTION DAY WITH REGARD TO EARLY VOTING; TO PROVIDE PENALTIES FOR FALSE STATEMENTS ON EARLY VOTING APPLICATIONS; TO AMEND SECTIONS 23-15-627, 23-15-631, 23-15-637, 23-15-713 AND 23-15-715, MISSISSIPPI CODE OF 1972, TO REMOVE PROVISIONS THAT RELATE TO VOTING BY ABSENTEE BALLOT IN THE REGISTRAR'S OFFICE; TO REPEAL SECTION 23-15-719, MISSISSIPPI CODE OF 1972, WHICH PROVIDES THE MANNER IN WHICH ABSENT VOTERS VOTE IN THE REGISTRAR'S OFFICE; AND FOR RELATED PURPOSES.