

By: Representative Baker (74th)

To: Apportionment and Elections

HOUSE BILL NO. 4

1 AN ACT TO AMEND SECTION 23-15-579, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE PAPER BALLOTS TO BE CAST WHEN A MAJORITY OF THE
3 MANAGERS OF THE ELECTION BELIEVE A CHALLENGE OF A VOTER IS
4 FRIVOLOUS OR NOT MADE IN GOOD FAITH; TO BRING FORWARD SECTIONS
5 23-15-643 AND 23-15-731, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
6 AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 23-15-579, Mississippi Code of 1972, is
9 amended as follows:

10 23-15-579. All votes which shall be challenged at the polls,
11 whether the question be raised by a manager or by another
12 authorized challenger, shall be received when voted, but each of
13 such challenged votes shall, by one (1) of the managers or clerks,
14 be marked on the back "CHALLENGED" and all such challenged votes
15 shall be placed in one or more strong envelopes; and when all the
16 unchallenged votes have been counted, tallied and totaled the
17 challenged votes shall then be counted, tallied and totaled and a
18 separate return shall be made of the unchallenged votes and of
19 those that are challenged. The envelope or envelopes containing
20 the challenged votes, when counted and tallied, shall be securely
21 sealed with all said challenged votes enclosed therein and placed
22 in the box with the unchallenged votes. Provided, that when a
23 vote is challenged at the polls it shall so clearly appear in the
24 unanimous opinion of the managers, either by the admissions or
25 statements of the person challenged or from official documentary
26 evidence, or indubitable oral evidence then presented to the
27 managers, that the challenge is well taken, the vote shall be
28 rejected entirely and shall not be counted; but in such case the
29 rejected ballot, after it has been marked by the challenged voter,



30 shall be marked on the back "REJECTED" and the name of the voter
31 shall also be written on the back, and said vote and all other
32 rejected votes shall be placed in a separate strong envelope and
33 sealed and returned in the box as in the case of challenged votes.
34 The failure of a candidate to challenge a vote or votes at a box
35 shall not preclude him from later showing, in the manner provided
36 by law, that one or more votes have been improperly received or
37 counted or returned as regards said box. If the managers of an
38 election unanimously believe a challenge of a voter is frivolous
39 or not made in good faith they may disregard such challenge and
40 accept the offered vote as though not challenged. However, if a
41 majority of the managers of the election believe a challenge of a
42 voter is frivolous or not made in good faith they may disregard
43 such challenge and accept the offered vote as though not
44 challenged; provided, however, that the offered vote shall be cast
45 by paper ballot.

46 **SECTION 2.** Section 23-15-643, Mississippi Code of 1972, is
47 brought forward as follows:

48 23-15-643. If an affidavit is required, the appropriate
49 election officials shall examine the affidavit of each absentee
50 ballot envelope. If the officials are satisfied that the
51 affidavit is sufficient and that the absentee voter is otherwise
52 qualified to vote, an official shall announce the name of the
53 voter and shall give any person present an opportunity to
54 challenge in like manner and for the same cause as the voter could
55 have been challenged had he presented himself personally in such
56 precinct to vote. The ineligibility of the voter to vote by
57 absentee ballot shall be a ground for a challenge. Also, the
58 officials shall consider any absentee voter challenged when a
59 person has previously filed a written challenge of such voter's
60 right to vote. The election officials shall handle any such
61 challenge in the same manner as other challenged ballots are
62 handled.



63 **SECTION 3.** Section 23-15-731, Mississippi Code of 1972, is
64 brought forward as follows:

65 23-15-731. Any presidential absentee ballots received by the
66 registrar subsequent to the delivery of ballot boxes to the
67 election managers and prior to the time for the closing of the
68 polls on election day shall be retained by the registrar and shall
69 be delivered, together with the applications of the qualified
70 absentee elector to an election official designated to receive
71 them. The registrar shall receive a receipt from the designated
72 election official for all such ballots and applications delivered.
73 The designated election officials shall, upon the canvassing of
74 the returns, count such ballots as if delivered to the proper
75 precincts and such ballots shall be considered valid for all
76 purposes as if they had been actually deposited in the proper
77 precinct ballot boxes. The appropriate election officials shall
78 examine the affidavit of each envelope. If the officials are
79 satisfied that the affidavit is sufficient and that the absentee
80 voter is otherwise qualified to vote, an official shall announce
81 the name of the voter and shall give any person present an
82 opportunity to challenge in like manner and for the same cause as
83 the voter could have been challenged had he presented himself
84 personally in such precinct to vote. The ineligibility of the
85 voter to vote by absentee ballot shall be a ground for a
86 challenge. The officials shall consider any absentee voter
87 challenged when a person has previously filed a written challenge
88 of such voter's right to vote. The election officials shall
89 handle any such challenge in the same manner as other challenged
90 ballots are handled, and if the challenge is not affirmed, the
91 officials shall then open the envelope. The officials shall then
92 open the envelope in such manner as not to destroy the affidavit
93 printed thereon and shall deposit the ballot marked "OFFICIAL
94 ABSENTEE BALLOT," in a ballot box reserved for absentee ballots.
95 The commissioners shall endorse on their pollbooks a proper



96 notation to indicate that the absentee voter has voted in such
97 election by absentee ballot.

98 **SECTION 4.** The Attorney General of the State of Mississippi
99 shall submit this act, immediately upon approval by the Governor,
100 or upon approval by the Legislature subsequent to a veto, to the
101 Attorney General of the United States or to the United States
102 District Court for the District of Columbia in accordance with the
103 provisions of the Voting Rights Act of 1965, as amended and
104 extended.

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

