

By: Representative Banks

To: Apportionment and  
Elections

## HOUSE BILL NO. 1403

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.