

Senate Amendments to House Bill No. 1065

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

29 **SECTION 1.** Section 23-15-637, Mississippi Code of 1972, is
30 amended as follows:

31 23-15-637. (1) Absentee ballots received by mail, excluding
32 presidential ballots as provided for in Sections 23-15-731 and
33 23-15-733, must be received by the registrar by 5:00 p.m. on the
34 date preceding the election; any received after this time shall be
35 handled as provided in Section 23-15-647 and shall not be counted.
36 All ballots cast by * * * absent electors appearing in person in
37 the office of the registrar shall be cast not later than 12:00
38 noon on the Saturday immediately preceding elections held on
39 Tuesday, the Thursday immediately preceding elections held on
40 Saturday, or the second day immediately preceding the date of
41 elections held on other days.

42 (2) The registrar shall keep all absentee ballots that he
43 receives and deliver the ones that are received by him by 5:00
44 p.m. on the date preceding the election to the appropriate
45 election officials as soon as possible on the day of the election
46 after the close of the polls.

47 (3) For each precinct, the registrar shall prepare a list of
48 the persons who are registered to vote in the precinct and who
49 cast an absentee ballot by 5:00 p.m. on the date preceding the
50 election. The list shall be delivered to the election manager at
51 each precinct before the polls open on election day. The election
52 managers shall note on the list all persons on the list who
53 appeared in person and voted at the election. The election
54 managers shall deliver the list with notations of those who voted

55 in person to the appropriate election officials as soon as
56 possible after the polls have closed on the day of the election.

57 (4) As used in this section and Sections 23-15-639,
58 23-15-641 and 23-15-643, the term "appropriate election officials"
59 means:

60 (a) In the case of all elections other than primary
61 election, the commissioners of election; and

62 (b) In the case of primary elections, five (5) members
63 of the appropriate political party county executive committee
64 selected in accordance with procedures established by the state
65 executive committee of the party.

66 **SECTION 2.** Section 23-15-639, Mississippi Code of 1972, is
67 amended as follows:

68 23-15-639. (1) In elections in which direct recording
69 electronic voting systems are not utilized, the examination and
70 counting of absentee ballots shall be conducted as follows:

71 (a) As soon as possible after the close of the polls on
72 the day of the election, the appropriate election officials shall
73 conduct a public meeting to examine the absentee ballot envelopes
74 and absentee ballots as provided by law. The appropriate election
75 officials shall first take the envelopes containing the absentee
76 ballots of such electors that have been delivered to them by the
77 registrar, and the name, address and precinct inscribed on each
78 envelope shall be announced * * *.

79 (b) The signature on the application shall then be
80 compared with the signature on the back of the envelope. If it
81 corresponds and the affidavit, if one is required, is sufficient
82 and the appropriate election officials find that the person is a
83 registered and qualified voter or otherwise qualified to vote,
84 and, according to the list that has been delivered to them by the
85 election managers, that he has not appeared in person and voted at
86 the election, the envelope shall then be opened and the ballot
87 removed from the envelope, without its being unfolded, or
88 permitted to be unfolded or examined.

89 (c) Having observed and found the ballot to be regular
90 as far as can be observed from its official endorsement, the
91 appropriate election officials shall deposit it in the ballot box
92 with the other ballots before counting any ballots and enter the
93 voter's name in the receipt book provided for that purpose and
94 mark "VOTED" in the pollbook or poll list as if he had been
95 present and voted in person. Once all absentee ballots have been
96 deposited into a ballot box, the votes shall be counted and added
97 to the votes cast at the appropriate precinct before the vote is
98 certified. If voting machines are used, all absentee ballots
99 shall be placed into a separate absentee ballot box for each
100 precinct before any ballots are counted, and the appropriate
101 election officials * * * shall * * * count the absentee ballots
102 and add them to the votes cast in the voting machine or device at
103 the precinct before the vote may be certified.

104 (2) In elections in which direct recording electronic voting
105 systems are utilized, the examination and counting of absentee
106 ballots shall be conducted as follows:

107 (a) On the day of the election as soon as possible
108 after the close of the regular balloting and * * * the close of
109 the polls, the appropriate election officials shall conduct a
110 public meeting to examine the absentee ballot envelopes and
111 absentee ballots as provided by law. The appropriate election
112 officials * * * shall first take the envelopes containing the
113 absentee ballots of such electors that have been delivered to them
114 by the registrar, and the name, address and precinct inscribed on
115 each envelope shall be announced * * *.

116 (b) The signature on the application shall then be
117 compared with the signature on the back of the envelope. If it
118 corresponds and the affidavit, if one is required, is sufficient
119 and the appropriate election officials find that the applicant is
120 a registered and qualified voter or otherwise qualified to vote,
121 and, according to the list delivered to them by the election
122 managers, that he has not appeared in person and voted at the
123 election, the * * * envelope shall be opened and the ballot

124 removed from the envelope, without its being unfolded, or
125 permitted to be unfolded or examined. Having observed and found
126 the ballot to be regular as far as can be observed from its
127 official endorsement, the appropriate election officials shall
128 enter the voter's name in the receipt book provided for that
129 purpose and mark "VOTED" in the pollbook or poll list as if he had
130 been present and voted in person.

131 * * *

132 (c) Having observed the ballot to be regular as far as
133 can be observed from its official endorsement, the absentee ballot
134 shall be processed through the central optical scanner. The
135 scanned totals shall then be combined with the direct recording
136 electronic voting system totals for the unofficial vote count.

137 When there is a conflict between an electronic voting system
138 and a paper record, then there is a rebuttable presumption that
139 the paper record is correct.

140 **SECTION 3.** Section 23-15-641, Mississippi Code of 1972, is
141 amended as follows:

142 23-15-641. (1) If an affidavit or the certificate of the
143 officer before whom the affidavit is taken is required and such
144 affidavit or certificate is found to be insufficient, or if it is
145 found that the signatures do not correspond, or that the person is
146 not a duly qualified elector in the precinct, or otherwise
147 qualified to vote, or that the ballot envelope is open or has been
148 opened and resealed, or the voter is not eligible to vote absentee
149 or that the voter is present and has voted within the precinct
150 where he represents himself to be a qualified elector, or
151 otherwise qualified to vote, on the date of the election at such
152 precinct, the previously cast vote shall not be allowed. Without
153 opening the voter's envelope the appropriate election
154 officials * * * shall mark across its face "REJECTED", with the
155 reason therefor.

156 (2) If the ballot envelope contains more than one (1) ballot
157 of any kind, the ballot shall not be counted but shall be marked
158 "REJECTED", with the reason therefor. The voter's envelopes and

159 affidavits, and the voter's envelope with its contents unopened,
160 when such vote is rejected, shall be retained and preserved in the
161 same manner as other ballots at the election. Such votes may be
162 challenged at the meeting of the appropriate election officials in
163 the same manner and for the same reasons that any other vote cast
164 in such election may be challenged.

165 (3) If an affidavit is required and the officials find that
166 the affidavit is insufficient, or if the officials find that the
167 absentee voter is otherwise disqualified to vote, the envelope
168 shall not be opened and an appropriate election official shall
169 write across the face of the envelope "REJECTED" giving the reason
170 therefor, and the registrar shall promptly notify the voter of
171 such rejection.

172 * * *

173 **SECTION 4.** Section 23-15-643, Mississippi Code of 1972, is
174 amended as follows:

175 23-15-643. If an affidavit is required, the appropriate
176 election officials shall examine the affidavit of each absentee
177 ballot envelope. If the officials are satisfied that the
178 affidavit is sufficient and that the absentee voter is otherwise
179 qualified to vote, an official shall announce the name of the
180 voter and shall give any person present an opportunity to
181 challenge in like manner and for the same cause as the voter could
182 have been challenged had he presented himself personally * * * to
183 vote. The ineligibility of the voter to vote by absentee ballot
184 shall be a ground for a challenge. Also, the officials shall
185 consider any absentee voter challenged when a person has
186 previously filed a written challenge of the voter's right to vote.
187 The election officials shall handle any such challenge in the same
188 manner as other challenged ballots are handled.

189 **SECTION 5.** Section 23-15-719, Mississippi Code of 1972, is
190 amended as follows:

191 23-15-719. (1) Immediately upon completion of an
192 application filed pursuant to the provisions of paragraph (a) of
193 Section 23-15-715, the registrar shall deliver the necessary

194 ballots to the applicant. The registrar shall only deliver the
195 ballots to the applicant by mail or to the applicant in the
196 registrar's office. The registrar shall not personally hand
197 deliver ballots to voters, unless he delivers the ballots in the
198 office of the registrar. The elector shall fill in his ballot in
199 secret. After the applicant has properly marked the ballot and
200 properly folded it, he shall deposit it in the envelope furnished
201 him by the registrar.

202 After he has sealed the envelope, he shall subscribe and
203 swear to an affidavit in the following form, which shall be
204 printed on the back of the envelope containing the applicant's
205 ballot:

206 "STATE OF MISSISSIPPI

207 COUNTY OF _____

208 I, _____, do solemnly swear that this envelope contains
209 the ballot marked by me indicating my choice of the candidates or
210 propositions to be submitted at the election to be held on the ____
211 day of _____, 2____, and I hereby * * * authorize the
212 appropriate election officials to open this envelope * * * and
213 record my name on the poll list as if I were present in person and
214 voted.

215 I further swear that I marked the enclosed ballot in secret.

216 _____

217 (Signature of voter)

218 SWORN TO AND SUBSCRIBED before me, _____, this the ____

219 day of _____, 2____.

220 (Registrar) _____

221 (Registrar)"

222 After the completion of the requirements of this section, the
223 elector shall deliver the envelope containing the ballot to the
224 registrar.

225 (2) If the voter has received assistance in marking his
226 ballot, the person providing the assistance shall complete the
227 following form which shall be printed on the back of the envelope
228 containing the applicant's ballot:

229 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE
230 (To be completed only if the voter has received assistance in
231 marking the enclosed ballot.) I hereby certify that the
232 above-named voter declared to me that he or she is blind,
233 temporarily or permanently physically disabled, or cannot read or
234 write, and that the voter requested that I assist the voter in
235 marking the enclosed absentee ballot. I hereby certify that the
236 ballot preferences on the enclosed ballot are those communicated
237 by the voter to me, and that I have marked the enclosed ballot in
238 accordance with the voter's instructions.

239 _____
240 Signature of person providing assistance
241 _____
242 Printed name of person providing assistance
243 _____
244 Address of person providing assistance
245 _____
246 Date and time assistance provided
247 _____
248 Family relationship to voter (if any)"

249 (3) The envelope used pursuant to this section shall not
250 contain the form prescribed by Section 23-15-635.

251 **SECTION 6.** This act shall take effect and be in force from
252 and after July 1, 2007, and shall stand repealed from and after
253 June 30, 2007.

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

1 AN ACT TO AMEND SECTIONS 23-15-637 AND 23-15-639, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE REGISTRAR SHALL KEEP ALL
3 ABSENTEE BALLOTS HE RECEIVES BY 5:00 P.M. ON THE DAY PRECEDING THE
4 ELECTION AND DELIVER THEM TO THE COMMISSIONERS OF ELECTION, IN THE
5 CASE OF GENERAL ELECTIONS, AND DESIGNATED MEMBERS OF THE COUNTY
6 EXECUTIVE COMMITTEE, IN THE CASE OF PRIMARY ELECTIONS, ON THE DAY
7 OF THE ELECTION AFTER THE CLOSE OF THE POLLS; TO REQUIRE THE
8 REGISTRAR TO PREPARE A LIST OF THE PERSONS WHO ARE REGISTERED TO
9 VOTE IN THE PRECINCT AND WHO LAWFULLY CAST AN ABSENTEE BALLOT AND
10 DELIVER THE LIST TO EACH PRECINCT BEFORE THE POLLS OPEN ON
11 ELECTION DAY; TO REQUIRE THE ELECTION MANAGERS AT EACH PRECINCT TO
12 NOTE ALL PERSONS ON THE LIST WHO APPEARED IN PERSON AND VOTED AT
13 THE ELECTION; TO REQUIRE THE ELECTION MANAGERS TO DELIVER THE LIST
14 WITH NOTATIONS OF THOSE WHO VOTED IN PERSON TO THE APPROPRIATE

15 ELECTION OFFICIALS AS SOON AS POSSIBLE AFTER THE POLLS HAVE
16 CLOSED; TO PROVIDE THAT THE COMMISSIONERS OF ELECTION OR THE
17 DESIGNATED COUNTY EXECUTIVE COMMITTEE MEMBERS SHALL EXAMINE THE
18 ABSENTEE BALLOT ENVELOPES AND BALLOTS AT A MEETING HELD FOR THAT
19 PURPOSE AS SOON AS POSSIBLE ON THE DAY OF THE ELECTION AFTER THE
20 CLOSE OF THE POLLS; TO REQUIRE THE REJECTION OF THE ABSENTEE
21 BALLOTS OF THOSE WHO VOTED IN PERSON AND FOR OTHER REASONS FOR
22 WHICH ABSENTEE BALLOTS MAY BE REJECTED; TO PROVIDE THAT SUCH
23 ELECTION OFFICIALS SHALL COUNT THE ABSENTEE BALLOTS AND ADD THE
24 VOTES TO THE APPROPRIATE PRECINCT TOTALS BEFORE THE VOTE IS
25 CERTIFIED; TO AMEND SECTIONS 23-15-641, 23-15-643 AND 23-15-719,
26 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
27 PURPOSES.

SS26\HB1065A.1J

John O. Gilbert
Secretary of the Senate