

By: Representative Denny

To: Apportionment and
Elections

HOUSE BILL NO. 804

1 AN ACT TO AMEND SECTION 23-15-573, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT DURING MUNICIPAL ELECTIONS, AN AFFIDAVIT VOTER WHO
 3 IS CASTING AN AFFIDAVIT BALLOT BECAUSE THE VOTER IS UNABLE TO
 4 PRESENT AN ACCEPTABLE FORM OF PHOTO IDENTIFICATION SHALL RETURN TO
 5 THE MUNICIPAL CLERK'S OFFICE WITHIN FIVE BUSINESS DAYS OF THE DATE
 6 OF THE ELECTION TO PRESENT AN ACCEPTABLE FORM OF PHOTO
 7 IDENTIFICATION, A MISSISSIPPI VOTER IDENTIFICATION CARD, OR TO
 8 FILE AN AFFIDAVIT OF RELIGIOUS OBJECTION IN ORDER TO HAVE HIS OR
 9 HER VOTE COUNTED; TO BRING FORWARD SECTION 23-15-563, MISSISSIPPI
 10 CODE OF 1972, WHICH PROVIDES THE VOTER IDENTIFICATION REQUIREMENT,
 11 FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 23-15-573, Mississippi Code of 1972, is
 14 amended as follows:

15 23-15-573. (1) If any person declares that he or she is a
 16 registered voter in the jurisdiction in which he or she offers to
 17 vote and that he or she is eligible to vote in the election, but
 18 his or her name does not appear upon the pollbooks, or that he or
 19 she is not able to cast a regular election day ballot under a
 20 provision of state or federal law but is otherwise qualified to
 21 vote, or that he or she has been illegally denied registration, or



22 that he or she is unable to present an acceptable form of photo
23 identification:

24 (a) A poll manager shall notify the person that he or
25 she may cast an affidavit ballot at the election.

26 (b) The person shall be permitted to cast an affidavit
27 ballot at the polling place upon execution of a written affidavit
28 before one (1) of the poll managers stating that the individual:

29 (i) Believes he or she is a registered voter in
30 the jurisdiction in which he or she desires to vote and is
31 eligible to vote in the election; or

32 (ii) Is not able to cast a regular election day
33 ballot under a provision of state or federal law but is otherwise
34 qualified to vote; or

35 (iii) Believes that he or she has been illegally
36 denied registration; or

37 (iv) Is unable to present an acceptable form of
38 photo identification.

39 (c) The poll manager shall allow the individual to mark
40 a paper ballot properly endorsed by the initialing poll manager or
41 alternate initialing poll manager in accordance with Section
42 23-15-541, which shall be delivered by him or her to the proper
43 election official who shall enclose it in an affidavit ballot
44 envelope, with the written and signed affidavit of the voter
45 affixed to the envelope, seal the envelope and mark plainly upon
46 it the name of the person offering to vote.



47 (2) The affidavit ballot envelope shall include:
48 (a) The complete name of the voter;
49 (b) A present and previous physical and mailing address
50 of the voter;
51 (c) Telephone numbers where the voter may be contacted;
52 (d) A statement that the affiant believes he or she is
53 registered to vote in the jurisdiction in which he or she offers
54 to vote;
55 (e) The signature of the affiant; and
56 (f) The signature of the poll manager at the polling
57 place at which the affiant offers to vote.
58 (3) (a) A separate receipt book shall be maintained for
59 affidavit voters and the affidavit voters shall sign the receipt
60 book upon completing the affidavit ballot.
61 (b) If the affidavit voter is casting an affidavit
62 ballot because the voter is unable to present an acceptable form
63 of photo identification and the voter's name appears in the
64 pollbook, then the poll manager shall write "NO ID" across from
65 the voter's name and in the appropriate column in the pollbook.
66 (c) In canvassing the returns of the election, the
67 executive committee in primary elections, or the election
68 commissioners in other elections, shall examine the records and
69 allow the ballot to be counted, or not counted as it appears
70 legal.



71 (d) An affidavit ballot of a voter who was unable to
72 present an acceptable form of photo identification shall not be
73 rejected for this reason if the voter does either of the
74 following:

75 (i) Returns to the circuit clerk's office, or to
76 the municipal clerk's office for municipal elections, within five
77 (5) business days after the date of the election and presents an
78 acceptable form of photo identification;

79 (ii) Returns to the circuit clerk's office within
80 five (5) business days after the date of the election to obtain
81 the Mississippi Voter Identification Card, or in municipal
82 election, returns to the municipal clerk's office within five (5)
83 business days after the date of the election to present his or her
84 Mississippi Voter Identification Card or Temporary Mississippi
85 Voter Identification Card; or

86 (iii) Returns to the circuit clerk's office, or to
87 the municipal clerk's office for municipal elections, within five
88 (5) business days after the date of the election to execute a
89 separate Affidavit of Religious Objection.

90 (4) When a person is offered the opportunity to vote by
91 affidavit ballot, he or she shall be provided with written
92 information that informs the person how to ascertain whether his
93 or her affidavit ballot was counted and, if the vote was not
94 counted, the reasons the vote was not counted.



95 (5) The officials in charge of the election shall process
96 all affidavit ballots by using the Statewide Elections Management
97 System. The officials in charge of the election shall account for
98 all affidavit ballots cast in each election, categorizing the
99 affidavit ballots cast by reason and recording the total number of
100 affidavit ballots counted and not counted in each such category in
101 the Statewide Elections Management System.

102 (6) The Secretary of State shall, by rule duly adopted,
103 establish a uniform affidavit ballot envelope that shall be used
104 in all elections in this state. The Secretary of State shall
105 print and distribute a sufficient number of affidavit ballot
106 envelopes to the registrar of each county for use in elections.
107 The registrar shall distribute the affidavit ballot envelopes to
108 municipal and county executive committees for use in primary
109 elections and to municipal and county election commissioners for
110 use in all other elections.

111 (7) County registrars and municipal registrars shall
112 maintain a secure free access system that complies with the Help
113 America Vote Act of 2002, by which persons who vote by affidavit
114 ballot may determine if their ballots were counted, and if not,
115 the reasons the ballot was not counted.

116 (8) Any person who votes in any election as a result of a
117 federal or state court order or other order extending the time
118 established by law for closing the polls on an election day, may
119 only vote by affidavit ballot. Any affidavit ballot cast under



120 this subsection shall be separated and kept apart from other
121 affidavit ballots cast by voters not affected by the order.

122 **SECTION 2.** Section 23-15-563, Mississippi Code of 1972, is
123 brought forward as follows:

124 23-15-563. (1) Each person who appears to vote in person at
125 a polling place or the registrar's office shall be required to
126 identify himself or herself to a poll manager or the registrar by
127 presenting current and valid photo identification before such
128 person shall be allowed to vote.

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

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

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

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

135 (d) A current and valid employee identification card
136 containing a photograph of the elector and issued by any branch,
137 department, agency or entity of the United States government, the
138 State of Mississippi, or any county, municipality, board,
139 authority or other entity of this state;

140 (e) A current and valid Mississippi license to carry a
141 pistol or revolver;

142 (f) A valid tribal identification card containing a
143 photograph of the elector;



144 (g) A current and valid United States military
145 identification card;

146 (h) A current and valid student identification card,
147 containing a photograph of the elector, issued by any accredited
148 college, university or community or junior college in the State of
149 Mississippi; and

150 (i) An official Mississippi voter identification card
151 containing a photograph of the elector.

152 (3) (a) A person who appears to vote in person at a polling
153 place and does not have identification as required by this section
154 may vote by affidavit ballot. The affidavit ballot shall then be
155 counted if the person shall present acceptable photo
156 identification to the registrar within five (5) days.

157 (b) An elector who has a religious objection to being
158 photographed may vote by affidavit ballot, and the elector, within
159 five (5) days after the election, shall execute an affidavit in
160 the registrar's office affirming that the exemption applies.

161 (4) The intentional failure of an election official to
162 require a voter to present identification as required by this
163 section shall be considered corrupt conduct under Section 97-13-19
164 and shall be reported to the Secretary of State and the Attorney
165 General.

166 **SECTION 3.** This act shall take effect and be in force from
167 and after its passage.

