

By: Representative Currie

To: Apportionment and Elections

HOUSE BILL NO. 1277

1 AN ACT TO AMEND SECTION 23-15-505, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT THE BOARD OF SUPERVISORS OF ANY COUNTY AND THE
 3 GOVERNING AUTHORITIES OF ANY MUNICIPALITY SHALL NOT PURCHASE, RENT
 4 OR USE, EXCEPT FOR USE APPROVED BY THE SECRETARY OF STATE, ANY OMR
 5 EQUIPMENT UNLESS IT MEETS THE STANDARDS SET FORTH BY THE UNITED
 6 STATES ELECTION ASSISTANCE COMMISSION, OR ITS SUCCESSOR; TO
 7 PROVIDE THAT THE SECRETARY OF STATE MAY ADOPT RULES TO SUPPLEMENT
 8 THOSE STANDARDS SET FORTH BY THE COMMISSION; TO AMEND SECTION
 9 23-15-507, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
 10 SECTION; TO BRING FORWARD SECTION 23-15-525, MISSISSIPPI CODE OF
 11 1972, WHICH AUTHORIZES THE SECRETARY OF STATE TO ISSUE
 12 SUPPLEMENTARY INSTRUCTIONS AND PROCEDURES FOR THE SAFE AND
 13 EFFICIENT USE OF OMR EQUIPMENT, FOR THE PURPOSE OF POSSIBLE
 14 AMENDMENT; TO AMEND SECTION 23-15-531.1, MISSISSIPPI CODE OF 1972,
 15 TO PROVIDE THAT THE BOARD OF SUPERVISORS OF EACH COUNTY AND THE
 16 GOVERNING AUTHORITIES OF EACH MUNICIPALITY SHALL NOT PURCHASE,
 17 RENT OR USE, EXCEPT FOR USE APPROVED BY THE SECRETARY OF STATE,
 18 ANY DRE UNIT UNLESS IT MEETS THE STANDARDS SET FORTH BY THE UNITED
 19 STATES ELECTION ASSISTANCE COMMISSION, OR ITS SUCCESSOR; TO
 20 PROVIDE THAT THE SECRETARY OF STATE MAY ADOPT RULES TO SUPPLEMENT
 21 THOSE STANDARDS SET FORTH BY THE COMMISSION; TO AMEND SECTIONS
 22 23-15-169.3 AND 23-15-391, MISSISSIPPI CODE OF 1972, TO CONFORM TO
 23 THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

25 **SECTION 1.** Section 23-15-505, Mississippi Code of 1972, is
 26 amended as follows:

27 23-15-505. (1) Except as otherwise provided in subsection
 28 (2), the board of supervisors of any county and the governing



29 authorities of any municipality are hereby authorized and
30 empowered, in their discretion, to purchase or rent OMR equipment
31 that meets the requirements of Section 23-15-507 and may use such
32 system in all or a part of the precincts within its boundaries.

33 (2) The board of supervisors of any county and the governing
34 authorities of any municipality shall not purchase, rent or use,
35 except for use approved by the Secretary of State, any OMR
36 equipment unless it meets the standards set forth by the United
37 States Election Assistance Commission, or its successor. The
38 Secretary of State may adopt rules to supplement those standards
39 set forth by the commission.

40 (3) The provisions of this chapter shall be controlling with
41 respect to elections in which OMR equipment is used, and shall be
42 liberally construed so as to carry out the purpose of this
43 chapter. The provisions of the election law relating to the
44 conduct of elections with paper ballots, insofar as they are
45 applicable, shall apply.

46 **SECTION 2.** Section 23-15-507, Mississippi Code of 1972, is
47 amended as follows:

48 23-15-507. No OMR equipment shall be acquired or used in
49 accordance with this chapter unless it shall:

50 (a) Permit eligible voters to vote at any election for
51 all persons for whom they are lawfully entitled to vote; to vote
52 for as many persons for an office as they are lawfully entitled to



53 vote; to vote for or against any ballot initiative, measure or
54 other local issue upon which they are lawfully entitled to vote;

55 (b) * * * Be capable of rejecting choices marked on the
56 ballot if the number of choices exceeds the number that the voter
57 is entitled to vote for the office or on the measure;

58 (c) Permit each voter, in presidential elections, by
59 one (1) mark to vote for the candidates of that party for
60 President, Vice President, and their presidential electors, or to
61 vote individually for the electors of their choice when permitted
62 by law;

63 (d) Permit each voter, in other than primary elections,
64 to vote for the nominees of one or more parties and for
65 independent candidates;

66 (e) Permit each voter to vote for candidates only in
67 the primary in which he or she is qualified to vote;

68 (f) Permit each voter to vote for persons whose names
69 are not on the printed ballot;

70 (g) Be suitably designed for the purpose used, of
71 durable construction, and may be used safely, efficiently and
72 accurately in the conduct of elections and the counting of
73 ballots;

74 (h) Be provided with means for sealing the ballots
75 after the close of the polls;

76 (i) When properly operated, record correctly and count
77 accurately all votes cast; * * *



78 (j) Provide the voter with a set of instructions that
79 will be displayed in such a way that a voter may readily learn the
80 method of voting * * *; and

81 (k) Meet the standards set forth by the United States
82 Election Assistance Commission and any supplemental rules adopted
83 by the Secretary of State as provided in Section 23-15-505.

84 **SECTION 3.** Section 23-15-525, Mississippi Code of 1972, is
85 brought forward as follows:

86 23-15-525. (1) The Secretary of State shall have the power
87 to issue supplementary instructions and procedures for the safe
88 and efficient use of OMR equipment within the State of Mississippi
89 and to carry out the purpose of the chapter. Subject to such
90 instructions and procedures provided by the Secretary of State and
91 the provisions of this chapter, the election commissioners shall
92 have the power to make additional provisions for the conduct of
93 elections with the OMR equipment.

94 (2) If for any reason the OMR equipment shall become
95 inoperable, the poll managers shall direct voters to operating OMR
96 equipment or to cast emergency paper ballots. The paper ballots
97 shall be administered in accordance with the laws concerning paper
98 ballots.

99 **SECTION 4.** Section 23-15-531.1, Mississippi Code of 1972, is
100 amended as follows:

101 23-15-531.1. (1) Except as otherwise provided in subsection
102 (2) of this section, the board of supervisors of each county and



103 the governing authorities of each municipality are hereby
104 authorized and empowered, in their discretion, to purchase or rent
105 DRE units that meets the requirements of subsection (* * *4) of
106 this section and may use such system in all or a part of the
107 precincts within its boundaries.

108 (2) The board of supervisors of each county and the
109 governing authorities of each municipality shall not purchase,
110 rent or use, except for use approved by the Secretary of State,
111 any DRE unit unless it meets the standards set forth by the United
112 States Election Assistance Commission, or its successor. The
113 Secretary of State may adopt rules to supplement those standards
114 set forth by the commission.

115 (3) The provisions of this chapter shall be controlling with
116 respect to elections in which a DRE unit is used, and shall be
117 liberally construed so as to carry out the purpose of this
118 chapter. The provisions of the election law relating to the
119 conduct of elections with paper ballots, insofar as they are
120 applicable, shall apply.

121 (* * *4) No DRE unit shall be acquired or used in
122 accordance with this chapter unless it shall:

123 (a) Permit the voter to verify, in a private and
124 independent manner, the votes selected by the voter on the ballot
125 before the ballot is cast and counted;

126 (b) Provide the voter with the opportunity, in a
127 private and independent manner, to change the ballot or correct



128 any error before the ballot is cast and counted, including, but
129 not limited to, the opportunity to correct the error through the
130 issuance of a replacement ballot if the voter is otherwise unable
131 to change the ballot or correct any error;

132 (c) If the voter votes for more candidates for a single
133 office than are eligible for election:

134 (i) Notify the voter that he or she has selected
135 more candidates for that office than are eligible for election;

136 (ii) Notify the voter before his or her vote is
137 cast and counted of the effect of casting multiple votes for such
138 an office; and

139 (iii) Provide the voter with the opportunity to
140 correct the ballot before the ballot is cast and counted;

141 (d) Produce a permanent paper record with a manual
142 audit capability;

143 (e) Have the capability to print the ballots cast by
144 electors;

145 (f) Be accessible for individuals with disabilities,
146 including, but not limited to, nonvisual accessibility for the
147 blind and visually impaired, in a manner that provides the same
148 opportunity for access and participation, including privacy and
149 independence, as for other voters. This requirement may be
150 satisfied through the use of at least one (1) DRE unit or other
151 voting unit equipped for individuals with disabilities at each
152 polling place;



153 (g) Provide alternative language accessibility pursuant
154 to the requirements of the Voting Rights Act of 1965; * * *

155 (h) Have a residual vote rate in counting ballots
156 attributable to the voting system and not to voter error that
157 complies with error rate standards established under the voting
158 system standards issued by the Federal Election Commission in
159 effect as of October 29, 2002 * * *; and

160 (i) Meet the standards set forth by the United States
161 Election Assistance Commission and any supplemental rules adopted
162 by the Secretary of State as provided in subsection (2) of this
163 section.

164 **SECTION 5.** Section 23-15-169.3, Mississippi Code of 1972, is
165 amended as follows:

166 23-15-169.3. (1) The Secretary of State shall have the
167 authority to accept federal funds authorized under the Help
168 America Vote Act of 2002 and to meet all the requirements of the
169 Help America Vote Act of 2002 in order to expend the funds.

170 (2) Counties that purchase or have purchased since January
171 1, 2001, voting systems that comply with the requirements of the
172 Help America Vote Act of 2002 shall be eligible for federal funds
173 accepted by the Secretary of State for Help America Vote Act of
174 2002 compliance efforts. Except as otherwise provided in Sections
175 23-15-505, 23-15-507 and 23-15-531.1, the only restriction that
176 the Secretary of State may place on the expenditure of federal
177 funds for the purchase of voting systems is that the systems



178 comply with the criteria and rules established in the Help America
179 Vote Act of 2002 for voting systems.

180 (3) Except as otherwise provided in Sections 23-15-505,
181 23-15-507 and 23-15-531.1, counties may purchase voting systems
182 under the Help America Vote Act of 2002 (HAVA) if:

183 (a) The system selected is HAVA compliant as determined
184 by the rules promulgated to effectuate the Help America Vote Act
185 of 2002 in this state; and

186 (b) The County Board of Supervisors spreads upon its
187 minutes a certification of the following:

188 (i) The county determined it is in its best
189 interest to opt out of any statewide bulk purchase to be
190 effectuated by the Secretary of State pursuant to his duties under
191 HAVA;

192 (ii) The voting system selected by the county
193 meets all of the foregoing requirements under HAVA ;

194 (iii) The county understands and accepts any and
195 all liability for said system; and

196 (iv) The county is solely responsible for the
197 purchase of said system.

198 Upon meeting the foregoing requirements, a county shall be
199 reimbursed for its costs for said system from the HAVA funds for
200 this purpose; however, the county shall be limited in its
201 reimbursement to an amount to be determined by the Secretary of
202 State based upon an objective formula implemented for the



203 statewide, bulk purchase of said voting systems. Any costs over
204 and above the set formula described herein shall be the sole
205 responsibility of the county.

206 (c) In addition to other information required by
207 paragraph (b) of this subsection, any county that purchases voting
208 systems after June 6, 2005, shall spread upon its minutes
209 certification of the following:

210 (i) All voting systems within the county are the
211 same, except those machines that are handicap accessible as
212 required by HAVA; and

213 (ii) The voting systems have a device or mechanism
214 that allows any votes cast to be verified by paper audit trail.

215 **SECTION 6.** Section 23-15-391, Mississippi Code of 1972, is
216 amended as follows:

217 23-15-391. Except as otherwise provided in Sections
218 23-15-505, 23-15-507 and 23-15-531.1, the board of supervisors of
219 each county and the governing authorities of each municipality
220 shall use optical mark reading equipment or direct recording
221 electronic voting equipment that complies with the specifications
222 provided by law. The election commissioners may conduct special
223 and municipal elections, as well as any necessary runoff
224 elections, by paper ballot when the election commissioners
225 determine that administration of an election by paper ballot will
226 be less expensive than administration of the same election by



227 optical mark reading equipment or direct recording electronic
228 voting equipment.

229 **SECTION 7.** This act shall take effect and be in force from
230 and after July 1, 2020.

