To: Elections

MISSISSIPPI LEGISLATURE  REGULAR SESSION 2022
By: Senator(s) Horhn

To: Elections

SENATE BILL NO. 2396

AN ACT TO AUTHORIZE A QUALIFIED ELECTOR TO VOTE EARLY NOT
MORE THAN 21 DAYS NOR LESS THAN FIVE DAYS BEFORE THE DATE OF AN
ELECTION; TO PROVIDE THAT EARLY VOTING MAY BE CONDUCTED IN THE
REGISTRAR'S OFFICE OR AT A LOCATION DESIGNATED BY THE REGISTRAR;
TO REQUIRE A PERSON WHO DESIRES TO VOTE EARLY TO APPEAR AT THE
REGISTRAR'S OFFICE AND TO PROVIDE THAT AFTER SIGNING THE RECEIPT
BOOK SUCH PERSON SHALL BE ENTITLED TO VOTE AT THE REGISTRAR'S
OFFICE OR AT THE LOCATION DESIGNATED BY THE REGISTRAR DURING THE
EARLY VOTING PERIOD IN THE SAME MANNER AS HE OR SHE WOULD AT HIS
OR HER VOTING PRECINCT ON THE DAY OF THE ELECTION; TO PROVIDE THAT
THE ELECTION LAWS THAT GOVERN PROCEDURES FOR A PERSON WHO APPEARS
TO VOTE ON THE DAY OF ELECTION SHALL APPLY WHEN A PERSON APPEARS
TO VOTE DURING THE EARLY VOTING PERIOD; TO PROVIDE THAT ALL VOTES
CAST DURING THE EARLY VOTING PERIOD SHALL BE FINAL; TO PROVIDE
THAT THE VOTES CAST DURING EARLY VOTING SHALL BE ANNOUNCED
SIMULTANEOUSLY WITH THE VOTE CAST ON ELECTION DAY; TO PROVIDE THAT
EACH CANDIDATE SHALL HAVE THE RIGHT TO BE PRESENT AT THE
REGISTRAR'S OFFICE AND TO CHALLENGE THE QUALIFICATIONS OF ANY
PERSON OFFERING TO VOTE EARLY IN THE SAME MANNER AS PROVIDED BY
LAW AT THE POLLING PLACE ON THE DAY OF THE ELECTION; TO REQUIRE
THE SECRETARY OF STATE TO PROMULGATE RULES AND REGULATIONS
NECESSARY TO EFFECTUATE EARLY VOTING; TO AMEND SECTIONS 23-15-195,
23-15-353 AND 23-15-653, MISSISSIPPI CODE OF 1972, TO CONFORM; TO
23-15-715, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT VOTERS MAY
NOT CAST ABSENTEE BALLOTS AT THE OFFICE OF THE REGISTRAR DURING
THE EARLY VOTING PERIOD; AND FOR RELATED PURPOSES.

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

SECTION 1. Sections 1 through 5 of this act shall be known
and may be cited as the "Early Voting Act."
SECTION 2.  (1) A qualified elector may vote early not more than twenty-one (21) days nor less than five (5) days before the date of an election in the office of the registrar or at a location designated by the registrar of the county in which such elector is registered to vote during the times established for early voting in this section.

(2) If only one (1) person has qualified for each office on the ballot, early voting shall not be conducted.

(3) Early voting shall be conducted at the office of the registrar during the following times:

   (a) Weekdays from 8:00 a.m. until 5:00 p.m., except that the office of the registrar shall remain open until 7:00 p.m. the last two (2) days of the early voting period; and

   (b) One (1) Saturday during the early voting period from 8:00 a.m. until 4:00 p.m.

(4) Notice of the early voting hours shall be given by the commissioners of election not less than twenty-five (25) days before the day of election by publication in a newspaper of general circulation in the county. If a state holiday occurs on any day in which early voting is allowed, the commissioners of election may authorize the closing of the office of the registrar or the designated location on such holiday by including a notice of such closure in the notice published pursuant to this subsection.
SECTION 3. (1) A person who desires to vote early shall appear at the office of the registrar or the location authorized by the registrar for early voting. After signing the appropriate receipt book, the elector shall vote at the location in the same manner as he would at his voting precinct on the day of the election. Except as may be otherwise provided by Sections 1 through 5 of this act, the election laws that govern procedures for a person who appears to vote on the day of election shall apply when a person appears to vote during the early voting period.

(2) All votes cast at an early voting location shall be final.

(3) The votes cast during early voting shall be announced simultaneously with the vote cast on election day.

SECTION 4. Each candidate or his representatives shall have the right to be present at the office of the registrar or designated location when it is open for early voting and to challenge the qualifications of any person offering to vote in the same manner as provided by law at the polling place on election day.

SECTION 5. The Secretary of State shall promulgate rules and regulations necessary to effectuate early voting.

SECTION 6. Section 23-15-195, Mississippi Code of 1972, is amended as follows:
23-15-195. All elections by the people shall be by ballot * * *.

SECTION 7. Section 23-15-353, Mississippi Code of 1972, is amended as follows:

23-15-353. (1) The officer charged with printing and distributing the official ballot shall ascertain from the registrar, at least ten (10) days before the day of election, the number of registered voters in each voting precinct; and he or she shall have printed and distributed a sufficient number of ballots for use in each precinct.

(2) The officer charged with printing and distributing the official ballot shall ascertain from the registrar, at least ten (10) days before the beginning of early voting, the number of ballots that the registrar desires for early voting.

SECTION 8. Section 23-15-653, Mississippi Code of 1972, is amended as follows:

23-15-653. Except as otherwise provided in Section 2 of this act, all registrars' offices shall remain open until noon on the two (2) Saturdays prior to each election.

SECTION 9. Section 23-15-627, Mississippi Code of 1972, is amended as follows:

23-15-627. Any elector described in Section 23-15-713 may request an absentee ballot application and vote in person at the office of the registrar in the county in which he or she resides. The registrar shall be responsible for furnishing an absentee
ballot application form to any elector authorized to receive an absentee ballot. Except as otherwise provided in Section 23-15-625, absentee ballot applications shall be furnished to a person only upon the oral or written request of the elector who seeks to vote by absentee ballot; however, the parent, child, spouse, sibling, legal guardian, those empowered with a power of attorney for that elector's affairs or agent of the elector, who is designated in writing and witnessed by a resident of this state who shall write his or her physical address on such designation, may orally request an absentee ballot application on behalf of the elector. The written designation shall be valid for one (1) year after the date of the designation. An absentee ballot application must have the seal of the circuit or municipal clerk affixed to it and be initialed by the registrar or his or her deputy in order to be used to obtain an absentee ballot. A reproduction of an absentee ballot application shall not be valid unless it is a reproduction provided by the office of the registrar of the jurisdiction in which the election is being held and which contains the seal and initials required by this section. Such application shall be substantially in the following form: "OFFICIAL APPLICATION FOR ABSENT ELECTOR'S BALLOT

I, _____, duly qualified and registered in the ___ Precinct of the County of ____, and State of Mississippi, coming within the purview of the definition 'ABSENT ELECTOR' will be absent from the county of my residence on election day and all days upon which
early voting may be conducted, or unable to vote in person because (check appropriate reason):

( ) (PRESIDENTIAL APPLICANT ONLY:) I am currently a resident of Mississippi or have moved therefrom within thirty (30) days of the coming presidential election.

( ) I am an enlisted or commissioned member, male or female, of any component of the United States Armed Forces and am a citizen of Mississippi, or spouse or dependent of such member.

( ) I am a member of the Merchant Marine or the American Red Cross and am a citizen of Mississippi or spouse or dependent of such member.

( ) I am a disabled war veteran who is a patient in any hospital and am a citizen of Mississippi or spouse or dependent of such veteran.

( ) I am a civilian attached to and serving outside of the United States with any branch of the Armed Forces or with the Merchant Marine or American Red Cross, and am a citizen of Mississippi or spouse or dependent of such civilian.

( ) I am a citizen of Mississippi temporarily residing outside the territorial limits of the United States and the District of Columbia.

( ) I am a student, teacher or administrator at a college, university, junior or community college, high, junior high, elementary or grade school, whose studies or employment at such institution necessitates my absence from the county of my voting
residence or spouse or dependent of such student, teacher or administrator who maintains a common domicile outside the county of my voting residence with such student, teacher or administrator.

( ) I will be outside the county on election day.

( ) I have a temporary or permanent physical disability, which may include, but is not limited to, a physician-imposed quarantine due to COVID-19 during the year 2020. Or, I am caring for a dependent that is under a physician-imposed quarantine due to COVID-19 beginning with July 8, 2020, and the same being repealed on December 31, 2020.

( ) I am sixty-five (65) years of age or older.

( ) I am the parent, spouse or dependent of a person with a temporary or permanent physical disability who is hospitalized outside his or her county of residence or more than fifty (50) miles away from his or her residence, and I will be with such person on election day.

( ) I am a member of the congressional delegation, or spouse or dependent of a member of the congressional delegation.

( ) I am required to be at work on election day during the times which the polls will be open.

I hereby make application for an official ballot, or ballots, to be voted by me at the election to be held in ____, on ____.

Mail 'Absent Elector's Ballot' to me at the following address __________.
( ) I wish to receive an absentee ballot for the runoff election _______________________________________________________________________.

I realize that I can be fined up to Five Thousand Dollars ($5,000.00) and sentenced up to five (5) years in the Penitentiary for making a false statement in this application and for selling my vote and violating the Mississippi Absentee Voter Law. (This sentence is to be in bold print.)

If you are temporarily or permanently disabled, you are not required to have this application notarized or signed by an official authorized to administer oaths for absentee balloting. You are required to sign this application in the proper place and have a person eighteen (18) years of age or older witness your signature and sign this application in the proper place.

DO NOT SIGN WITHOUT READING. (This sentence is to be in bold print.)

IN WITNESS WHEREOF, I have hereunto set my hand and seal this the ____ day of _____, 2____.

_________________________________
(Signature of absent elector)

SWORN TO AND SUBSCRIBED before me this the ____ day of _____, 2____.

_________________________________
(Official authorized to administer oaths for absentee balloting.)
TO BE SIGNED BY WITNESS FOR VOTERS TEMPORARILY OR PERMANENTLY DISABLED:

I HEREBY CERTIFY that this application for an absent elector's ballot was signed by the above-named elector in my presence and that I am at least eighteen (18) years of age, this the ____ day of _________________, 2____.

________________________________________
(Signature of witness)

CERTIFICATE OF DELIVERY

I hereby certify that _________________ (print name of voter) has requested that I, _________________ (print name of person delivering application), deliver to the voter this absentee ballot application.

________________________________________
(Signature of person delivering application)

________________________________________
(Address of person delivering application)"

SECTION 10. Section 23-15-637, Mississippi Code of 1972, is amended as follows:

23-15-637. (1) (a) Absentee ballots and applications received by mail, except for fax or electronically transmitted ballots as otherwise provided by Section 23-15-699 for UOCAVA ballots, must be postmarked on or before the date of the election and received by the registrar no more than five (5) business days
after the election; any received after such time shall be handled
as provided in Section 23-15-647 and shall not be counted.

(b) All ballots cast by the absent elector appearing in
person in the office of the registrar shall be cast with an
absentee paper ballot and deposited into a sealed ballot box by
the voter, not later than 12:00 noon ** on the day immediately
preceding ** the first day of the early voting period. At the
close of business each day at the office of the registrar, the
ballot box used shall be sealed and not unsealed until the
beginning of the next business day, and the seal number shall be
recorded with the number of ballots cast which shall be stored in
a secure location in the registrar's office.

(2) The registrar shall deposit all absentee ballots which
have been timely cast and received by mail in a secured and sealed
box in a designated location in the registrar's office upon
receipt. The registrar shall not send any absentee ballots to the
precinct polling locations.

(3) The Secretary of State shall promulgate rules and
regulations necessary to ensure that when a qualified elector who
is qualified to vote absentee votes by absentee ballot, either by
mail or in person with a regular paper ballot, that person's
absentee vote is final and he or she may not vote at the polling
place on election day. Notwithstanding any other provisions of
law to the contrary, the Secretary of State shall promulgate rules
and regulations necessary to ensure that absentee ballots shall
remain in the registrar's office for counting and not be taken to the precincts on election day.

**SECTION 11.** Section 23-15-641, Mississippi Code of 1972, is amended as follows:

23-15-641. (1) For all absentee votes received by mail, if an affidavit or the certificate of the officer before whom the affidavit is taken is required and such affidavit or certificate is found to be insufficient, or if it is found that the signatures do not correspond, or that the applicant is not a duly qualified elector in the precinct, or otherwise qualified to vote, or that the ballot envelope is open or has been opened and resealed, or the voter is not eligible to vote absentee or has voted early, the * * * vote cast by absentee ballot shall not be allowed. Without opening the voter's envelope the resolution board shall mark across its face "REJECTED", with the reason therefor.

(2) For all absentee votes received by mail, if the ballot envelope contains more than one (1) ballot of any kind, the ballot shall not be counted but shall be marked "REJECTED", with the reason therefor, and the registrar shall promptly notify the voter of such rejection. The voter's envelopes and affidavits, and the voter's envelope with its contents unopened, when such vote is rejected, shall be retained and preserved in the same manner as other ballots at the election. Such votes may be challenged in the same manner and for the same reasons that any other vote cast in such election may be challenged.
(3) If an affidavit is required and the officials find that the affidavit is insufficient, or if the officials find that the absentee voter is otherwise disqualified to vote, the envelope shall not be opened and a commissioner or executive committee member shall write across the face of the envelope "REJECTED" giving the reason therefor, and the registrar shall promptly notify the voter of such rejection.

(4) The ballots marked "REJECTED" shall be placed in a separate envelope in the secure ballot transfer case and delivered to the officials in charge of conducting the election at the central tabulation point of the county.

(5) All electors voting absentee shall be provided with written information to inform the person how to ascertain whether his or her ballot was counted and, if rejected, the reason therefor.

SECTION 12. Section 23-15-713, Mississippi Code of 1972, is amended as follows:

23-15-713. For the purpose of this subarticle, any duly qualified elector may vote as provided in this subarticle if the elector falls within at least one (1) of the following categories:

(a) Any qualified elector who is a bona fide student, teacher or administrator at any college, university, junior college, high, junior high, or elementary grade school whose studies or employment at such institution necessitates his or her absence from the county of his or her voting residence on
the election day and all days upon which early voting may be conducted, or the spouse and dependents of that student, teacher or administrator if such spouse or dependent(s) maintain a common domicile, outside of the county of his or her voting residence, with the student, teacher or administrator.

(b) Any qualified elector who is required to be away from his or her place of residence on any election day and all days upon which early voting may be conducted due to his or her employment as an employee of a member of the Mississippi congressional delegation and the spouse and dependents of the person if he or she shall be residing with such absentee voter away from the county of the spouse's voting residence.

(c) Any qualified elector who is away from his or her county of residence on election day and all days upon which early voting may be conducted for any reason.

(d) Any person who has a temporary or permanent physical disability and who, because of such disability, is unable to vote in person without substantial hardship to himself, herself or others, or whose attendance at the voting place could reasonably cause danger to himself, herself or others. For purposes of this paragraph (d), "temporary physical disability" shall include any qualified elector who is under a physician-imposed quarantine due to COVID-19 during the year 2020 or is caring for a dependent who is under a physician-imposed
quarantine due to COVID-19 beginning with July 8, 2020, and the same being repealed on December 31, 2020.

(e) The parent, spouse or dependent of a person with a temporary or permanent physical disability who is hospitalized outside of his or her county of residence or more than fifty (50) miles distant from his or her residence, if the parent, spouse or dependent will be with such person on election day and all days upon which early voting may be conducted. For purposes of this paragraph (e), "temporary physical disability" shall include any qualified elector who is under a physician-imposed quarantine due to COVID-19 during the year 2020 or is caring for a dependent who is under a physician-imposed quarantine due to COVID-19 beginning with July 8, 2020, and the same being repealed on December 31, 2020.

(f) Any person who is sixty-five (65) years of age or older.

(g) Any member of the Mississippi congressional delegation absent from Mississippi on election day and all days upon which early voting may be conducted, and the spouse and dependents of the member of the congressional delegation.

(h) Any qualified elector who will be unable to vote in person because he or she is required to be at work on election day and all days upon which early voting may be conducted during the times at which the polls will be open.
SECTION 13. Section 23-15-715, Mississippi Code of 1972, is amended as follows:

23-15-715. Any elector desiring an absentee ballot as provided in this subarticle may secure same if:

(a) Not more than forty-five (45) days nor later than *** the *** day immediately preceding *** the first day of the early voting period, he shall appear in person before the registrar of the county in which he resides, or for municipal elections he shall appear in person before the city clerk of the municipality in which he resides and, when the elector so appears, he shall execute and file an application as provided in Section 23-15-627 and vote by absentee ballot, except that if the ballot has not been printed by forty-five (45) days preceding the election, the elector may appear and file an application anytime before the election. Then the absentee ballot shall be mailed by the circuit clerk to the elector as soon as the ballot has been printed.

(b) Within forty-five (45) days next prior to any election, any elector who cannot comply with paragraph (a) of this section by reason of temporarily residing outside the county, or any person who has a temporary or permanent physical disability, persons who are sixty-five (65) years of age or older, or any person who is the parent, spouse or dependent of a temporarily or permanently physically disabled person who is hospitalized outside of his county of residence or more than fifty (50) miles away from
his residence and such parent, spouse or dependent will be with
such person on election day and all days upon which early voting
may be conducted, may make application for an absentee ballot by
mailing the appropriate application to the registrar. Only
persons temporarily residing out of the county of their residence,
persons having a temporary or permanent physical disability,
persons who are sixty-five (65) years of age or older, or any
person who is the parent, spouse or dependent of a temporarily or
permanently physically disabled person who is hospitalized outside
of his county of residence or more than fifty (50) miles away from
his residence, and such parent, spouse or dependent will be with
such person on election day and all days upon which early voting
may be conducted, may obtain absentee ballots by mail under the
provisions of this **paragraph** and as provided by Section
23-15-713. Applications of persons temporarily residing outside
the county shall be sworn to and subscribed before an official who
is authorized to administer oaths or other official authorized to
witness absentee balloting as provided in this chapter, said
application to be accompanied by such verifying affidavits as
required by this chapter. The applications of persons having a
temporary or permanent physical disability shall not be required
to be accompanied by an affidavit but shall be witnessed and
signed by a person eighteen (18) years of age or older. The
registrar shall send to such absent voter a proper absentee voter
ballot within twenty-four (24) hours, or as soon thereafter as the
ballots are available, containing the names of all candidates who
qualify or the proposition to be voted on in such election, and
with such ballot there shall be sent an official envelope
containing upon it in printed form the recitals and data
hereinafter required.

(c) Except when the voter has requested a runoff ballot
on the initial absentee ballot application, upon request for a
runoff ballot pursuant to Section 23-15-719, the registrar shall
mail together the absentee ballot application and the absentee
ballot to the absent voter for the runoff election.

SECTION 14. This act shall take effect and be in force from
and after July 1, 2022.