

By: Representative Roberson

To: Apportionment and
Elections

HOUSE BILL NO. 391

1 AN ACT TO REENACT SECTIONS 23-15-531 THROUGH 23-15-531.6,
2 23-15-531.9, 23-15-531.10 AND 23-15-531.12, MISSISSIPPI CODE OF
3 1972, WHICH AUTHORIZE COUNTIES AND MUNICIPALITIES TO USE DIRECT
4 RECORDING ELECTRONIC VOTING EQUIPMENT (DRE UNIT) FOR THE RECORDING
5 OF VOTES AT POLLING PLACES; TO AMEND SECTION 6, CHAPTER 480, LAWS
6 OF 2022, TO EXTEND THE DATE OF THE REPEALER ON THOSE STATUTES; AND
7 FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 23-15-531, Mississippi Code of 1972, is
10 reenacted as follows:

11 23-15-531. "Direct recording electronic voting equipment
12 (DRE unit)" means a computer driven unit for casting and counting
13 votes on which an elector touches a video screen or a button
14 adjacent to a video screen to cast his or her vote.

15 **SECTION 2.** Section 23-15-531.1, Mississippi Code of 1972, is
16 reenacted as follows:

17 23-15-531.1. (1) The board of supervisors of each county
18 and the governing authorities of each municipality are hereby
19 authorized and empowered, in their discretion, to purchase or rent
20 DRE units that meets the requirements of subsection (2) of this



21 section and may use such system in all or a part of the precincts
22 within its boundaries. The provisions of this chapter shall be
23 controlling with respect to elections in which a DRE unit is used,
24 and shall be liberally construed so as to carry out the purpose of
25 this chapter. The provisions of the election law relating to the
26 conduct of elections with paper ballots, insofar as they are
27 applicable, shall apply.

28 (2) No DRE unit shall be acquired or used in accordance with
29 this chapter unless it shall:

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

33 (b) Provide the voter with the opportunity, in a
34 private and independent manner, to change the ballot or correct
35 any error before the ballot is cast and counted, including, but
36 not limited to, the opportunity to correct the error through the
37 issuance of a replacement ballot if the voter is otherwise unable
38 to change the ballot or correct any error;

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

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

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



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

48 (d) Produce a permanent paper record with a manual
49 audit capability;

50 (e) Have the capability to print the ballots cast by
51 electors;

52 (f) Be accessible for individuals with disabilities,
53 including, but not limited to, nonvisual accessibility for the
54 blind and visually impaired, in a manner that provides the same
55 opportunity for access and participation, including privacy and
56 independence, as for other voters. This requirement may be
57 satisfied through the use of at least one (1) DRE unit or other
58 voting unit equipped for individuals with disabilities at each
59 polling place;

60 (g) Provide alternative language accessibility pursuant
61 to the requirements of the Voting Rights Act of 1965; and

62 (h) Have a residual vote rate in counting ballots
63 attributable to the voting system and not to voter error that
64 complies with error rate standards established under the voting
65 system standards issued by the Federal Election Commission in
66 effect as of October 29, 2002.

67 **SECTION 3.** Section 23-15-531.2, Mississippi Code of 1972, is
68 reenacted as follows:

69 23-15-531.2. DRE units shall be arranged in the polling
70 place in such a manner as to:



71 (a) Ensure the privacy of the elector while voting on
72 the units;

73 (b) Allow monitoring of the units by the poll managers
74 while the polls are open; and

75 (c) Permit the public and lawful poll watchers to
76 observe the voting without affecting the privacy of the electors
77 as they vote.

78 **SECTION 4.** Section 23-15-531.3, Mississippi Code of 1972, is
79 reenacted as follows:

80 23-15-531.3. (1) The ballots for DRE units shall be of such
81 size and arrangement as will suit the construction of the DRE
82 screen and shall be in plain, clear type that is easily readable
83 by persons with normal vision.

84 (2) (a) If the DRE unit has the capacity for color display,
85 the names of all candidates in a particular race shall be
86 displayed in the same color, font and size, and the political
87 party or affiliation of candidates may be displayed in a color
88 different from that used to display the names of the candidates,
89 but all political parties or affiliations shall be displayed in
90 the same color. All political party names shall be displayed in
91 the same size and font.

92 (b) All ballot questions, local options, referenda and
93 constitutional amendments shall be displayed in the same color.

94 **SECTION 5.** Section 23-15-531.4, Mississippi Code of 1972, is
95 reenacted as follows:



96 23-15-531.4.

97 (1) The circuit clerk shall be the custodian of the DRE
98 units acquired by the county and shall be charged with the proper
99 storage, maintenance and repair of the county's DRE units.

100 (2) The municipal clerk shall be the custodian of the DRE
101 unit acquired by the municipality, and shall be charged with the
102 proper storage, maintenance and repair of the DRE unit.

103 (3) The custodian shall provide compensation for the safe
104 storage and care of the DRE units and related equipment if the
105 same are stored and secured by a person or entity other than the
106 circuit or municipal clerk.

107 **SECTION 6.** Section 23-15-531.5, Mississippi Code of 1972, is
108 reenacted as follows:

109 23-15-531.5. (1) The arrangement of offices, names of
110 candidates and ballot questions upon the DRE ballots shall conform
111 as nearly as practicable to the arrangement of offices, names of
112 candidates and ballot questions on paper ballots.

113 (2) The officials in charge of the election of each county
114 or municipality shall cause the creation of the database for each
115 DRE unit that is to be used in any precinct within the county or
116 municipality.

117 **SECTION 7.** Section 23-15-531.6, Mississippi Code of 1972, is
118 reenacted as follows:

119 23-15-531.6. (1) For each primary or general election, the
120 officials in charge of the election shall use at least



121 seventy-five percent (75%) of all DRE units available to the
122 county or municipality, as the case may be. For all other
123 elections in which the officials in charge of the election choose
124 to use DRE units, at least one-third (1/3) of all DRE units
125 available to the county or municipality, as the case may be, shall
126 be used in such elections.

127 (2) The officials in charge of the election shall ensure the
128 delivery of the proper DRE units to the polling places of the
129 respective precincts at least one (1) hour before the time for
130 opening the polls at each election and shall cause each unit to be
131 set up in the proper manner for use in voting.

132 (3) (a) On or before the second day before any election,
133 the officials in charge of the conduct of the election shall cause
134 each DRE unit to be tested for logic and accuracy to ascertain
135 that the units will correctly count the votes cast for all offices
136 and on all questions, in a manner the Secretary of State may
137 further prescribe by rule or regulation.

138 (b) Public notice of the time and place of the test
139 shall be made at least five (5) days before the date of the test.
140 Candidates, representatives of candidates, political parties, news
141 media and the public shall be permitted to observe the testing of
142 the DRE units.

143 (4) The officials in charge of the conduct of the election
144 shall test all memory cards and encoders to be used in any
145 election.



146 (5) The officials in charge of the election shall require
147 that each DRE unit be inspected and sealed before the delivery of
148 each DRE unit to the polling place. Before opening the polls each
149 day on which the DRE units will be used in an election, the poll
150 manager shall break the seal on each unit, turn on each unit,
151 certify that each unit is operating properly and is set to zero,
152 and print a zero tape certifying that each unit is set to zero and
153 shall keep or record such certification on each unit.

154 (6) The officials in charge of the election, election
155 commissioners and poll managers shall provide ample protection
156 against molestation of and injury to the DRE units, and, for that
157 purpose, the officials in charge of the election, election
158 commissioners and poll managers may call upon any law enforcement
159 officer to furnish any assistance that may be necessary. It shall
160 be the duty of any law enforcement officer to furnish assistance
161 when so requested by the officials in charge of the election,
162 election commissioner or poll manager.

163 (7) The officials in charge of the election, in conjunction
164 with the governing authorities, shall, at least one (1) hour
165 before opening the polls:

166 (a) Provide sufficient lighting to enable electors to
167 read the ballot and to enable poll managers to examine the booth
168 and conduct their responsibilities;

169 (b) Provide directions for voting on the DRE units that
170 shall be prominently posted within each voting booth and provide



171 at least one (1) sample ballot for each primary or general
172 election shall be prominently posted outside the enclosed space
173 within the polling place;

174 (c) Ensure that each DRE unit and its tabulating
175 mechanism is secure throughout the day; and

176 (d) Provide such other materials and supplies as may be
177 necessary or required by law.

178 **SECTION 8.** Section 23-15-531.9, Mississippi Code of 1972, is
179 reenacted as follows:

180 23-15-531.9. (1) A duly qualified elector shall cast his or
181 her vote on a DRE unit by touching the screen or pressing the
182 appropriate button on the DRE unit for the candidate or ballot
183 measure of the elector's choice. After pressing the appropriate
184 button on the DRE unit or location on the screen to cast the
185 ballot, the elector's vote shall be final and shall not be
186 subsequently altered.

187 (2) If an elector leaves the voting booth without having
188 pressed the appropriate button on the DRE unit or location on the
189 screen to finally cast his or her ballot and cannot be located to
190 return to the booth to complete the voting process, then a poll
191 manager shall take the steps necessary to void the ballot that was
192 not completed by the elector and an appropriate record shall be
193 made of the event, or the DRE unit shall be allowed to time-out,
194 thereby voiding the ballot.



195 **SECTION 9.** Section 23-15-531.10, Mississippi Code of 1972,
196 is reenacted as follows:

197 23-15-531.10. (1) In elections in which DRE units are used,
198 the ballots shall be counted at the precinct under the direction
199 of the officials in charge of the election. All persons who
200 perform any duties at the precinct shall take the oath provided in
201 Section 268, Mississippi Constitution of 1890 and only those
202 persons shall touch any ballot, container, paper or machine used
203 in the conduct of the count or be permitted in the immediate area
204 where the ballots are counted.

205 (2) All proceedings at the precincts shall be open to the
206 view of the public, but no person except one employed and
207 designated for the purpose by the officials in charge of the
208 election shall touch any ballot, any DRE unit or the tabulating
209 equipment.

210 (3) After the polls have closed and all voting in the
211 precinct has ceased, the poll manager shall shut down the DRE
212 units and extract the election results from each unit as follows:

213 (a) The poll manager shall obtain the results tape from
214 each DRE unit and verify that the number of ballots cast as
215 recorded on the tape matches the public count number as displayed
216 on the DRE unit; and

217 (b) The poll manager shall extract the memory card, if
218 applicable, from each DRE unit.



219 (4) (a) Upon completion of shutting down each DRE unit and
220 extracting the election results, the poll manager shall cause to
221 be completed and signed a ballot recap form, in sufficient
222 counterparts, showing:

223 (i) The number of valid ballots;

224 (ii) The number of spoiled ballots;

225 (iii) The number of affidavit ballots;

226 (iv) The number of accepted and rejected absentee
227 ballots;

228 (v) The number of challenged and rejected ballots;

229 and

230 (vi) The number of unused paper ballots.

231 (b) The poll manager shall cause to be placed in the
232 ballot box or supply container, should the supply container be
233 capable of being sealed and secured, one (1) copy of the recap
234 form, affidavit ballots, absentee ballots, spoiled ballots,
235 challenged and rejected ballots and any unused paper ballots.

236 (5) The poll manager shall collect and retain the zero tape
237 and the results tape for each DRE unit and place the tapes with
238 the memory card, if any, for each unit and enclose all such items
239 for all of the DRE units used in the precinct in the memory card
240 transport bag which shall be sealed and initialed by the poll
241 manager so that it cannot be opened without breaking the seal.
242 The memory card transport bag shall be placed in the ballot box.



243 (6) The receiving and returning poll manager shall then
244 deliver the sealed ballot box to the tabulating center for the
245 county or municipality or to such other place designated by the
246 officials in charge of the election and shall receive a receipt
247 therefor. The copies of the recap forms, unused ballots, records
248 and other materials shall be returned to the designated location
249 and retained as provided by law.

250 (7) Upon receipt of the sealed ballot box and memory card
251 transport bag that contains the zero tapes, results tapes and
252 memory cards, the officials in charge of the election shall break
253 the seal of the memory card transport bag and remove its contents.
254 The officials in charge of the election shall then download the
255 results stored on the memory card from each DRE unit into the
256 election management system located at the central tabulation point
257 of the county in order to obtain election results for
258 certification.

259 **SECTION 10.** Section 23-15-531.12, Mississippi Code of 1972,
260 is reenacted as follows:

261 23-15-531.12. If for any reason any DRE unit shall become
262 inoperable, the poll managers, or the officials in charge of the
263 election, shall direct voters to an operating DRE unit or to cast
264 emergency paper ballots. Such paper ballots shall be administered
265 in accordance with the laws concerning paper ballots.

266 **SECTION 11.** Section 6, Chapter 480, Laws of 2022, is amended
267 as follows:



268 Section 6. Sections 23-15-531, 23-15-531.1, 23-15-531.2,
269 23-15-531.3, 23-15-531.4, 23-15-531.5, 23-15-531.6, 23-15-531.9,
270 23-15-531.10 and 23-15-531.12, Mississippi Code of 1972, which
271 provide the authority for the use of direct recording electronic
272 voting equipment at polling places, shall stand repealed on
273 December 1, * * * 2026.

274 **SECTION 12.** This act shall take effect and be in force from
275 and after July 1, 2023.

