

By: Senator(s) Chism

To: Elections

SENATE BILL NO. 2502

1 AN ACT TO AMEND SECTION 23-15-37, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DUTIES OF THE CIRCUIT CLERK TO INCLUDE SAFE
3 PRESERVATION OF ALL BALLOTS AND ELECTION INFORMATION FOR A
4 SPECIFIED PERIOD; TO REPEAL SECTIONS 23-15-621 THROUGH 23-15-657,
5 MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE THE ABSENTEE BALLOTING
6 PROCEDURES LAW (SUBARTICLE A); TO REPEAL SECTIONS 23-15-711
7 THROUGH 23-15-721, MISSISSIPPI CODE OF 1972, WHICH CONSTITUTE THE
8 ABSENTEE VOTER LAW (SUBARTICLE C); TO REPEAL SECTION 23-15-735,
9 MISSISSIPPI CODE OF 1972, WHICH PROHIBITS THE DELIVERY OF ABSENTEE
10 BALLOTS TO VOTERS IN PERSON; TO AMEND SECTION 23-15-751,
11 MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION 23-15-753,
12 MISSISSIPPI CODE OF 1972, TO PENALIZE PARTIES RESPONSIBLE FOR
13 MAINTAINING THE CHAIN OF CUSTODY OF BALLOTS AND OTHER ELECTION
14 MATERIALS WHO FAIL TO DO SO; TO AMEND SECTION 23-15-755,
15 MISSISSIPPI CODE OF 1972, TO CONFORM; TO AMEND SECTION 23-15-391,
16 MISSISSIPPI CODE OF 1972, TO REQUIRE MANUAL VOTE RECOUNTING OF
17 EVERY ELECTION IN WHICH OPTICAL SCANNERS ARE INITIALLY USED; TO
18 AMEND SECTION 23-15-613, MISSISSIPPI CODE OF 1972, TO CONFORM; TO
19 AMEND SECTION 23-15-523, MISSISSIPPI CODE OF 1972, TO CONFORM; TO
20 AMEND SECTION 23-15-545, MISSISSIPPI CODE OF 1972, TO CONFORM; TO
21 AMEND SECTION 97-13-43, MISSISSIPPI CODE OF 1972, TO CONFORM; TO
22 REPEAL SECTIONS 23-15-531 THROUGH 23-15-531.12, MISSISSIPPI CODE
23 OF 1972, WHICH AUTHORIZE CONDUCT OF ELECTIONS USING DIRECT
24 RECORDING ELECTRONIC VOTING EQUIPMENT; TO CREATE NEW SECTION
25 23-15-615, MISSISSIPPI CODE OF 1972, TO AUTHORIZE CERTAIN
26 POST-ELECTION AUDITS; TO BRING FORWARD SECTION 23-15-951,
27 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; TO
28 AMEND SECTION 33-15-11, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
29 A DECLARATION OF EMERGENCY WILL HAVE NO EFFECT UPON THE CONDUCT OF
30 ELECTIONS; AND FOR RELATED PURPOSES.

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



32 **SECTION 1.** Section 23-15-37, Mississippi Code of 1972, is
33 amended as follows:

34 23-15-37. (1) The registrar shall register the electors of
35 his or her county at any time during regular office hours.

36 (2) The county registrar may keep his or her office open to
37 register voters from 8:00 a.m. until 7:00 p.m., including the noon
38 hour, for the five (5) business days immediately preceding the
39 thirtieth day before any regularly scheduled primary or general
40 election. The county registrar shall also keep his or her office
41 open from 8:00 a.m. until 12:00 noon on the Saturday immediately
42 preceding the thirtieth day before any regularly scheduled primary
43 or general election, unless that Saturday falls on a legal
44 holiday, in which case registration applications submitted on the
45 Monday immediately following the legal holiday shall be accepted
46 and entered in the Statewide Elections Management System for the
47 purpose of enabling such voters to vote in the next primary or
48 general election.

49 (3) The registrar, or any deputy registrar duly appointed by
50 law, may visit and spend such time as he or she may deem necessary
51 at any location in his or her county, selected by the registrar
52 not less than thirty (30) days before an election, for the purpose
53 of registering voters.

54 (4) A person who is physically disabled and unable to visit
55 the office of the registrar to register to vote due to such
56 disability may contact the registrar and request that the



57 registrar or the registrar's deputy visit him or her for the
58 purpose of registering such person to vote. The registrar or the
59 registrar's deputy shall visit that person as soon as possible
60 after such request and provide the person with an application for
61 registration, if necessary. The completed application for
62 registration shall be executed in the presence of the registrar or
63 the registrar's deputy.

64 (5) (a) In the fall and spring of each year the registrar
65 of each county shall furnish all public schools with mail-in voter
66 registration applications. The applications shall be provided in
67 a reasonable time to enable those students who will be eighteen
68 (18) years of age before a general election to be able to vote in
69 the primary and general elections.

70 (b) Each public school district shall permit access to
71 all public schools of this state for the county registrar or the
72 county registrar's deputy to register persons who are eligible to
73 vote and to provide voter education.

74 (7) The registrar must preserve and maintain all ballots and
75 election information for not less than forty-eight (48) months
76 after the election.

77 **SECTION 2.** Sections 23-15-621, 23-15-623, 23-15-625,
78 23-15-627, 23-15-629, 23-15-631, 23-15-633, 23-15-635, 23-15-637,
79 23-15-639, 23-15-641, 23-15-643, 23-15-645, 23-15-649, 23-15-651,
80 23-15-653, and 23-15-657, Mississippi Code of 1972, which



81 constitute the Absentee Balloting Procedures Law and are
82 designated in the Code as Subarticle A, are repealed.

83 **SECTION 3.** Sections 23-15-711, 23-15-713, 23-15-715,
84 23-15-717, 23-15-719, 23-15-721, Mississippi Code of 1972, which
85 constitute the Absentee Voter Law and are designated in the Code
86 as Subarticle C, are repealed.

87 **SECTION 4.** Section 23-15-735, Mississippi Code of 1972,
88 which prohibits delivery of absentee ballots to voters in person,
89 is repealed.

90 **SECTION 5.** Section 23-15-751, Mississippi Code of 1972, is
91 amended as follows:

92 23-15-751. If any registrar or commissioner of elections
93 shall refuse or neglect to perform any of the duties prescribed by
94 Sections * * * 23-15-671 through * * * 23-15-733, or shall
95 knowingly permit any person to sign a false affidavit or otherwise
96 knowingly permit any person to violate Sections * * * 23-15-671
97 through * * * 23-15-733, or shall violate any of the provisions
98 thereof, or if any officer taking the affidavits as provided in
99 said acts shall make any false statement in his certificate
100 thereto attached, he shall, upon conviction, be deemed guilty of a
101 crime and shall be punished by a fine not exceeding One Thousand
102 Dollars (\$1,000.00) or by imprisonment in the Penitentiary not
103 exceeding one (1) year, and shall be removed from office.

104 **SECTION 6.** Section 23-15-753, Mississippi Code of 1972, is
105 amended as follows:



23-15-753. (1) Any person who fails to maintain the proper chain of custody for ballots as required by Section 23-15-595 and any other law, or who willfully, unlawfully and feloniously procures, seeks to procure, or seeks to influence the vote of any person voting by absentee ballot, by the payment of money, the promise of payment of money, or by the delivery of any other item of value or promise to give the voter any item of value, or by promising or giving the voter any favor or reward in an effort to influence his vote, or any person who aids, abets, assists, encourages, helps, or causes any person voting an absentee ballot to violate any provision of law pertaining to absentee voting, or any person who sells his vote for money, favor, or reward, has been paid or promised money, a reward, a favor or favors, or any other item of value, or any person who shall willfully swear falsely to any affidavit provided for in Sections * * * 23-15-671 through * * * 23-15-733, shall be guilty of the crime of "vote fraud" and, upon conviction, shall be sentenced to pay a fine of not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for no more than one (1) year, or by both fine and imprisonment, or by being sentenced to the State Penitentiary for not less than one (1) year nor more than five (5) years.

(2) It shall be unlawful for any person who pays or compensates another person for assisting voters in marking their absentee ballots to base the pay or compensation on the number of



absentee voters assisted or the number of absentee ballots cast by persons who have received the assistance. Any person who violates this section, upon conviction, shall * * * be fined not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or imprisoned in the Penitentiary not less than one (1) year nor more than five (5) years, or both.

SECTION 7. Section 23-15-755, Mississippi Code of 1972, is amended as follows:

23-15-755. All of the provisions of Sections * * * 23-15-671 through * * * 23-15-733 shall be applicable, insofar as possible, to municipal, primary, preferential, general and special elections, and wherever herein any duty is imposed or any power or authority is conferred upon the county registrar, county election commissioners, or county executive committee with reference to a state and county election, such duty shall likewise be imposed and such power and authority shall likewise be conferred upon the municipal registrar, municipal election commission or municipal executive committee with reference to any municipal election. Any duty, obligation or responsibility imposed upon the registrar or upon the election commissioners, when applicable, shall likewise be conferred upon and devolved upon the appropriate party, executive committee or officials in any party primary.

SECTION 8. Section 23-15-391, Mississippi Code of 1972, is amended as follows:



23-15-391. The board of supervisors of each county and the governing authorities of each municipality shall use optical mark reading equipment * * * that complies with the specifications provided by law. The election commissioners may conduct special and municipal elections, as well as any necessary runoff elections, by paper ballot when the election commissioners determine that administration of an election by paper ballot will be less expensive than administration of the same election by optical mark reading equipment * * *. The results of all election conducted by use of optical mark reading equipment must be verified manually within thirty (30) days after the election.

SECTION 9. Section 23-15-613, Mississippi Code of 1972, is amended as follows:

23-15-613. (1) As used in this section "residual votes" means overvotes, undervotes and any other vote not counted for any reason.

(2) For every election, election commissions and county and municipal executive committees shall report to the Secretary of State residual vote information; however, if the voting devices * * * used in the election do not produce a ballot, other information shall be reported as required in this section.

(3) For every election, election commissions and county and municipal executive committees responsible for the conduct of elections in which ballots are generated that are counted by hand or by OMR equipment * * * shall report to the Secretary of State



all residual votes for all candidates and ballot measures in the elections for which they are responsible for conducting. The residual vote reports shall:

(a) Be received by the Secretary of State no later than December 15 of the year in which the election is held;

(b) Include any suggested explanation or suspected cause of the residual votes;

(c) Include a copy of a voided official ballot for the election as such ballot appeared to voters at the election and copies of voided affidavit and absentee ballots if they are different from the official ballot;

(d) Include the total voter turnout for each election to be determined by totaling the number of persons signing the receipt book at each precinct, absentee voters and persons who voted by affidavit ballot and persons whose ballots were challenged and rejected; and

(e) Include a copy of any printed voting instructions given or visible to voters in the election and a description of any verbal instructions and any other evidence of voter education that was used in the election.

(4) For every election, election commissions and county and municipal executive committees responsible for the conduct of election in which voting devices are used that do not generate ballots that are counted by hand or by OMR equipment * * * shall file a report with the Secretary of State which shall:



(a) Be received by the Secretary of State no later than December 15 of the year in which the election is held;

(b) Include the total voter turnout for each election to be determined by totaling the number of persons signing the receipt book at each precinct, absentee voters and persons who voted by affidavit ballot and persons whose ballots were challenged and rejected;

(c) Include in the report any anecdotal information obtained concerning voter problems with the voting equipment or ballot layout;

(d) Include in the report any suggested explanation or suspected cause of any difference in the amount of total voter turnout and the number of counted votes for candidates for various offices; and

(e) Include a copy of any printed voting instructions given or visible to voters in the election and a description of any verbal instructions and any other evidence of voter education that was used in the election.

(5) Not later than January 31 of the year following the election, the Secretary of State shall submit a report to the Governor, Lieutenant Governor and Speaker of the House of Representatives analyzing the reports required to be filed pursuant to this section. The analysis shall include the following:



(a) The performance of each voting device type used in the election;

(b) Any problems with voter or poll worker instructions or ballot design and layout that have been identified as a result of analyzing the reports received;

(c) Recommendations for reducing the number of residual votes reported; and

(d) Such other information as the Secretary of State deems beneficial.

(6) The reports required pursuant to this section shall be in such form as may be required by rules and regulations promulgated by the Secretary of State.

SECTION 10. Section 23-15-523, Mississippi Code of 1972, is amended as follows:

23-15-523. (1) All proceedings at the counting center shall be under the direction of the election commissioners or officials in charge of the election, and shall be conducted under the observations of the public, but no persons except those authorized for the purpose shall touch any ballot. All persons who are engaged in processing and counting of the ballots shall take the oath provided in Section 268, Mississippi Constitution of 1890.

(2) The election commissioners or the officials in charge of the election shall appoint qualified electors who have received the training required by subsection (11) of this section to serve as members of the "resolution board." An odd number of not less



than three (3) members shall be appointed to the resolution board. The members of the board shall take the oath provided in Section 268, Mississippi Constitution of 1890. All ballots that have been rejected by the OMR equipment and that are damaged or defective, blank or overvoted will be reviewed by the board. Election commissioners, candidates who are on the ballot and the spouse, parents, siblings or children of such a candidate shall not be appointed to the resolution board. In general and special elections, members of the party executive committees shall not be appointed to the resolution board unless members of all of the party executive committees who have a candidate on the ballot are appointed to the resolution board.

(3) (a) If any ballot is damaged or defective so that it cannot be properly counted by the OMR equipment, the ballot will be deposited in an envelope provided for that purpose marked "RESOLUTION BOARD." All such ballots shall be carefully handled so as to avoid altering, removing or adding any mark on the ballot.

(b) The election commissioners or the officials in charge of the election shall have the members of the resolution board ascertain the intent of the voter, if possible, and, if so, manually count any damaged or defective ballots.

(c) The resolution board shall prepare a duplicate to the damaged or defective ballot in the following manner:



278 (i) The resolution board shall prepare a duplicate
279 to the original damaged or defective ballot marked identically to
280 the original.

281 (ii) The resolution board shall mark the first
282 original they examine as "Original #1" and the duplicate of this
283 original as "Duplicate #1." Later originals and duplicates shall
284 be likewise marked and numbered consecutively so the duplicate of
285 each original can be identified. Duplicate ballots shall be
286 stamped in a different manner from the original ballots so that
287 they may be easily distinguished from the originals.

288 (iii) The duplicate ballots prepared pursuant to
289 this paragraph shall be counted by the OMR equipment.

290 (4) The resolution board shall examine ballots that have
291 been rejected by the OMR equipment for appearing to be "blank" to
292 verify if they are blank or were marked with a "nondetectable"
293 marking device. If it is determined that the ballot was marked
294 with a nondetectable device, the resolution board shall prepare a
295 duplicate to the original blank ballot in the same manner and in
296 accordance with the same process provided in subsection (3)(c).

297 (5) All ballots that are rejected by the OMR equipment and
298 that contain overvotes shall be inspected by the resolution board.
299 Regarding those rejected ballots upon which an overvote appears,
300 if the voter intent cannot be determined by the resolution board,
301 the officials in charge of the election may use the OMR equipment
302 in determining the vote in the races that are unaffected by the



303 overvote. All other ballots that are overvoted shall be counted
304 manually following the provisions of this section at the direction
305 of the officials in charge of the election. The return printed by
306 the OMR equipment to which have been added the manually tallied
307 ballots, which shall be duly certified by the officials in charge
308 of the election, shall constitute the official return of each
309 voting precinct. Unofficial and incomplete returns may be
310 released during the count. Upon the completion of the counting,
311 the official returns shall be open to the public.

312 (6) When the resolution board reviews any OMR ballot in
313 which the voter has failed to fill in the arrow, oval, circle or
314 square for a candidate or a ballot measure, the resolution board
315 shall, if the intent of the voter can be ascertained, count the
316 vote if:

317 (a) The voter marks the ballot with a "cross" (X) or
318 "checkmark" (✓) and the lines that form the mark intersect within
319 or on the line of the arrow, oval, circle or square by the ballot
320 measure or the name of the candidate.

321 (b) The voter blackens the arrow, oval, circle or
322 square adjacent to the ballot measure or the name of the candidate
323 in pencil or ink and the blackened portion extends beyond the
324 boundaries of the arrow, oval, circle or square.

325 (c) The voter marks the ballot with a "cross" (X) or
326 "checkmark" (✓) and the lines that form the mark intersect
327 adjacent to the ballot measure or the name of the candidate.



328 (d) The voter underlines the ballot measure or the name
329 of a candidate.

330 (e) The voter draws a line from the arrow, oval, circle
331 or square to a ballot measure or the name of a candidate.

332 (f) The voter draws a circle or oval around the ballot
333 measure or the name of the candidate.

334 (g) The voter draws a circle or oval around the arrow,
335 oval, circle or square adjacent to the ballot measure or the name
336 of the candidate.

337 (7) The resolution board, when inspecting an OMR ballot that
338 contains or appears to contain one or more overvotes, appears to
339 be damaged or defective, or is rejected by the OMR equipment for
340 any reason or cannot be counted by the OMR equipment, shall make
341 its determination in accordance with the following:

342 (a) When an elector casts more votes for any office or
343 measure than he or she is entitled to cast at an election, all the
344 elector's votes for that office or measure are invalid and the
345 elector is deemed to have voted for none of them. If an elector
346 casts less votes for any office or measure than he or she is
347 entitled to cast at an election, all votes cast by the elector
348 shall be counted but no vote shall be counted more than once.

349 (b) If an elector casts more than one (1) vote for the
350 same candidate for the same office, the first vote is valid and
351 the remaining votes for that candidate are invalid.



352 (c) No write-in vote for a candidate whose name is
353 printed on the ballot shall be regarded as invalid due to
354 misspelling a candidate's name, or by abbreviation, addition or
355 omission or use of a wrong initial in the name, as long as the
356 intent of the voter can be ascertained.

357 (d) In any case where a voter writes in the name of a
358 candidate for President of the United States whose name is printed
359 on the general election ballot, the failure by the voter to write
360 in the name of a candidate for the Office of Vice President of the
361 United States on the general election ballot does not invalidate
362 the elector's vote for the slate of electors for any candidate
363 whose name is written in for the Office of President of the United
364 States.

365 (e) For any ballot measure in which the words "for" or
366 "against" are printed on a ballot, if the voter shall write the
367 word "for" or the word "against" instead of or in addition to
368 marking the ballot in accordance with the ballot instruction in
369 the space adjacent to the preprinted words "for" or "against," the
370 resolution board shall, in reviewing such ballot, count the vote
371 in accordance with the voter's handwritten preference, unless the
372 voter marks the ballot in the space adjacent to the preprinted
373 words "for" or "against" contrary to the handwritten preference,
374 in which case no vote shall be recorded for such ballot in regard
375 to the ballot measure.



(f) For any ballot measure in which the words "yes" or "no" are printed on a ballot, if the voter shall write the word "yes" or the word "no" instead of or in addition to marking the ballot in accordance with the ballot instructions in the space adjacent to the preprinted words "yes" or "no," the resolution board shall, in reviewing such ballot, count the vote in accordance with the voter's handwritten preference, unless the voter marks the ballot in the space adjacent to the preprinted words "yes" or "no" contrary to the handwritten preference, in which case no vote shall be recorded for such ballot in regard to the ballot measure.

(8) OMR equipment shall be programmed, calibrated, adjusted and set up to reject ballots that appear to be damaged or defective. Any switch, lever or feature on OMR equipment that enables or permits the OMR equipment to override the rejection of damaged or defective ballots so that such ballots will not be reviewed by the resolution board, shall not be used.

(9) Ballots shall be manually counted by the resolution board only when the ballots are:

(a) Properly before the resolution board due to being rejected by the OMR equipment because the ballots appear to be damaged or defective or are rejected by the OMR equipment for any other reason; or

(b) Properly before the resolution board due to a malfunction in the OMR equipment.



401 (10) The resolution board shall make and keep a record
402 regarding the handling and counting of all ballots inspected under
403 this section.

404 (11) The executive committee of each county or municipality,
405 in the case of a primary election, or the election commissioners
406 of each county or municipality, in the case of all other
407 elections, in conjunction with the circuit or municipal clerk
408 respectively, shall sponsor and conduct, a training session for up
409 to two (2) hours, not less than five (5) days before each
410 election, to instruct those qualified electors who are appointed
411 to serve as members of the resolution board as to their specific
412 duties in the election. No member appointed to serve on the
413 resolution board shall serve in any election unless he or she has
414 received such instruction once during the twelve (12) months
415 immediately preceding the date upon which the election is held.
416 Online training courses developed by the Secretary of State,
417 though not sponsored or conducted by the executive committee or
418 the election commissioners, may be used to meet the requirements
419 of this subsection (11).

420 (12) The provisions of this section do not affect the
421 manual-recount provisions of Section 23-15-391.

422 **SECTION 11.** Section 23-15-545, Mississippi Code of 1972, is
423 amended as follows:

424 23-15-545. At each election, at least one (1) poll manager
425 shall be charged with writing in the pollbook the word "VOTED," in



the column having at its head the date of the election, opposite the name of each elector upon return of a marked paper ballot by the elector with the initials of the initialing poll manager or alternate initialing poll manager affixed thereon. * * *

SECTION 12. Section 97-13-43, Mississippi Code of 1972, is amended as follows:

97-13-43. Any person who willfully tampers with or damages any * * * tabulating computer or device to be used or being used at or in connection with any election or who prevents or attempts to prevent the correct operation of any * * * tabulating computer or device shall be guilty of a felony and, upon conviction, be punished by imprisonment for not more than ten (10) years, or be fined Five Thousand Dollars (\$5,000.00), or both.

SECTION 13. Sections 23-15-531, 23-15-531.1, 23-15-531.2, 23-15-531.3, 23-15-531.4, 23-15-531.5, 23-15-531.6, 23-15-531.9, 23-15-531.10, and 23-15-531.12, Mississippi Code of 1972, which authorize the conduct of elections via Direct Recording Electronic Voting Equipment, are repealed.

SECTION 14. Section 23-15-951, Mississippi Code of 1972, is brought forward as follows:

23-15-951. Except as otherwise provided by Section 23-15-955 or 23-15-961, a person desiring to contest the election of another person returned as elected to any office within any county, may, within twenty (20) days after the election, file a petition in the office of the clerk of the circuit court of the county, setting



451 forth the grounds upon which the election is contested. When such
452 a petition is filed, the circuit clerk shall immediately notify,
453 by registered letter, telegraph, telephone, or personally the
454 Chief Justice of the Supreme Court or in his absence, or
455 disability, some other Justice of the Supreme Court, who shall
456 forthwith designate and notify a circuit judge or chancellor of a
457 district other than that which embraces the district, subdistrict,
458 county or any of the counties, involved in the contest or
459 complaint, to proceed to the county in which the contest or
460 complaint has been filed to hear and determine the contest or
461 complaint. The circuit clerk shall also cause a copy of such
462 petition to be served upon the contestee, which shall serve as
463 notice to such contestee.

464 The Supreme Court shall compile a list of judges throughout
465 the state to hear such disputes before an election. It shall be
466 the official duty of the designated circuit judge or chancellor to
467 proceed to discharge the duty of hearing the contest at the
468 earliest possible date. The date of the contest shall be fixed by
469 the judge or chancellor, and the judge or chancellor shall provide
470 reasonable notice to the contestant and the contestee of the date
471 and time fixed for the contest. The judge or chancellor shall
472 cause the contestant and contestee to be served in a reasonable
473 manner. When the contestee is served, such contestee shall
474 promptly file his answer, and cross-complaint, if the contestee
475 has a cross-complaint.



476 The court shall, at the first term, cause an issue to be made
477 up and tried by a jury, and the verdict of the jury shall find the
478 person having the greatest number of legal votes at the election.
479 If the jury shall find against the person returned elected, the
480 clerk shall issue a certificate thereof; and the person in whose
481 favor the jury shall find shall be commissioned by the Governor,
482 and shall qualify and enter upon the duties of his office. Each
483 party shall be allowed ten (10) peremptory challenges, and new
484 trials shall be granted and costs awarded as in other cases. In
485 case the election of district attorney or other state district
486 election be contested, the petition may be filed in any county of
487 the district or in any county of an adjoining district within
488 twenty (20) days after the election, and like proceedings shall be
489 had thereon as in the case of county officers, and the person
490 found to be entitled to the office shall qualify as required by
491 law and enter upon the duties of his office.

492 A person desiring to contest the election of another person
493 returned as elected to any seat in the Mississippi Legislature
494 shall comply with the provisions of Section 23-15-955. A person
495 desiring to contest the qualifications of a candidate for
496 nomination in a political party primary election shall comply with
497 the provisions of Section 23-15-961.

498 **SECTION 15.** The following shall be codified as Section
499 23-15-615, Mississippi Code of 1972:



500 23-15-615. (1) (a) The Secretary of State is authorized to
501 conduct a post-election audit of any election within the state.

502 (b) A county board of supervisors is authorized to
503 commission a post-election audit by majority vote of any election
504 within the county.

505 (c) All post-election audits are to be conducted by
506 representatives of the Secretary of State, the county's Circuit
507 Clerk, and the county's Election Commissioners.

508 (2) No county or precinct shall be selected for audit on the
509 basis of race, geographical location or voting trends.

510 (3) A precinct where an election occurred that is being
511 challenged under section 23-15-927, 23-15-951 or 23-15-955 is not
512 eligible for post-election audit.

513 (4) The public shall not be denied access to nondisruptively
514 observe every aspect of any post-election manual verification or
515 audit.

516 (5) The Secretary of State shall promulgate administrative
517 rules to carry out the provisions of this section.

518 **SECTION 16.** Section 33-15-11, Mississippi Code of 1972, is
519 amended as follows:

520 33-15-11. (a) The Governor shall have general direction and
521 control of the activities of the Emergency Management Agency and
522 Council and shall be responsible for the carrying out of the
523 provisions of this article, and in the event of a man-made,
524 technological or natural disaster or emergency beyond local



control, may assume direct operational control over all or any part of the emergency management functions within this state.

(b) In performing his duties under this article, the Governor is further authorized and empowered:

(1) To make, amend and rescind the necessary orders, rules and regulations to carry out the provisions of this article with due consideration of the plans of the federal government, and to enter into disaster assistance grants and agreements with the federal government under the terms as may be required by federal law.

(2) To work with the Mississippi Emergency Management Agency in preparing a comprehensive plan and program for the emergency management of this state, such plan and program to be integrated into and coordinated with the emergency management plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for emergency management by the political subdivisions of this state, such local plans to be integrated into and coordinated with the emergency management plan and program of this state to the fullest possible extent.

(3) In accordance with such plan and program for emergency management of this state, to ascertain the requirements of the state or the political subdivisions thereof for food or clothing or other necessities of life in the event of attack or natural or man-made or technological disasters and to plan for and



procure supplies, medicines, materials and equipment, and to use
and employ from time to time any of the property, services and
resources within the state, for the purposes set forth in this
article; to make surveys of the industries, resources and
facilities within the state as are necessary to carry out the
purposes of this article; to institute training programs and
public information programs, and to take all other preparatory
steps, including the partial or full mobilization of emergency
management organizations in advance of actual disaster, to insure
the furnishing of adequately trained and equipped forces of
emergency management personnel in time of need.

(4) To cooperate with the President and the heads of
the Armed Forces, and the Emergency Management Agency of the
United States, and with the officers and agencies of other states
in matters pertaining to the emergency management of the state and
nation and the incidents thereof; and in connection therewith, to
take any measures which he may deem proper to carry into effect
any request of the President and the appropriate federal officers
and agencies, for any action looking to emergency management,
including the direction or control of (a) blackouts and practice
blackouts, air raid drills, mobilization of emergency management
forces, and other tests and exercises, (b) warnings and signals
for drills or attacks and the mechanical devices to be used in
connection therewith, (c) the effective screening or extinguishing
of all lights and lighting devices and appliances, (d) shutting



off water mains, gas mains, electric power connections and the suspension of all other utility services, (e) the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attack, (f) public meetings or gatherings under emergency conditions, and (g) the evacuation and reception of the civilian population.

(5) To take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this article and with the orders, rules and regulations made pursuant thereto.

(6) To employ such measures and give such directions to the state or local boards of health as may be reasonably necessary for the purpose of securing compliance with the provisions of this article or with the findings or recommendations of such boards of health by reason of conditions arising from enemy attack or the threat of enemy attack or natural, man-made or technological disaster.

(7) To utilize the services and facilities of existing officers and agencies of the state and of the political subdivisions thereof; and all such officers and agencies shall cooperate with and extend their services and facilities to the Governor as he may request.



599 (8) To establish agencies and offices and to appoint
600 executive, technical, clerical and other personnel as may be
601 necessary to carry out the provisions of this article including,
602 with due consideration to the recommendation of the local
603 authorities, part-time or full-time state and regional area
604 directors.

605 (9) To delegate any authority vested in him under this
606 article, and to provide for the subdelegation of any such
607 authority.

608 (10) On behalf of this state to enter into reciprocal
609 aid agreements or compacts with other states and the federal
610 government, either on a statewide basis or local political
611 subdivision basis or with a neighboring state or province of a
612 foreign country. Such mutual aid arrangements shall be limited to
613 the furnishings or exchange of food, clothing, medicine and other
614 supplies; engineering services; emergency housing; police
615 services; national or state guards while under the control of the
616 state; health, medical and related services; firefighting, rescue,
617 transportation and construction services and equipment; personnel
618 necessary to provide or conduct these services; and such other
619 supplies, equipment, facilities, personnel and services as may be
620 needed; the reimbursement of costs and expenses for equipment,
621 supplies, personnel and similar items for mobile support units,
622 firefighting and police units and health units; and on such terms
623 and conditions as are deemed necessary.



624 (11) To sponsor and develop mutual aid plans and
625 agreements between the political subdivisions of the state,
626 similar to the mutual aid arrangements with other states referred
627 to above.

628 (12) To collect information and data for assessment of
629 vulnerabilities and capabilities within the borders of Mississippi
630 as it pertains to the nation and state's security and homeland
631 defense. This information shall be exempt from the Mississippi
632 Public Records Act, Section 25-61-1 et seq.

633 (13) Authorize any agency or arm of the state to create
634 a special emergency management revolving fund, accept donations,
635 contributions, fees, grants, including federal funds, as may be
636 necessary for such agency or arm of the state to administer its
637 functions of this article as set forth in the Executive Order of
638 the Governor.

639 (14) To authorize the Commissioner of Public Safety to
640 select, train, organize and equip a ready reserve of auxiliary
641 highway patrolmen.

642 (15) To suspend or limit the sale, dispensing or
643 transportation of alcoholic beverages, firearms, explosives and
644 combustibles.

645 (16) To control, restrict and regulate by rationing,
646 freezing, use of quotas, prohibitions on shipments, price-fixing,
647 allocation or other means, the use, sale or distribution of food,



648 feed, fuel, clothing and other commodities, materials, goods or
649 services.

650 (17) To proclaim a state of emergency in an area
651 affected or likely to be affected thereby when he finds that the
652 conditions described in Section 33-15-5(g) exist, or when he is
653 requested to do so by the mayor of a municipality or by the
654 president of the board of supervisors of a county, or when he
655 finds that a local authority is unable to cope with the emergency.
656 Such proclamation shall be in writing and shall take effect
657 immediately upon its execution by the Governor. As soon
658 thereafter as possible, such proclamation shall be filed with the
659 Secretary of State and be given widespread notice and publicity.
660 The Governor, upon advice of the director, shall review the need
661 for continuing the state of emergency at least every thirty (30)
662 days until the emergency is terminated and shall proclaim a
663 reduction of area or the termination of the state of emergency at
664 the earliest possible date that conditions warrant.

665 (18) To declare an emergency impact area when he finds
666 that the conditions described in Section 33-15-5(o) exist. The
667 proclamation shall be in writing and shall take effect immediately
668 upon its execution by the Governor. As soon as possible, the
669 proclamation shall be filed with the Secretary of State and be
670 given widespread notice and publicity. The Governor shall review
671 the need for continuing the declaration of emergency impact area
672 at least every thirty (30) days until the emergency is terminated,



673 and shall proclaim the reduction of the emergency impact area or
674 termination of the declaration of emergency impact area at the
675 earliest date or dates possible.

676 (c) In addition to the powers conferred upon the Governor in
677 this section, the Legislature hereby expressly delegates to the
678 Governor the following powers and duties in the event of an
679 impending enemy attack, an enemy attack, or a man-made,
680 technological or natural disaster where such disaster is beyond
681 local control:

682 (1) To suspend the provisions of any regulatory statute
683 prescribing the procedures for conduct of state business, or the
684 orders, rules or regulations of any state agency, if strict
685 compliance with the provisions of any statute, order, rule or
686 regulation would in any way prevent, hinder or delay necessary
687 action in coping with a disaster or emergency.

688 (2) To transfer the direction, personnel or functions
689 of state agencies, boards, commissions or units thereof for the
690 purpose of performing or facilitating disaster or emergency
691 services.

692 (3) To commandeer or utilize any private property if
693 necessary to cope with a disaster or emergency, provided that such
694 private property so commandeered or utilized shall be paid for
695 under terms and conditions agreed upon by the participating
696 parties. The owner of said property shall immediately be given a
697 receipt for the said private property and said receipt shall serve



698 as a valid claim against the Treasury of the State of Mississippi
699 for the agreed upon market value of said property.

700 (4) To perform and exercise such other functions,
701 powers and duties as may be necessary to promote and secure the
702 safety and protection of the civilian population in coping with a
703 disaster or emergency.

704 (d) This section does not authorize the Governor or a
705 designee of the Governor to act in contravention of Section
706 33-7-303.

707 (e) A declaration of a state of emergency under this section
708 has no effect whatsoever upon the election laws of this state, the
709 procedure or manner of execution of an election, or upon the dates
710 or schedules of an election without the approval of two-thirds
711 (2/3) of each house of the Legislature.

712 **SECTION 17.** This act shall take effect and be in force from
713 and after July 1, 2023.

