

By: Representative Hurst

To: Apportionment and
Elections

HOUSE BILL NO. 1424

1 AN ACT TO AMEND SECTION 23-15-523, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT, IN GENERAL AND SPECIAL ELECTIONS, THE RESOLUTION
3 BOARD MEMBERS SHALL NOT BE ALL OF THE SAME POLITICAL PARTY IF A
4 POLITICAL PARTY IDENTIFIES SUITABLE PERSONS AVAILABLE TO BE
5 APPOINTED; TO BRING FORWARD SECTIONS 23-15-615, 23-15-639,
6 23-15-641 AND 23-15-231, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE
7 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 23-15-523, Mississippi Code of 1972, is
10 amended as follows:

11 23-15-523. (1) All proceedings at the counting center shall
12 be under the direction of the election commissioners or officials
13 in charge of the election, and shall be conducted under the
14 observations of the public, but no persons except those authorized
15 for the purpose shall touch any ballot. All persons who are
16 engaged in processing and counting of the ballots shall take the
17 oath provided in Section 268, Mississippi Constitution of 1890.

18 (2) The election commissioners or the officials in charge of
19 the election shall appoint qualified electors who have received
20 the training required by subsection (1) of this section to serve



21 as members of the "resolution board." An odd number of not less
22 than three (3) members shall be appointed to the resolution board.
23 The members of the board shall take the oath provided in Section
24 268, Mississippi Constitution of 1890. All ballots that have been
25 rejected by the OMR equipment and that are damaged or defective,
26 blank or overvoted * * * shall be reviewed by the board. Election
27 commissioners, candidates who are on the ballot and the spouse,
28 parents, siblings or children of such a candidate shall not be
29 appointed to the resolution board. In general and special
30 elections, the resolution board members shall not be all of the
31 same political party if a political party identifies suitable
32 persons available to be appointed. Members of the party executive
33 committees shall not be appointed to the resolution board unless
34 members of all of the party executive committees who have a
35 candidate on the ballot are appointed to the resolution board.

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

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



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

48 (i) The resolution board shall prepare a duplicate
49 to the original damaged or defective ballot marked identically to
50 the original.

51 (ii) The resolution board shall mark the first
52 original they examine as "Original #1" and the duplicate of this
53 original as "Duplicate #1." Later originals and duplicates shall
54 be likewise marked and numbered consecutively so the duplicate of
55 each original can be identified. Duplicate ballots shall be
56 stamped in a different manner from the original ballots so that
57 they may be easily distinguished from the originals.

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

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

67 (5) All ballots that are rejected by the OMR equipment and
68 that contain overvotes shall be inspected by the resolution board.
69 Regarding those rejected ballots upon which an overvote appears,
70 if the voter intent cannot be determined by the resolution board,



71 the officials in charge of the election may use the OMR equipment
72 in determining the vote in the races that are unaffected by the
73 overvote. All other ballots that are overvoted shall be counted
74 manually following the provisions of this section at the direction
75 of the officials in charge of the election. The return printed by
76 the OMR equipment to which have been added the manually tallied
77 ballots, which shall be duly certified by the officials in charge
78 of the election, shall constitute the official return of each
79 voting precinct. Unofficial and incomplete returns may be
80 released during the count. Upon the completion of the counting,
81 the official returns shall be open to the public.

82 (6) When the resolution board reviews any OMR ballot in
83 which the voter has failed to fill in the arrow, oval, circle or
84 square for a candidate or a ballot measure, the resolution board
85 shall, if the intent of the voter can be ascertained, count the
86 vote if:

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

91 (b) The voter blackens the arrow, oval, circle or
92 square adjacent to the ballot measure or the name of the candidate
93 in pencil or ink and the blackened portion extends beyond the
94 boundaries of the arrow, oval, circle or square.



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

98 (d) The voter underlines the ballot measure or the name
99 of a candidate.

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

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

104 (g) The voter draws a circle or oval around the arrow,
105 oval, circle or square adjacent to the ballot measure or the name
106 of the candidate.

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

112 (a) When an elector casts more votes for any office or
113 measure than he or she is entitled to cast at an election, all the
114 elector's votes for that office or measure are invalid and the
115 elector is deemed to have voted for none of them. If an elector
116 casts less votes for any office or measure than he or she is
117 entitled to cast at an election, all votes cast by the elector
118 shall be counted but no vote shall be counted more than once.



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

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

127 (d) In any case where a voter writes in the name of a
128 candidate for President of the United States whose name is printed
129 on the general election ballot, the failure by the voter to write
130 in the name of a candidate for the Office of Vice President of the
131 United States on the general election ballot does not invalidate
132 the elector's vote for the slate of electors for any candidate
133 whose name is written in for the Office of President of the United
134 States.

135 (e) For any ballot measure in which the words "for" or
136 "against" are printed on a ballot, if the voter shall write the
137 word "for" or the word "against" instead of or in addition to
138 marking the ballot in accordance with the ballot instruction in
139 the space adjacent to the preprinted words "for" or "against," the
140 resolution board shall, in reviewing such ballot, count the vote
141 in accordance with the voter's handwritten preference, unless the
142 voter marks the ballot in the space adjacent to the preprinted
143 words "for" or "against" contrary to the handwritten preference,



144 in which case no vote shall be recorded for such ballot in regard
145 to the ballot measure.

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

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

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

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



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

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

174 (11) The executive committee of each county or municipality,
175 in the case of a primary election, or the election commissioners
176 of each county or municipality, in the case of all other
177 elections, in conjunction with the circuit or municipal clerk
178 respectively, shall sponsor and conduct, a training session for up
179 to two (2) hours, not less than five (5) days before each
180 election, to instruct those qualified electors who are appointed
181 to serve as members of the resolution board as to their specific
182 duties in the election. No member appointed to serve on the
183 resolution board shall serve in any election unless he or she has
184 received such instruction once during the twelve (12) months
185 immediately preceding the date upon which the election is held.
186 Online training courses developed by the Secretary of State,
187 though not sponsored or conducted by the executive committee or
188 the election commissioners, may be used to meet the requirements
189 of this subsection (11).

190 **SECTION 2.** Section 23-15-615, Mississippi Code of 1972, is
191 brought forward as follows:

192 23-15-615. The Secretary of State shall be authorized to
193 audit election procedures of the 2023, 2024, 2026 and 2027 general



194 elections in the counties of this state. The conduction of an
195 audit shall not create excessive interference with the general
196 duties and responsibilities of the Secretary of State, county
197 registrar, and county election commission.

198 (a) The Secretary of State shall audit all eighty-two
199 (82) counties by randomly selecting from each of the congressional
200 districts during the 2023, 2024, 2026 and 2027 general elections,
201 and randomly selecting no more than twenty-five percent (25%) of
202 the total precincts or no more than five (5) precincts, whichever
203 is less in each county. No county or precinct shall be selected
204 for audit on the basis of race, geographical location or voting
205 trends.

206 (i) If the Secretary of State finds any issues
207 that could affect the outcome of an election or cause voters to be
208 disenfranchised, then the Secretary of State, in partnership with
209 the local county election officials, shall develop a plan to
210 correct those issues, which shall include additional training.

211 (ii) The Secretary of State will have the
212 discretion to randomly select the counties and precincts that will
213 be audited, but must do so at least ninety (90) days before the
214 election to be audited. No audit shall occur if the election is
215 challenged as provided in Sections 23-15-927, 23-15-951 or
216 23-15-955. No audit shall occur until after a ballot box
217 examination has occurred and the period to contest an election has



218 expired, or if a runoff election occurs, the audit shall occur
219 after the runoff election.

220 (b) In conducting a procedural audit, the Secretary of
221 State shall audit the following:

222 (i) Procedures for testing of OMR equipment before
223 counting ballots, including the ballots used for testing of OMR
224 equipment, as required by Section 23-15-521;

225 (ii) Ballot accounting reports, seal logs, poll
226 books, and receipt books as required to be kept by Section
227 23-15-519;

228 (iii) Absentee ballots, absentee ballot
229 applications, and absentee ballot envelopes, along with the list
230 provided to the resolution board, to ensure appropriate processing
231 and counting of absentee ballots as required by Section 23-15-631
232 et seq.; and

233 (iv) Affidavit ballots and affidavit ballot
234 envelopes, including affidavit ballot receipt book to ensure
235 compliance with appropriate processing and counting of affidavit
236 ballots as required by Section 23-15-573.

237 (c) By January 20, 2027, the Secretary of State shall
238 provide a recommendation to the Mississippi Legislature on whether
239 the procedures to be audited in paragraph (b) should be expanded
240 or reduced.

241 (d) The Secretary of State shall develop a
242 post-election audit manual which shall detail the policies and



243 procedures for conducting post-election audits. The post-election
244 audit manual shall not be altered less than ninety (90) days
245 before an election in which the post-election audit manual shall
246 be utilized in conducting a post-election audit.

247 (e) No later than one hundred twenty (120) days after
248 the election that the Secretary of State is auditing, the
249 Secretary of State shall compile a report of the procedural audits
250 conducted and shall submit the report to the Governor, Lieutenant
251 Governor, Speaker of the House of Representatives and Chairmen of
252 the Senate and House Election Committees. Prior to submitting the
253 report, the Secretary of State shall allow the local county
254 election officials to review the report and provide comments that
255 will be submitted along with the report. The report shall first
256 list all counties audited alphabetically with any major finding
257 which may affect the outcome of the election and whether any
258 voters were disenfranchised, then list out a detailed report of
259 any major or minor findings, along with recommended changes to
260 both county and Secretary of State practices.

261 **SECTION 3.** Section 23-15-639, Mississippi Code of 1972, is
262 brought forward as follows:

263 23-15-639. (1) The examination and counting of all absentee
264 ballots shall be conducted as follows:

265 (a) At the opening of the regular balloting and at the
266 opening of the polls, the resolution board established under
267 Section 23-15-523 and trained in the process of canvassing



268 absentee ballots shall first take the envelopes containing the
269 absentee ballots of such electors from the secure location at the
270 circuit clerk's office, and the name, address and precinct
271 inscribed on each envelope shall be announced by the election
272 managers.

273 (b) The signature on the application shall then be
274 compared with the signature on the back of the envelope. If it
275 corresponds and the affidavit, if one is required, is sufficient
276 and the resolution board find that the applicant is a registered
277 and qualified voter or otherwise qualified to vote, the envelope
278 shall then be opened and the ballot removed from the envelope,
279 without its being unfolded, or permitted to be unfolded or
280 examined.

281 (c) Having observed and found the ballot to be regular
282 as far as can be observed from its official endorsement, the
283 resolution board shall deposit it in the ballot box with the other
284 ballots before counting any ballots and enter the voter's name in
285 the receipt book provided for that purpose. All absentee ballots
286 received prior to 7:00 p.m. the day before the election shall be
287 counted in the registrar's office by the resolution board when the
288 polls close and then added to the votes cast in each precinct.
289 All absentee ballots received after 7:00 p.m. the day before the
290 election but not later than the fifth business day after the
291 election shall be processed by the resolution board.



292 (2) The resolution board shall also take such action as may
293 be prescribed by the Secretary of State to ensure compliance with
294 the identification requirements of Section 23-15-563.

295 (3) The resolution board shall process the absentee ballots
296 using the procedure provided in subsection (1) of this section.

297 **SECTION 4.** Section 23-15-641, Mississippi Code of 1972, is
298 brought forward as follows:

299 23-15-641. (1) For all absentee votes received by mail, if
300 an affidavit or the certificate of the officer before whom the
301 affidavit is taken is required and such affidavit or certificate
302 is found to be insufficient, or if it is found that the signatures
303 do not correspond, or that the applicant is not a duly qualified
304 elector in the precinct, or otherwise qualified to vote, or that
305 the ballot envelope is open or has been opened and resealed, or
306 the voter is not eligible to vote absentee, the previously cast
307 vote shall not be allowed. Without opening the voter's envelope
308 the resolution board shall mark across its face "REJECTED", with
309 the reason therefor.

310 (2) For all absentee votes received by mail, if the ballot
311 envelope contains more than one (1) ballot of any kind, the ballot
312 shall not be counted but shall be marked "REJECTED", with the
313 reason therefor, and the registrar shall promptly notify the voter
314 of such rejection. The voter's envelopes and affidavits, and the
315 voter's envelope with its contents unopened, when such vote is
316 rejected, shall be retained and preserved in the same manner as



317 other ballots at the election. Such votes may be challenged in
318 the same manner and for the same reasons that any other vote cast
319 in such election may be challenged.

320 (3) If an affidavit is required and the officials find that
321 the affidavit is insufficient, or if the officials find that the
322 absentee voter is otherwise disqualified to vote, the envelope
323 shall not be opened and a commissioner or executive committee
324 member shall write across the face of the envelope "REJECTED"
325 giving the reason therefor, and the registrar shall promptly
326 notify the voter of such rejection.

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

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

335 **SECTION 5.** Section 23-15-231, Mississippi Code of 1972, is
336 brought forward as follows:

337 23-15-231. Before every election, the election commissioners
338 shall appoint three (3) persons for each voting precinct to be
339 poll managers, one (1) of whom shall be designated by the election
340 commissioners as election bailiff. For general and special
341 elections, the poll managers shall not all be of the same



342 political party if suitable persons of different political parties
343 can be found in the district. If any person appointed shall fail
344 to attend and serve, the poll managers present, if any, may
345 designate someone to fill his or her place; and if the election
346 commissioners fail to make the appointments or in case of the
347 failure of all those appointed to attend and serve, any three (3)
348 qualified electors present when the polls should be opened may act
349 as poll managers. Provided, however, any person appointed to be
350 poll manager or act as poll manager shall be a qualified elector
351 of the county in which the polling place is located.

352 **SECTION 6.** This act shall take effect and be in force from
353 and after July 1, 2024.

