

HOUSE BILL NO. 320

1 AN ACT TO AMEND SECTION 23-15-523, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT FOR GENERAL AND SPECIAL ELECTIONS, ALL BALLOTS
3 THAT HAVE BEEN REJECTED BY THE OMR EQUIPMENT AND THAT ARE DAMAGED
4 OR DEFECTIVE, BLANK OR OVERVOTED WILL BE REVIEWED BY THE
5 RESOLUTION BOARD, BUT FOR PRIMARY ELECTIONS, THOSE BALLOTS WILL BE
6 REVIEWED BY THE COUNTY OR MUNICIPAL EXECUTIVE COMMITTEE, AS
7 APPLICABLE; TO AMEND SECTION 23-15-639, MISSISSIPPI CODE OF 1972,
8 TO PROVIDE THAT THE EXAMINATION AND COUNTING OF ALL ABSENTEE
9 BALLOTS SHALL BE CONDUCTED BY THE RESOLUTION BOARD IN GENERAL AND
10 SPECIAL ELECTIONS AND SHALL BE CONDUCTED BY THE COUNTY OR
11 MUNICIPAL EXECUTIVE COMMITTEE, AS APPROPRIATE, IN PRIMARY
12 ELECTIONS; TO BRING FORWARD SECTIONS 23-15-573 AND 23-15-597,
13 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
14 AND FOR RELATED PURPOSES.

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

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

18 23-15-523. (1) All proceedings at the counting center shall
19 be under the direction of the election commissioners or officials
20 in charge of the election, and shall be conducted under the
21 observations of the public, but no persons except those authorized
22 for the purpose shall touch any ballot. All persons who are
23 engaged in processing and counting of the ballots shall take the
24 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. For general and special elections, 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. For primary elections, all ballots that have been rejected by the OMR equipment and that are damaged or defective, blank or overvoted will be reviewed by the county or municipal executive committee, as applicable. 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.

45 (3) (a) If any ballot is damaged or defective so that it
46 cannot be properly counted by the OMR equipment, the ballot will
47 be deposited in an envelope provided for that purpose marked
48 "RESOLUTION BOARD * * *" or "EXECUTIVE COMMITTEE," as applicable.



49 All such ballots shall be carefully handled so as to avoid
50 altering, removing or adding any mark on the ballot.

51 (b) The election commissioners or the officials in
52 charge of the election shall have the members of the resolution
53 board, for a general or special election, or the members of the
54 county or municipal executive committee, for a primary election,
55 ascertain the intent of the voter, if possible, and, if so,
56 manually count any damaged or defective ballots.

57 (c) The resolution board or the executive committee, as
58 appropriate, shall prepare a duplicate to the damaged or defective
59 ballot in the following manner:

60 (i) The resolution board or the executive
61 committee, as appropriate, shall prepare a duplicate to the
62 original damaged or defective ballot marked identically to the
63 original.

64 (ii) The resolution board or the executive
65 committee, as appropriate, shall mark the first original they
66 examine as "Original #1" and the duplicate of this original as
67 "Duplicate #1." Later originals and duplicates shall be likewise
68 marked and numbered consecutively so the duplicate of each
69 original can be identified. Duplicate ballots shall be stamped in
70 a different manner from the original ballots so that they may be
71 easily distinguished from the originals.

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



74 (4) The resolution board or the executive committee, as
75 appropriate, shall examine ballots that have been rejected by the
76 OMR equipment for appearing to be "blank" to verify if they are
77 blank or were marked with a "nondetectable" marking device. If it
78 is determined that the ballot was marked with a nondetectable
79 device, the resolution board or the executive committee, as
80 appropriate, shall prepare a duplicate to the original blank
81 ballot in the same manner and in accordance with the same process
82 provided in subsection (3)(c).



98 count. Upon the completion of the counting, the official returns
99 shall be open to the public.

100 (6) When the resolution board or the executive committee, as
101 appropriate, reviews any OMR ballot in which the voter has failed
102 to fill in the arrow, oval, circle or square for a candidate or a
103 ballot measure, the resolution board or the executive committee,
104 as appropriate, shall, if the intent of the voter can be
105 ascertained, count the vote if:

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

110 (b) The voter blackens the arrow, oval, circle or
111 square adjacent to the ballot measure or the name of the candidate
112 in pencil or ink and the blackened portion extends beyond the
113 boundaries of the arrow, oval, circle or square.

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

117 (d) The voter underlines the ballot measure or the name
118 of a candidate.

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

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



123 (g) The voter draws a circle or oval around the arrow,
124 oval, circle or square adjacent to the ballot measure or the name
125 of the candidate.

126 (7) The resolution board or the executive committee, as
127 appropriate, when inspecting an OMR ballot that contains or
128 appears to contain one or more overvotes, appears to be damaged or
129 defective, or is rejected by the OMR equipment for any reason or
130 cannot be counted by the OMR equipment, shall make its
131 determination in accordance with the following:

132 (a) When an elector casts more votes for any office or
133 measure than he or she is entitled to cast at an election, all the
134 elector's votes for that office or measure are invalid and the
135 elector is deemed to have voted for none of them. If an elector
136 casts less votes for any office or measure than he or she is
137 entitled to cast at an election, all votes cast by the elector
138 shall be counted but no vote shall be counted more than once.

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

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



147 (d) In any case where a voter writes in the name of a
148 candidate for President of the United States whose name is printed
149 on the general election ballot, the failure by the voter to write
150 in the name of a candidate for the Office of Vice President of the
151 United States on the general election ballot does not invalidate
152 the elector's vote for the slate of electors for any candidate
153 whose name is written in for the Office of President of the United
154 States.

155 (e) For any ballot measure in which the words "for" or
156 "against" are printed on a ballot, if the voter shall write the
157 word "for" or the word "against" instead of or in addition to
158 marking the ballot in accordance with the ballot instruction in
159 the space adjacent to the preprinted words "for" or "against," the
160 resolution board or the executive committee, as appropriate,
161 shall, in reviewing such ballot, count the vote in accordance with
162 the voter's handwritten preference, unless the voter marks the
163 ballot in the space adjacent to the preprinted words "for" or
164 "against" contrary to the handwritten preference, in which case no
165 vote shall be recorded for such ballot in regard to the ballot
166 measure.

167 (f) For any ballot measure in which the words "yes" or
168 "no" are printed on a ballot, if the voter shall write the word
169 "yes" or the word "no" instead of or in addition to marking the
170 ballot in accordance with the ballot instructions in the space
171 adjacent to the preprinted words "yes" or "no," the resolution



172 board or the executive committee, as appropriate, shall, in
173 reviewing such ballot, count the vote in accordance with the
174 voter's handwritten preference, unless the voter marks the ballot
175 in the space adjacent to the preprinted words "yes" or "no"
176 contrary to the handwritten preference, in which case no vote
177 shall be recorded for such ballot in regard to the ballot measure.

178 (8) OMR equipment shall be programmed, calibrated, adjusted
179 and set up to reject ballots that appear to be damaged or
180 defective. Any switch, lever or feature on OMR equipment that
181 enables or permits the OMR equipment to override the rejection of
182 damaged or defective ballots so that such ballots will not be
183 reviewed by the resolution board or the executive committee, as
184 appropriate, shall not be used.

185 (9) Ballots shall be manually counted by the resolution
186 board or the executive committee, as appropriate, only when the
187 ballots are:

188 (a) Properly before the resolution board or the
189 executive committee, as appropriate, due to being rejected by the
190 OMR equipment because the ballots appear to be damaged or
191 defective or are rejected by the OMR equipment for any other
192 reason; or

193 (b) Properly before the resolution board or the
194 executive committee, as appropriate, due to a malfunction in the
195 OMR equipment.



196 (10) The resolution board or the executive committee, as
197 appropriate, shall make and keep a record regarding the handling
198 and counting of all ballots inspected under this section.

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

215 **SECTION 2.** Section 23-15-639, Mississippi Code of 1972, is
216 amended as follows:

217 23-15-639. (1) The examination and counting of all absentee
218 ballots shall be conducted as follows:

219 (a) At the opening of the regular balloting and at the
220 opening of the polls for general and special elections, the

221 resolution board established under Section 23-15-523 and trained
222 in the process of canvassing absentee ballots shall first take the
223 envelopes containing the absentee ballots of such electors from
224 the secure location at the registrar's office, and the name,
225 address and precinct inscribed on each envelope shall be announced
226 by the resolution board. In primary elections, the county or
227 municipal executive committee, as appropriate, shall first take
228 the envelopes containing the absentee ballots of such electors
229 from the secure location at the circuit or municipal clerk's
230 office, as appropriate, and the name, address and precinct
231 inscribed on each envelope shall be announced by the county or
232 municipal executive committee, as appropriate.

233 (b) (i) For absentee ballots that were received by
234 mail, the signature on the application shall then be compared with
235 the signature in the box on the back of the envelope. A portion
236 of the elector's signature extending outside of the box shall not
237 be grounds for rejecting that elector's ballot. If it corresponds
238 and the affidavit, if one is required, is sufficient and the
239 resolution board or executive committee, as appropriate, finds
240 that the applicant is a registered and qualified voter or
241 otherwise qualified to vote, the envelope shall then be opened and
242 the ballot removed from the envelope, without its being unfolded,
243 or permitted to be unfolded or examined.

244 (ii) For absentee ballots that were cast in person
245 in the registrar's office, the resolution board shall confirm that

246 the voter completed the application on the front of the envelope
247 and signed the elector's certificate in the box on the back of the
248 envelope. If it is signed and the resolution board or executive
249 committee, as appropriate, finds that the applicant is a
250 registered and qualified voter or otherwise qualified to vote, the
251 envelope shall be opened and the absentee ballot removed from the
252 envelope, without its being unfolded, or permitted to be unfolded
253 or examined.

254 (c) Having observed and found the ballot to be regular
255 as far as can be observed from its official endorsement, the
256 resolution board or executive committee, as appropriate, shall
257 deposit it in the ballot box with the other ballots before
258 counting any ballots and enter the voter's name in the receipt
259 book provided for that purpose. All absentee ballots received
260 prior to 7:00 p.m. the day before the election shall be counted in
261 the registrar's office by the resolution board or executive
262 committee, as appropriate, when the polls close and then added to
263 the votes cast in each precinct. All absentee ballots received
264 after 7:00 p.m. the day before the election but not later than the
265 fifth business day after the election shall be processed by the
266 resolution board or executive committee, as appropriate.

267 (2) The resolution board or executive committee, as
268 appropriate, shall also take such action as may be prescribed by
269 the Secretary of State to ensure compliance with the
270 identification requirements of Section 23-15-563.



271 (3) The resolution board or executive committee, as
272 appropriate, shall process the absentee ballots using the
273 procedure provided in subsection (1) of this section.

274 **SECTION 3.** Section 23-15-573, Mississippi Code of 1972, is
275 brought forward as follows:

276 23-15-573. (1) If any person declares that he or she is a
277 registered voter in the jurisdiction in which he or she offers to
278 vote and that he or she is eligible to vote in the election, but
279 his or her name does not appear upon the pollbooks, or that he or
280 she is not able to cast a regular election day ballot under a
281 provision of state or federal law but is otherwise qualified to
282 vote, or that he or she has been illegally denied registration, or
283 that he or she is unable to present an acceptable form of photo
284 identification:

287 (b) The person shall be permitted to cast an affidavit
288 ballot at the polling place upon execution of a written affidavit
289 before one (1) of the poll managers stating that the individual:

290 (i) Believes he or she is a registered voter in
291 the jurisdiction in which he or she desires to vote and is
292 eligible to vote in the election; or

293 (ii) Is not able to cast a regular election day
294 ballot under a provision of state or federal law but is otherwise
295 qualified to vote; or



296 (iii) Believes that he or she has been illegally
297 denied registration; or

298 (iv) Is unable to present an acceptable form of
299 photo identification.

300 (c) The poll manager shall allow the individual to mark
301 a paper ballot properly endorsed by the initializing poll manager or
302 alternate initializing poll manager in accordance with Section
303 23-15-541, which shall be delivered by him or her to the proper
304 election official who shall enclose it in an affidavit ballot
305 envelope, with the written and signed affidavit of the voter
306 affixed to the envelope, seal the envelope and mark plainly upon
307 it the name of the person offering to vote.

308 (2) The affidavit ballot envelope shall include:

309 (a) The complete name of the voter;

310 (b) A present and previous physical and mailing address
311 of the voter;

312 (c) Telephone numbers where the voter may be contacted;
313 (d) A statement that the affiant believes he or she is
314 registered to vote in the jurisdiction in which he or she offers
315 to vote;

316 (e) The signature of the affiant; and

317 (f) The signature of the poll manager at the polling
318 place at which the affiant offers to vote.



319 (3) (a) A separate receipt book shall be maintained for
320 affidavit voters and the affidavit voters shall sign the receipt
321 book upon completing the affidavit ballot.

322 (b) If the affidavit voter is casting an affidavit
323 ballot because the voter is unable to present an acceptable form
324 of photo identification and the voter's name appears in the
325 pollbook, then the poll manager shall write "NO ID" across from
326 the voter's name and in the appropriate column in the pollbook.

327 (c) In canvassing the returns of the election, the
328 executive committee in primary elections, or the election
329 commissioners in other elections, shall examine the records and
330 allow the ballot to be counted, or not counted as it appears
331 legal.

332 (d) An affidavit ballot of a voter who was unable to
333 present an acceptable form of photo identification shall not be
334 rejected for this reason if the voter does either of the
335 following:

336 (i) Returns to the circuit clerk's office, or to
337 the municipal clerk's office for municipal elections, within five
338 (5) business days after the date of the election and presents an
339 acceptable form of photo identification;

340 (ii) Returns to the circuit clerk's office within
341 five (5) business days after the date of the election to obtain
342 the Mississippi Voter Identification Card, or in municipal
343 election, returns to the municipal clerk's office within five (5)

344 business days after the date of the election to present his or her
345 Mississippi Voter Identification Card or Temporary Mississippi
346 Voter Identification Card; or

347 (iii) Returns to the circuit clerk's office, or to
348 the municipal clerk's office for municipal elections, within five
349 (5) business days after the date of the election to execute a
350 separate Affidavit of Religious Objection.

351 (4) When a person is offered the opportunity to vote by
352 affidavit ballot, he or she shall be provided with written
353 information that informs the person how to ascertain whether his
354 or her affidavit ballot was counted and, if the vote was not
355 counted, the reasons the vote was not counted.

356 (5) The officials in charge of the election shall process
357 all affidavit ballots by using the Statewide Elections Management
358 System. The officials in charge of the election shall account for
359 all affidavit ballots cast in each election, categorizing the
360 affidavit ballots cast by reason and recording the total number of
361 affidavit ballots counted and not counted in each such category in
362 the Statewide Elections Management System.

363 (6) The Secretary of State shall, by rule duly adopted,
364 establish a uniform affidavit ballot envelope that shall be used
365 in all elections in this state. The Secretary of State shall
366 print and distribute a sufficient number of affidavit ballot
367 envelopes to the registrar of each county for use in elections.
368 The registrar shall distribute the affidavit ballot envelopes to

369 municipal and county executive committees for use in primary
370 elections and to municipal and county election commissioners for
371 use in all other elections.

372 (7) County registrars and municipal registrars shall
373 maintain a secure free access system that complies with the Help
374 America Vote Act of 2002, by which persons who vote by affidavit
375 ballot may determine if their ballots were counted, and if not,
376 the reasons the ballot was not counted.

377 (8) Any person who votes in any election as a result of a
378 federal or state court order or other order extending the time
379 established by law for closing the polls on an election day, may
380 only vote by affidavit ballot. Any affidavit ballot cast under
381 this subsection shall be separated and kept apart from other
382 affidavit ballots cast by voters not affected by the order.

383 **SECTION 4.** Section 23-15-597, Mississippi Code of 1972, is
384 brought forward as follows:

385 23-15-597. (1) The county executive committee shall meet
386 no later than one (1) week from the day following each primary
387 election to receive and canvass the returns that must be made
388 within the time fixed by law for returns of general elections and
389 declare the result, and announce the name of the nominees for
390 county and county district offices and the names of those
391 candidates to be submitted to the second primary. The vote for
392 state, state district offices and legislative offices shall be
393 tabulated by precincts and certified to and returned to the State



394 Executive Committee, such returns to be mailed by registered
395 letter or any safe mode of transmission within thirty-six (36)
396 hours after the returns are canvassed and the result ascertained.
397 The State Executive Committee shall meet one (1) week from the day
398 following the first primary election held for state, state
399 district offices and legislative offices, and shall proceed to
400 canvass the returns and to declare the result, and announce the
401 names of those nominated for the different offices in the first
402 primary and the names of those candidates whose names are to be
403 submitted to the second primary election. The State Executive
404 Committee shall also meet one (1) week from the day on which the
405 second primary election was held and receive and canvass the
406 returns for state and district offices, if any, and legislative
407 offices, if any, voted on in the second primary. An exact and
408 full duplicate of all tabulations by precincts as certified under
409 this section shall be filed with the circuit clerk of the county
410 who shall safely preserve the same in his or her office.

411 (2) (a) If it is eligible under Section 23-15-266, the
412 county executive committee may enter into a written agreement with
413 the circuit clerk or the county election commission authorizing
414 the circuit clerk or the county election commission to perform any
415 of the duties required of the county executive committee pursuant
416 to this section. Any agreement entered into pursuant to this
417 subsection shall be signed by the chair of the county executive
418 committee and the circuit clerk or the chair of the county



419 election commission, as appropriate. The county executive
420 committee shall notify the State Executive Committee and the
421 Secretary of State of the existence of the agreement.

422 (b) If it is eligible under Section 23-15-266, the
423 municipal executive committee may enter into a written agreement
424 with the municipal clerk or the municipal election commission
425 authorizing the municipal clerk or the municipal election
426 commission to perform any of the duties required of the municipal
427 executive committee pursuant to this section. Any agreement
428 entered into pursuant to this subsection shall be signed by the
429 chair of the municipal executive committee and the municipal clerk
430 or the chair of the municipal election commission, as appropriate.
431 The municipal executive committee shall notify the State Executive
432 Committee and the Secretary of State of the existence of the
433 agreement.

434 **SECTION 5.** This act shall take effect and be in force from
435 and after July 1, 2025.

