

HOUSE BILL NO. 321

1 AN ACT TO AMEND SECTION 23-15-365, MISSISSIPPI CODE OF 1972,
2 TO REMOVE THE BLANK SPACE FOR A WRITE-IN CANDIDATE AND PROVIDE
3 THAT A SUPPLEMENTARY BALLOT SHALL BE PRINTED AND USED IN THE EVENT
4 A CANDIDATE DIES, RESIGNS, WITHDRAWS OR IS REMOVED AFTER THE
5 BALLOTS HAVE BEEN PRINTED BUT BEFORE AN ELECTION; TO AMEND
6 SECTIONS 23-15-333, 23-15-523 AND 23-15-551, MISSISSIPPI CODE OF
7 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; AND FOR RELATED
8 PURPOSES.

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

10 **SECTION 1.** Section 23-15-365, Mississippi Code of 1972, is
11 amended as follows:

12 23-15-365. (1) * * * In primary, general and special
13 elections, * * * in the event of the death, resignation,
14 withdrawal or removal of any candidate whose name was printed on
15 the official ballot, a supplementary ballot shall be printed for
16 that race and the name of the candidate duly substituted in the
17 place of such candidate who is qualified to hold the office * * *
18 shall be printed on the supplementary ballot with the name of the
19 other candidates in that particular race. The supplementary
20 ballot shall only contain the race in which a candidate has been
21 substituted for another candidate after the ballots were printed.

22 Supplementary ballots shall be formatted and printed in the same
23 manner that regular election day ballots are printed, and shall be
24 provided to voters in the same way regular ballots are provided to
25 voters. Any voter who votes absentee before the supplementary
26 ballot has been printed shall be notified that a supplementary
27 ballot exists and shall be given the option to return to the
28 circuit clerk's office to vote the supplementary ballot or have
29 the supplementary ballot mailed to him or her. Only those voters
30 who are qualified to vote absentee by mail shall be mailed a
31 supplementary ballot.

32 * * *

33 (2) The provisions of subsection (1) of this section shall
34 not apply to elections conducted under the Nonpartisan Judicial
35 Election Act.

36 **SECTION 2.** Section 23-15-333, Mississippi Code of 1972, is
37 amended as follows:

38 23-15-333. (1) The county executive committee shall have
39 printed all necessary ballots, for use in primary elections. The
40 county executive committee shall have printed all necessary
41 absentee ballots forty-five (45) days before the election as
42 required by law. The ballots shall contain the names of all the
43 candidates to be voted for at the election * * *. In the event of
44 the death of any candidate whose name shall have been printed on
45 the ballot, a supplementary ballot shall be printed and the name
46 of the candidate duly substituted in the place of the deceased



47 candidate * * * as well as the other candidates in the race shall
48 be printed on the supplementary ballot. Except as otherwise
49 provided in subsection (2) of this section, the order in which the
50 titles to the various offices shall be printed, and the size,
51 print and quality of the paper of the ballot is left to the
52 discretion of the county executive committee. Provided, however,
53 that in all cases the arrangement of the names of the candidates
54 for each office shall be alphabetical. No ballot shall be used
55 except those so printed.

56 (2) The titles for the various offices shall be listed in
57 the following order:

58 (a) Candidates, electors or delegates for the following
59 national offices:

60 (i) President of the United States of America;
61 (ii) United States Senator or United States
62 Representative;

63 (b) Candidates for the following statewide offices:

64 Governor, Lieutenant Governor, Secretary of State, Attorney
65 General, State Treasurer, Auditor of Public Accounts, Commissioner
66 of Agriculture and Commerce, Commissioner of Insurance;

67 (c) Candidates for the following state district
68 offices: Mississippi Transportation Commissioner, Public Service
69 Commissioner, District Attorney;

70 (d) Candidates for the following legislative offices:
71 Senator and House of Representatives;



(e) Candidates for countywide office;

(f) Candidates for county district office.

74 The order in which the titles for the various offices are
75 listed within each of the categories listed in paragraphs (e) and
76 (f) are left to the discretion of the county executive committee.
77 Candidates' names shall be listed alphabetically under each office
78 by the candidate's last name.

97 election commission, as appropriate. The county executive
98 committee shall notify the state executive committee and the
99 Secretary of State of the existence of such agreement.

100 (b) If it is eligible under Section 23-15-266, the
101 municipal executive committee may enter into a written agreement
102 with the municipal clerk or the municipal election commission
103 authorizing the municipal clerk or the municipal election
104 commission to perform any of the duties required of the municipal
105 executive committee pursuant to this section. Any agreement
106 entered into pursuant to this subsection shall be signed by the
107 chair of the municipal executive committee and the municipal clerk
108 or the chair of the municipal election commission, as appropriate.
109 The municipal executive committee shall notify the state executive
110 committee and the Secretary of State of the existence of such
111 agreement.

112 **SECTION 3.** Section 23-15-523, Mississippi Code of 1972, is
113 amended as follows:

114 23-15-523. (1) All proceedings at the counting center shall
115 be under the direction of the election commissioners or officials
116 in charge of the election, and shall be conducted under the
117 observations of the public, but no persons except those authorized
118 for the purpose shall touch any ballot. All persons who are
119 engaged in processing and counting of the ballots shall take the
120 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.

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

143 (b) The election commissioners or the officials in
144 charge of the election shall have the members of the resolution



145 board ascertain the intent of the voter, if possible, and, if so,
146 manually count any damaged or defective ballots.

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

149 (i) The resolution board shall prepare a duplicate
150 to the original damaged or defective ballot marked identically to
151 the original.

152 (ii) The resolution board shall mark the first
153 original they examine as "Original #1" and the duplicate of this
154 original as "Duplicate #1." Later originals and duplicates shall
155 be likewise marked and numbered consecutively so the duplicate of
156 each original can be identified. Duplicate ballots shall be
157 stamped in a different manner from the original ballots so that
158 they may be easily distinguished from the originals.

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

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

168 (5) All ballots that are rejected by the OMR equipment and
169 that contain overvotes shall be inspected by the resolution board.



170 Regarding those rejected ballots upon which an overvote appears,
171 if the voter intent cannot be determined by the resolution board,
172 the officials in charge of the election may use the OMR equipment
173 in determining the vote in the races that are unaffected by the
174 overvote. All other ballots that are overvoted shall be counted
175 manually following the provisions of this section at the direction
176 of the officials in charge of the election. The return printed by
177 the OMR equipment to which have been added the manually tallied
178 ballots, which shall be duly certified by the officials in charge
179 of the election, shall constitute the official return of each
180 voting precinct. Unofficial and incomplete returns may be
181 released during the count. Upon the completion of the counting,
182 the official returns shall be open to the public.

183 (6) When the resolution board reviews any OMR ballot in
184 which the voter has failed to fill in the arrow, oval, circle or
185 square for a candidate or a ballot measure, the resolution board
186 shall, if the intent of the voter can be ascertained, count the
187 vote if:

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

192 (b) The voter blackens the arrow, oval, circle or
193 square adjacent to the ballot measure or the name of the candidate



194 in pencil or ink and the blackened portion extends beyond the
195 boundaries of the arrow, oval, circle or square.

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

199 (d) The voter underlines the ballot measure or the name
200 of a candidate.

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

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

205 (g) The voter draws a circle or oval around the arrow,
206 oval, circle or square adjacent to the ballot measure or the name
207 of the candidate.

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

213 (a) When an elector casts more votes for any office or
214 measure than he or she is entitled to cast at an election, all the
215 elector's votes for that office or measure are invalid and the
216 elector is deemed to have voted for none of them. If an elector
217 casts less votes for any office or measure than he or she is



218 entitled to cast at an election, all votes cast by the elector
219 shall be counted but no vote shall be counted more than once.

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

223 * * *

224 (* * *c) For any ballot measure in which the words
225 "for" or "against" are printed on a ballot, if the voter shall
226 write the word "for" or the word "against" instead of or in
227 addition to marking the ballot in accordance with the ballot
228 instruction in the space adjacent to the preprinted words "for" or
229 "against," the resolution board shall, in reviewing such ballot,
230 count the vote in accordance with the voter's handwritten
231 preference, unless the voter marks the ballot in the space
232 adjacent to the preprinted words "for" or "against" contrary to
233 the handwritten preference, in which case no vote shall be
234 recorded for such ballot in regard to the ballot measure.

235 (* * *d) For any ballot measure in which the words
236 "yes" or "no" are printed on a ballot, if the voter shall write
237 the word "yes" or the word "no" instead of or in addition to
238 marking the ballot in accordance with the ballot instructions in
239 the space adjacent to the preprinted words "yes" or "no," the
240 resolution board shall, in reviewing such ballot, count the vote
241 in accordance with the voter's handwritten preference, unless the
242 voter marks the ballot in the space adjacent to the preprinted



243 words "yes" or "no" contrary to the handwritten preference, in
244 which case no vote shall be recorded for such ballot in regard to
245 the ballot measure.

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

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

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

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

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

263 (11) The executive committee of each county or municipality,
264 in the case of a primary election, or the election commissioners
265 of each county or municipality, in the case of all other
266 elections, in conjunction with the circuit or municipal clerk
267 respectively, shall sponsor and conduct, a training session for up

268 to two (2) hours, not less than five (5) days before each
269 election, to instruct those qualified electors who are appointed
270 to serve as members of the resolution board as to their specific
271 duties in the election. No member appointed to serve on the
272 resolution board shall serve in any election unless he or she has
273 received such instruction once during the twelve (12) months
274 immediately preceding the date upon which the election is held.
275 Online training courses developed by the Secretary of State,
276 though not sponsored or conducted by the executive committee or
277 the election commissioners, may be used to meet the requirements
278 of this subsection (11).

279 **SECTION 4.** Section 23-15-551, Mississippi Code of 1972, is
280 amended as follows:

281 23-15-551. On receiving his or her ballot, the voter shall
282 go without undue delay into one (1) of the voting compartments and
283 shall there prepare his or her ballot by marking with ink or
284 indelible pencil on the appropriate margin or place a cross (X)
285 opposite the name of the candidate of his or her choice for each
286 office * * *, and likewise a cross (X) opposite the answer he or
287 she desires to give in case of an election on a constitutional
288 amendment, local option election, referenda or any other question
289 or matter. As an alternative method, a voter may, at his or her
290 option, prepare a ballot by marking with ink or indelible pencil
291 in the appropriate margin or place a check, in the form of and
292 similar to a "V", opposite the name of the candidate of his or her



293 choice for each office or by writing in the name of a candidate in
294 the blank space provided and marking a check in the form of and
295 similar to a "V", opposite thereto, and likewise a check, in the
296 form of and similar to a "V", opposite the answer he or she
297 desires to give in case of an election on a constitutional
298 amendment, local option election, referenda or other question or
299 matter, either of which methods of marking, whether by a cross (X)
300 or by a check in the form of and similar to a "V", is authorized.
301 Before leaving the voting compartment, the voter shall fold his or
302 her ballot without displaying its markings, but so that the words
303 "OFFICIAL BALLOT," followed by the designation of the voting
304 precinct and the date of the election, shall be visible to the
305 poll managers, then deposit his or her ballot directly into the
306 ballot box. This shall be done without undue delay, and as soon
307 as the voter has voted he or she shall promptly exit the polling
308 place. A voter shall not be allowed to occupy a voting
309 compartment already occupied by another voter, nor any compartment
310 longer than ten (10) minutes, if other voters are not waiting, nor
311 longer than five (5) minutes if other voters are waiting. A
312 person shall not be allowed in the room in which the ballot boxes,
313 compartments, tables and shelves are, except the officers of the
314 election, and those appointed by them to assist therein, and those
315 authorized by Section 23-15-577.

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

