

By: Senator(s) Bryan

To: Elections

SENATE BILL NO. 2380

1 AN ACT TO REQUIRE ELECTION COMMISSIONS AND EXECUTIVE
2 COMMITTEES RESPONSIBLE FOR THE CONDUCT OF ELECTIONS IN WHICH
3 BALLOTS ARE GENERATED AND ARE COUNTED BY HAND OR BY AN ELECTRONIC
4 TABULATING DEVICE TO REPORT TO THE SECRETARY OF STATE CERTAIN
5 INFORMATION ON RESIDUAL VOTES; TO SPECIFY THE CONTENTS OF SUCH
6 REPORTS; TO REQUIRE ELECTION COMMISSIONS AND EXECUTIVE COMMITTEES
7 RESPONSIBLE FOR THE CONDUCT OF ELECTIONS IN WHICH ELECTRONIC
8 DEVICES THAT DO NOT GENERATE BALLOTS THAT ARE COUNTED BY HAND OR
9 BY ELECTRONIC TABULATING DEVICES TO REPORT CERTAIN INFORMATION TO
10 THE SECRETARY OF STATE; TO AMEND SECTIONS 23-15-599, 23-15-601,
11 23-15-603, 23-15-605, 23-15-607 AND 23-15-611, MISSISSIPPI CODE OF
12 1972, TO REQUIRE COUNTY EXECUTIVE COMMITTEES TO TRANSMIT TO THE
13 SECRETARY OF STATE CERTIFIED STATEMENTS OF THE VOTE IN THEIR
14 COUNTY FOR ELECTIONS FOR COUNTY AND COUNTY DISTRICT OFFICES AND
15 FOR ELECTIONS FOR LEGISLATIVE OFFICES FOR DISTRICTS CONTAINING ONE
16 COUNTY OR LESS; TO PROVIDE THAT STATEMENTS OF THE VOTE CAST AT
17 PRIMARY AND GENERAL ELECTIONS THAT ARE REQUIRED TO BE TRANSMITTED
18 TO THE SECRETARY OF STATE INCLUDE THE VOTE BY PRECINCTS; TO
19 REQUIRE THAT SUCH STATEMENT BE TRANSMITTED TO THE SECRETARY OF
20 STATE ON SUCH FORMS AND BY SUCH METHODS AS MAY BE REQUIRED BY
21 RULES AND REGULATIONS PROMULGATED BY THE SECRETARY OF STATE; TO
22 REQUIRE SUCH STATEMENTS TO HAVE A CERTIFICATION SIGNED BY THE
23 APPROPRIATE ELECTION OFFICIALS; TO REQUIRE THE GENERAL ELECTION
24 RETURNS FOR VOTES FOR STATEWIDE OFFICE TO CONTAIN A STATEMENT OF
25 THE WHOLE NUMBER OF VOTES GIVEN IN EACH HOUSE OF REPRESENTATIVE
26 DISTRICT FOR EACH CANDIDATE; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** (1) As used in this section "residual votes"
29 means overvotes, undervotes and any other vote not counted for any
30 reason.

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

36 (3) For every election, election commissions and county and
37 municipal executive committees responsible for the conduct of
38 elections in which ballots are generated that are counted by hand
39 or by an electronic or automatic tabulating device shall report to



40 the Secretary of State all residual votes for all candidates and
41 ballot measures in the elections for which they are responsible
42 for conducting. Such residual vote reports shall:

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

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

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

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

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

60 (4) For every election, election commissions and county and
61 municipal executive committees responsible for the conduct of
62 election in which voting devices are used that do not generate
63 ballots that are counted by hand or by electronic or automatic
64 tabulating devices, shall file a report with the Secretary of
65 State which shall:

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

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



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

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

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

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

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

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

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

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

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

102 **SECTION 2.** Section 23-15-599, Mississippi Code of 1972, is
103 amended as follows:

104 23-15-599. (1) (a) Within ten (10) days after the first
105 primary election and within ten (10) days after the second primary



106 election, if any, the Chairman of the State Executive Committee
107 shall transmit to the Secretary of State a tabulated statement of
108 the party vote cast in each county and precinct in each county in
109 each state and state district election, and each legislative
110 election for districts consisting of more than one (1) county or
111 parts of more than one (1) county. The statement shall be
112 transmitted by the State Executive Committee on such forms and by
113 such methods as may be required by rules and regulations
114 promulgated by the Secretary of State. The statement shall be
115 filed by the Secretary of State and preserved among the records of
116 his office.

117 (b) The statement provided for in paragraph (a) of this
118 subsection shall contain a certification signed and dated by the
119 Chairman of the State Executive Committee, which shall read as
120 follows:

121 "I _____, Chairman of the _____ Party State
122 Executive Committee, do hereby certify that, on a majority vote of
123 the _____ Party State Executive Committee, these vote totals
124 for each county and for each candidate are the official vote
125 totals for the election reflected therein."

126 (2) (a) Within ten (10) days after the first primary
127 election and within ten (10) days after the second primary
128 election, if any, the county executive committee shall transmit to
129 the Secretary of State a tabulated statement of the party vote
130 cast in their county and each precinct in their county in each
131 election for county and county district office and each election
132 for legislative office for districts containing one (1) county or
133 less. The statement shall be transmitted by the county executive
134 committee on such forms and by such methods as may be required by
135 rules and regulations promulgated by the Secretary of State. The
136 statement shall be filed by the Secretary of State and preserved
137 among the records of his office.



138 (b) The statement provided for in paragraph (a) of this
139 subsection shall contain a certification signed and dated by the
140 majority of the members of the county executive committee, which
141 shall read as follows:

142 "We, the undersigned members of the county executive
143 committee, do hereby certify that these vote totals for each
144 candidate are the official vote totals for the election reflected
145 therein."

146 **SECTION 3.** Section 23-15-601, Mississippi Code of 1972, is
147 amended as follows:

148 23-15-601. (1) When the result of the election shall have
149 been ascertained by the managers they, or one (1) of their number,
150 or some fit person designated by them, shall, by noon of the
151 second day after the election, deliver to the commissioners of
152 election, at the courthouse, a statement of the whole number of
153 votes given for each person and for what office; and the
154 commissioners of election shall canvass the returns, ascertain and
155 declare the result, and, within ten (10) days after the day of the
156 election, shall deliver a certificate of his election to the
157 person having the greatest number of votes for representative in
158 the Legislature of districts composed of one (1) county or less,
159 or other county office, board of supervisors, justice court judge
160 and constable. If it appears that two (2) or more candidates for
161 Representative of the county, or part of the county, or for any
162 county office, board of supervisors, justice court judge or
163 constable standing highest on the list, and not elected, have an
164 equal number of votes, the election shall be decided by lot fairly
165 and publicly drawn by the commissioners, with the aid of two (2)
166 or more respectable electors of the county, and a certificate of
167 election shall be given accordingly. The foregoing provisions
168 shall apply to Senators, if the county be a senatorial district.

169 (2) The commissioners of election shall transmit to the
170 Secretary of State, on such forms and by such methods as may be



171 required by rules and regulations promulgated by the Secretary of
172 State, a statement of the total number of votes cast in the county
173 for each candidate for each office and the total number of votes
174 cast for such candidates in each precinct in the district in which
175 the candidate ran.

176 **SECTION 4.** Section 23-15-603, Mississippi Code of 1972, is
177 amended as follows:

178 23-15-603. (1) The commissioners of election shall, within
179 ten (10) days after the general election, transmit to the
180 Secretary of State, to be filed in his office, a statement of the
181 whole number of votes given in their county and the whole number
182 of votes given in each precinct in their county, for each
183 candidate for any office at the election; but the returns of every
184 election for Governor, Lieutenant Governor, Secretary of State,
185 Attorney General, Auditor of Public Accounts, State Treasurer,
186 Commissioner of Insurance and other state officers, shall each be
187 made out separately, sealed up together and transmitted to the
188 seat of government, directed to the Secretary of State, and
189 endorsed the "VOTE FOR STATE OFFICERS," to be delivered by the
190 Secretary of State to the Speaker of the House of Representatives
191 at the next ensuing session of the Legislature. In addition to
192 the other information required pursuant to this subsection, the
193 returns for state officers shall contain a statement of the whole
194 number of votes given in each House of Representative district or
195 portion thereof for each candidate for state office at the
196 election.

197 (2) Constitutional amendments shall be voted for at the time
198 fixed by the concurrent resolution. The election, whether held
199 separately or with other elections, shall be conducted, in all
200 respects, as required for elections generally. The commissioners
201 of election shall, within ten (10) days after the election,
202 transmit to the Secretary of State a statement of the whole number
203 of votes given in their county and the whole number of votes given



204 in each precinct in their county for or against constitutional
205 amendments.

206 (3) The statements certified by the election commissioners
207 and transmitted to the Secretary of State, as required by this
208 section, shall be tabulated by the Secretary of State and
209 submitted to each branch of the Legislature, at the session next
210 ensuing. Certified county vote totals shall represent the final
211 results of the election.

212 (4) The statements required by this section shall contain a
213 certification, signed and dated by a majority of the commissioners
214 of election, which shall read as follows:

215 "We, the undersigned commissioners of election, do hereby
216 certify that this statement of the whole number of votes contains
217 the official vote for the election reflected therein."

218 (5) The statements required by this section shall be
219 transmitted to the Secretary of State on such forms and by such
220 methods as may be required by rules and regulations promulgated by
221 the Secretary of State.

222 **SECTION 5.** Section 23-15-605, Mississippi Code of 1972, is
223 amended as follows:

224 23-15-605. The Secretary of State, immediately after
225 receiving the returns of an election, not longer than thirty (30)
226 days after the election, shall sum up the whole number of votes
227 given for each candidate other than candidates for state offices,
228 legislative offices composed of one (1) county or less, county
229 offices and county district offices, according to the statements
230 of the votes certified to him and ascertain the person or persons
231 having the largest number of votes for each office, and declare
232 such person or persons to be duly elected; and thereupon all
233 persons chosen to any office at the election shall be commissioned
234 by the Governor; but if it appears that two (2) or more candidates
235 for any district office where the district is composed of two (2)
236 or more counties, standing highest on the list, and not elected,



237 have an equal number of votes, the election shall be forthwith
238 decided between the candidates having an equal number of votes by
239 lot, fairly and publicly drawn, under the direction of the
240 Governor and Secretary of State.

241 **SECTION 6.** Section 23-15-607, Mississippi Code of 1972, is
242 amended as follows:

243 23-15-607. (1) The commissioners of election shall, within
244 ten (10) days after an election for judges of the Supreme Court or
245 Court of Appeals, transmit to the Secretary of State, to be filed
246 in his office, a statement of the whole number of votes given in
247 their county, and the whole number of votes given in each precinct
248 in their county, for each candidate for the office of judge of the
249 Supreme Court or Court of Appeals, and the Secretary of State
250 shall immediately notify each member of the State Board of
251 Election Commissioners in writing to assemble at his office on a
252 day to be fixed by him, to be within ten (10) days after the
253 receipt by him of such statement, and when assembled pursuant to
254 such notice the State Board of Election Commissioners shall sum up
255 the whole number of votes given for each candidate for judge of
256 the Supreme Court or Court of Appeals according to the total
257 number of votes in each county for each candidate as certified to
258 the Secretary of State, ascertain the person or persons to be
259 elected; and thereupon all persons chosen to such office at the
260 election shall be commissioned by the Governor; but if it appears
261 that two (2) or more candidates for judge of the Supreme Court or
262 Court of Appeals standing highest on the list, and not elected,
263 have an equal number of votes, the election shall be forthwith
264 decided between the candidates having an equal number of votes by
265 lots, fairly and publicly drawn under the direction of the State
266 Board of Election Commissioners.

267 (2) The statements required by this section shall contain a
268 certification, signed and dated by a majority of the commissioners
269 of election, which shall read as follows:



270 "We, the undersigned commissioners of election, do hereby
271 certify that this statement of the whole number of votes contain
272 the official vote for the election reflected therein."

273 (3) The statements required by this section shall be
274 transmitted to the Secretary of State on such forms and by such
275 methods as may be required by rules and regulations promulgated by
276 the Secretary of State.

277 **SECTION 7.** Section 23-15-611, Mississippi Code of 1972, is
278 amended as follows:

279 23-15-611. (1) In municipal elections, managers of
280 elections shall, immediately upon the closing of the polls, count
281 the ballots and ascertain the number of votes cast in each voting
282 precinct for each of the candidates or ballot measures and make a
283 return thereof to the municipal election commissioners. On the
284 day following the election, the election commissioners shall
285 canvass the returns so received from all voting precincts and
286 shall, within five (5) days after such election, deliver to each
287 person receiving the highest number of votes a certificate of
288 election. If it shall appear that any two (2) or more of the
289 candidates receiving the highest number of votes shall have
290 received an equal number of votes, the election shall be decided
291 by lot, fairly and publicly drawn by the election commissioners
292 with the aid of two (2) or more qualified electors of the
293 municipality.

294 (2) Within five (5) days after any election, the municipal
295 election commissioners shall transmit a statement to the Secretary
296 of State certifying the name or names of the person or persons
297 elected thereat, and such person or persons shall be issued
298 commissions by the Governor. The statement shall also include
299 vote totals for each candidate for each office and vote totals for
300 and against ballot measures, if any, including the vote totals for
301 each candidate a ballot measure in each precinct in the
302 municipality.



303 (3) The statements required by this subsection shall contain
304 a certification, signed and dated by a majority of the municipal
305 election commissioners, which shall read as follows:

306 "We, the undersigned municipal election commissioners, do
307 hereby certify that this statement contains the official vote for
308 the election reflected therein."

309 (4) The statements required by this section shall be
310 transmitted to the Secretary of State on such forms and by such
311 methods as may be required by rules and regulations promulgated by
312 the Secretary of State.

313 **SECTION 8.** The Attorney General of the State of Mississippi
314 shall submit this act, immediately upon approval by the Governor,
315 or upon approval by the Legislature subsequent to a veto, to the
316 Attorney General of the United States or to the United States
317 District Court for the District of Columbia in accordance with the
318 provisions of the Voting Rights Act of 1965, as amended and
319 extended.

320 **SECTION 9.** This act shall take effect and be in force from
321 and after the date it is effectuated under Section 5 of the Voting
322 Rights Act of 1965, as amended and extended.

