

By: Senator(s) Bryan

To: Elections

SENATE BILL NO. 2380
(As Sent to Governor)

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; TO PROVIDE FOR THE AVAILABILITY OF
27 FORMS; AND FOR RELATED PURPOSES.

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

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

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

37 (3) For every election, election commissions and county and
38 municipal executive committees responsible for the conduct of
39 elections in which ballots are generated that are counted by hand



40 or by an electronic or automatic tabulating device shall report to
41 the Secretary of State all residual votes for all candidates and
42 ballot measures in the elections for which they are responsible
43 for conducting. Such residual vote reports shall:

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

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

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

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

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

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

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

69 (b) Include the total voter turnout for each election
70 to be determined by totaling the number of persons signing the
71 receipt book at each precinct, absentee voters and persons who



72 voted by affidavit ballot and persons whose ballots were
73 challenged and rejected;

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

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

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

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

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

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

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

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

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

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



105 23-15-599. (1) (a) Within ten (10) days after the first
106 primary election and within ten (10) days after the second primary
107 election, if any, the Chairman of the State Executive Committee
108 shall transmit to the Secretary of State a tabulated statement of
109 the party vote cast in each county and precinct in each county in
110 each state and state district election, and each legislative
111 election for districts consisting of more than one (1) county or
112 parts of more than one (1) county. The statement shall be
113 transmitted by the State Executive Committee on such forms and by
114 such methods as may be required by rules and regulations
115 promulgated by the Secretary of State. The statement shall be
116 filed by the Secretary of State and preserved among the records of
117 his office.

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

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

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



137 statement shall be filed by the Secretary of State and preserved
138 among the records of his office.

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

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

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

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



170 (2) The commissioners of election shall transmit to the
171 Secretary of State, on such forms and by such methods as may be
172 required by rules and regulations promulgated by the Secretary of
173 State, a statement of the total number of votes cast in the county
174 for each candidate for each office and the total number of votes
175 cast for such candidates in each precinct in the district in which
176 the candidate ran.

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

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

198 (2) Constitutional amendments shall be voted for at the time
199 fixed by the concurrent resolution. The election, whether held
200 separately or with other elections, shall be conducted, in all
201 respects, as required for elections generally. The commissioners
202 of election shall, within ten (10) days after the election,



203 transmit to the Secretary of State a statement of the whole number
204 of votes given in their county and the whole number of votes given
205 in each precinct in their county for or against constitutional
206 amendments.

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

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

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

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

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

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



236 for any district office where the district is composed of two (2)
237 or more counties, standing highest on the list, and not elected,
238 have an equal number of votes, the election shall be forthwith
239 decided between the candidates having an equal number of votes by
240 lot, fairly and publicly drawn, under the direction of the
241 Governor and Secretary of State.

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

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



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

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

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

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

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

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



301 and against ballot measures, if any, including the vote totals for
302 each candidate a ballot measure in each precinct in the
303 municipality.

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

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

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

314 **SECTION 8.** All forms to be prescribed by the Secretary of
315 State for the reporting of election returns hereunder shall be
316 either hard copy forms on which precincts are listed horizontally
317 and candidates are listed vertically and/or a web-based system in
318 which these forms, or forms similar to them, are made available to
319 counties electronically.

320 **SECTION 9.** The Attorney General of the State of Mississippi
321 shall submit this act, immediately upon approval by the Governor,
322 or upon approval by the Legislature subsequent to a veto, to the
323 Attorney General of the United States or to the United States
324 District Court for the District of Columbia in accordance with the
325 provisions of the Voting Rights Act of 1965, as amended and
326 extended.

327 **SECTION 10.** This act shall take effect and be in force from
328 and after the date it is effectuated under Section 5 of the Voting
329 Rights Act of 1965, as amended and extended.

