

By: Senator(s) Tollison

To: Elections

SENATE BILL NO. 2722

1 AN ACT TO AMEND SECTIONS 23-15-637 AND 23-15-639, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE REGISTRAR SHALL KEEP ALL
3 ABSENTEE BALLOTS HE RECEIVES BY 5:00 P.M. ON THE DAY PRECEDING THE
4 ELECTION AND DELIVER THEM TO THE COMMISSIONERS OF ELECTION, IN THE
5 CASE OF GENERAL ELECTIONS, AND DESIGNATED MEMBERS OF THE COUNTY
6 EXECUTIVE COMMITTEE, IN THE CASE OF PRIMARY ELECTIONS, BY NOT
7 LATER THAN 9:00 P.M. ON THE DAY OF THE ELECTION; TO REQUIRE THE
8 REGISTRAR TO PREPARE A LIST OF THE PERSONS WHO ARE REGISTERED TO
9 VOTE IN THE PRECINCT AND WHO LAWFULLY CAST AN ABSENTEE BALLOT AND
10 DELIVER THE LIST TO EACH PRECINCT BEFORE THE POLLS OPEN ON
11 ELECTION DAY; TO REQUIRE THE ELECTION MANAGERS AT EACH PRECINCT TO
12 NOTE ALL PERSONS ON THE LIST WHO APPEARED IN PERSON AND VOTED AT
13 THE ELECTION; TO REQUIRE THE ELECTION MANAGERS TO DELIVER THE LIST
14 WITH NOTATIONS OF THOSE WHO VOTED IN PERSON TO THE APPROPRIATE
15 ELECTION OFFICIALS AS SOON AS POSSIBLE AFTER THE POLLS HAVE
16 CLOSED; TO PROVIDE THAT THE COMMISSIONERS OF ELECTION OR THE
17 DESIGNATED COUNTY EXECUTIVE COMMITTEE MEMBERS SHALL EXAMINE THE
18 ABSENTEE BALLOT ENVELOPES AND BALLOTS AT A MEETING HELD FOR THAT
19 PURPOSE AT 9:00 A.M. ON THE DAY OF THE ELECTION; TO REQUIRE THE
20 REJECTION OF THE ABSENTEE BALLOTS OF THOSE WHO VOTED IN PERSON AND
21 FOR OTHER REASONS FOR WHICH ABSENTEE BALLOTS MAY BE REJECTED; TO
22 PROVIDE THAT SUCH ELECTION OFFICIALS SHALL COUNT THE ABSENTEE
23 BALLOTS AND ADD THE VOTES TO THE APPROPRIATE PRECINCT TOTALS
24 BEFORE THE VOTE IS CERTIFIED; TO AMEND SECTIONS 23-15-641,
25 23-15-643 AND 23-15-719, MISSISSIPPI CODE OF 1972, IN CONFORMITY
26 THERETO; AND FOR RELATED PURPOSES.

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

28 **SECTION 1.** Section 23-15-637, Mississippi Code of 1972, is
29 amended as follows:

30 23-15-637. (1) Absentee ballots received by mail, excluding
31 presidential ballots as provided for in Sections 23-15-731 and
32 23-15-733, must be received by the registrar by 5:00 p.m. on the
33 date preceding the election; any received after this time shall be
34 handled as provided in Section 23-15-647 and shall not be counted.
35 All ballots cast by * * * absent electors appearing in person in
36 the office of the registrar shall be cast not later than 12:00
37 noon on the Saturday immediately preceding elections held on
38 Tuesday, the Thursday immediately preceding elections held on

39 Saturday, or the second day immediately preceding the date of
40 elections held on other days.

41 (2) The registrar shall keep all absentee ballots that he
42 receives and deliver the ones that are received by him by 5:00
43 p.m. on the date preceding the election to the appropriate
44 election officials by not later than 9:00 p.m. on the day of the
45 election.

46 (3) For each precinct, the registrar shall prepare a list of
47 the persons who are registered to vote in the precinct and who
48 cast an absentee ballot by 5:00 p.m. on the date preceding the
49 election. The list shall be delivered to the election manager at
50 each precinct before the polls open on election day. The election
51 managers shall note on the list all persons on the list who
52 appeared in person and voted at the election. The election
53 managers shall deliver the list with notations of those who voted
54 in person to the appropriate election officials as soon as
55 possible after the polls have closed and in no event later than
56 9:00 p.m. on the day of the election.

57 (4) As used in this section and Sections 23-15-639,
58 23-15-641 and 23-15-643, the term "appropriate election officials"
59 means:

60 (a) In the case of all elections other than primary
61 election, the commissioners of election; and

62 (b) In the case of primary elections, five (5) members
63 of the appropriate political party county executive committee
64 selected in accordance with procedures established by the state
65 executive committee of the party.

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

68 23-15-639. At 9:00 p.m. on the day of the election after the
69 close of the regular balloting and at the close of the polls, the
70 appropriate election officials shall conduct a public meeting to
71 examine the absentee ballot envelopes and absentee ballots as

72 provided by law. The appropriate election officials shall first
73 take the envelopes containing the absentee ballots of such
74 electors * * * that have been delivered to them by the registrar,
75 and the name, address and precinct inscribed on each * * *
76 envelope shall be announced * * *. The signature on the
77 application shall then be compared with the signature on the back
78 of the envelope. If it corresponds and the affidavit, if one is
79 required, is sufficient and the appropriate election officials
80 find that the person is a registered and qualified voter or
81 otherwise qualified to vote, and, according to the list delivered
82 to them by the election managers, that he has not appeared in
83 person and voted at the election, the envelope shall then be
84 opened and the ballot removed from the envelope, without its being
85 unfolded, or permitted to be unfolded or examined. Having
86 observed and found the ballot to be regular as far as can be
87 observed from its official endorsement, the appropriate election
88 officials shall deposit it in a separate absentee ballot box for
89 each precinct and enter the voter's name in the receipt book
90 provided for that purpose and mark "VOTED" in the pollbook or poll
91 list as if he had been present and voted in person. Once all
92 absentee ballots have been deposited into a ballot box, the votes
93 shall be counted and added to the votes cast at the appropriate
94 precinct before the vote is certified. If voting machines are
95 used, all absentee ballots shall be placed into a separate
96 absentee ballot box for each precinct before any ballots are
97 counted and the appropriate election officials shall count the
98 absentee ballots and add to the votes cast in the voting machine
99 or device at the precinct before the vote is certified.

100 **SECTION 3.** Section 23-15-641, Mississippi Code of 1972, is
101 amended as follows:

102 23-15-641. (1) If an affidavit or the certificate of the
103 officer before whom the affidavit is taken is required and such
104 affidavit or certificate is found to be insufficient, or if it is

105 found that the signatures do not correspond, or that the person is
106 not a duly qualified elector in the precinct, or otherwise
107 qualified to vote, or that the ballot envelope is open or has been
108 opened and resealed, or the voter is not eligible to vote absentee
109 or that the voter is present and has voted within the precinct
110 where he represents himself to be a qualified elector, or
111 otherwise qualified to vote, on the date of the election at such
112 precinct, the previously cast vote shall not be allowed. Without
113 opening the voter's envelope the appropriate election officials,
114 shall mark across its face "REJECTED", with the reason therefor.

115 (2) If the ballot envelope contains more than one (1) ballot
116 of any kind, the ballot shall not be counted but shall be marked
117 "REJECTED", with the reason therefor. The voter's envelopes and
118 affidavits, and the voter's envelope with its contents unopened,
119 when such vote is rejected, shall be retained and preserved in the
120 same manner as other ballots at the election. Such votes may be
121 challenged at the meeting of the appropriate election officials in
122 the same manner and for the same reasons that any other vote cast
123 in such election may be challenged.

124 (3) If an affidavit is required and the officials find that
125 the affidavit is insufficient, or if the officials find that the
126 absentee voter is otherwise disqualified to vote, the envelope
127 shall not be opened and a appropriate election officials shall
128 write across the face of the envelope "REJECTED" giving the reason
129 therefor, and the registrar shall promptly notify the voter of
130 such rejection.

131 **SECTION 4.** Section 23-15-643, Mississippi Code of 1972, is
132 amended as follows:

133 23-15-643. If an affidavit is required, the appropriate
134 election officials shall examine the affidavit of each absentee
135 ballot envelope. If the officials are satisfied that the
136 affidavit is sufficient and that the absentee voter is otherwise
137 qualified to vote, an official shall announce the name of the

138 voter and shall give any person present an opportunity to
139 challenge in like manner and for the same cause as the voter could
140 have been challenged had he presented himself personally * * * to
141 vote. The ineligibility of the voter to vote by absentee ballot
142 shall be a ground for a challenge. Also, the officials shall
143 consider any absentee voter challenged when a person has
144 previously filed a written challenge of the voter's right to vote.
145 The election officials shall handle any such challenge in the same
146 manner as other challenged ballots are handled.

147 **SECTION 5.** Section 23-15-719, Mississippi Code of 1972, is
148 amended as follows:

149 23-15-719. (1) Immediately upon completion of an
150 application filed pursuant to the provisions of paragraph (a) of
151 Section 23-15-715, the registrar shall deliver the necessary
152 ballots to the applicant. The registrar shall only deliver the
153 ballots to the applicant by mail or to the applicant in the
154 registrar's office. The registrar shall not personally hand
155 deliver ballots to voters, unless he delivers the ballots in the
156 office of the registrar. The elector shall fill in his ballot in
157 secret. After the applicant has properly marked the ballot and
158 properly folded it, he shall deposit it in the envelope furnished
159 him by the registrar.

160 After he has sealed the envelope, he shall subscribe and
161 swear to an affidavit in the following form, which shall be
162 printed on the back of the envelope containing the applicant's
163 ballot:

164 "STATE OF MISSISSIPPI
165 COUNTY OF _____

166 I, _____, do solemnly swear that this envelope contains
167 the ballot marked by me indicating my choice of the candidates or
168 propositions to be submitted at the election to be held on the ____
169 day of _____, 2____, and I hereby * * * authorize the
170 appropriate election officials to open this envelope * * * and

171 record my name on the poll list as if I were present in person and
172 voted.

173 I further swear that I marked the enclosed ballot in secret.

174 _____

175 (Signature of voter)

176 SWORN TO AND SUBSCRIBED before me, _____, this the ____

177 day of _____, 2____.

178 (Registrar) _____

179 (Registrar)"

180 After the completion of the requirements of this section, the
181 elector shall deliver the envelope containing the ballot to the
182 registrar.

183 (2) If the voter has received assistance in marking his
184 ballot, the person providing the assistance shall complete the
185 following form which shall be printed on the back of the envelope
186 containing the applicant's ballot:

187 "CERTIFICATE OF PERSON PROVIDING VOTER ASSISTANCE

188 (To be completed only if the voter has received assistance in
189 marking the enclosed ballot.) I hereby certify that the
190 above-named voter declared to me that he or she is blind,
191 temporarily or permanently physically disabled, or cannot read or
192 write, and that the voter requested that I assist the voter in
193 marking the enclosed absentee ballot. I hereby certify that the
194 ballot preferences on the enclosed ballot are those communicated
195 by the voter to me, and that I have marked the enclosed ballot in
196 accordance with the voter's instructions.

197 _____

198 Signature of person providing assistance

199 _____

200 Printed name of person providing assistance

201 _____

202 Address of person providing assistance

203 _____

204 Date and time assistance provided

205

206 Family relationship to voter (if any)"

207 (3) The envelope used pursuant to this section shall not
208 contain the form prescribed by Section 23-15-635.

209 **SECTION 6.** The Attorney General of the State of Mississippi
210 shall submit this act, immediately upon approval by the Governor,
211 or upon approval by the Legislature subsequent to a veto, to the
212 Attorney General of the United States or to the United States
213 District Court for the District of Columbia in accordance with the
214 provisions of the Voting Rights Act of 1965, as amended and
215 extended.

216 **SECTION 7.** This act shall take effect and be in force from
217 and after the date it is effectuated under Section 5 of the Voting
218 Rights Act of 1965, as amended and extended.