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Chapter No. 357

11/SS01/R653CS

JN / CE/TB

**SENATE BILL NO. 2496**

Originated in Senate

*Jennifer Guynes*

Secretary

SENATE BILL NO. 2496

AN ACT TO AMEND SECTION 23-15-423, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT FOR EACH PRIMARY OR GENERAL ELECTION, THE OFFICIALS IN CHARGE OF THE ELECTION SHALL UTILIZE AT LEAST 75% OF ALL THE VOTING MACHINES AVAILABLE TO THE COUNTY OR MUNICIPALITY, AS THE CASE MAY BE; TO AMEND SECTION 23-15-513, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN PRIMARY OR GENERAL ELECTIONS CONDUCTED USING OPTICAL MARK READING EQUIPMENT, THE NUMBER OF OFFICIAL BALLOTS THAT SHALL BE PRINTED SHALL BE A NUMBER THAT IS EQUAL TO NOT LESS THAN 75% OF THE REGISTERED VOTERS ELIGIBLE TO VOTE IN THE ELECTION; TO AMEND SECTIONS 23-15-531.4 AND 23-15-531.6, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT IN PRIMARY OR GENERAL ELECTIONS CONDUCTED USING DIRECT RECORDING ELECTRONIC VOTING EQUIPMENT (DRE), THE OFFICIALS IN CHARGE OF THE ELECTION SHALL UTILIZE AT LEAST 75% OF ALL THE DRE UNITS THAT ARE AVAILABLE TO THE COUNTY OR MUNICIPALITY, AS THE CASE MAY BE; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 23-15-423, Mississippi Code of 1972, is amended as follows:

23-15-423. (1) Voting precincts in which voting machines are to be used may be altered, divided or combined so as to provide that each voting precinct in which the machine is to be used shall contain, as nearly as may be, five hundred (500) voters, and that each voting precinct in which two (2) machines are to be used shall contain, as nearly as may be, one thousand (1,000) voters, and that each voting precinct in which three (3) machines are to be used shall contain, as nearly as may be, one thousand five hundred (1,500) voters; however nothing in this subsection shall prevent any voting precinct from containing a greater \* \* \* number than above \* \* \*.

(2) For each primary or general election, the officials in charge of the election shall utilize at least seventy-five percent

(75%) of all the voting machines available to the county or municipality, as the case may be.

SECTION 2. Section 23-15-513, Mississippi Code of 1972, is amended as follows:

23-15-513. (1) The official ballots, sample ballots and other necessary forms and supplies of the forms and description required by this chapter or required for the conduct of elections with an electronic voting system shall be prepared and furnished by the same official, in the same manner and time, and delivered to the same officials as provided by law with respect to paper ballots that are to be counted manually.

(2) For each primary or general election the number of official ballots that shall be printed shall be a number that is equal to not less than seventy-five percent (75%) of the registered voters eligible to vote in the election.

SECTION 3. Section 23-15-531.4, Mississippi Code of 1972, is amended as follows:

23-15-531.4. (1) The officials in charge of the election of each county or municipality shall:

(a) Cause the proper number of DRE units to be delivered;

(b) Cause the proper ballot design and style to be programmed for each DRE unit which is to be used in any precinct within the county or municipality;

(c) Cause each DRE unit to be placed in proper order for voting;

(d) Examine each unit before it is sent to a polling place;

(e) Verify that each registering mechanism is set at zero; and

(f) Properly secure each unit so that the counting machinery cannot be operated until later authorized.

(2) The circuit clerk shall be the custodian of the DRE units acquired by the county.

(3) The officials in charge of the election shall be responsible for the preparation of the units to be used in the county or municipality at the primaries and other elections in the county or municipality.

(4) (a) On or before the third day preceding any election, except runoff elections, the officials in charge of the election shall have each DRE unit tested to ascertain that it will correctly count the votes cast for all offices and on all questions in a manner that the Secretary of State may prescribe by rule or regulation.

(b) On or before the third day preceding any runoff election, the officials in charge of the election shall test a number of DRE units at random to ascertain that the units will correctly count the votes cast for all offices. If the total number of DRE units in the county is thirty (30) units or less, all of the units shall be tested. If the total number of DRE units in the county is more than thirty (30) but not more than one hundred (100), then at least one-half (1/2) of the units shall be tested at random. If there are more than one hundred (100) DRE units in the county, the officials in charge of the election shall test at least fifteen percent (15%) of the units at random. In no event shall the officials in charge of the election test less than one (1) DRE unit per precinct. All memory cards to be used in the runoff shall be tested. Public notice of the time and place of the test shall be made at least five (5) days prior thereto. Representatives of candidates, political parties, news media and the public shall be permitted to observe such tests.

(5) In every primary or general election, the officials in charge of the election shall furnish, at the expense of the county or municipality, all ballots, forms of certificates and other papers and supplies required under this subarticle which are not

furnished by the Secretary of State, all of which shall be in the form and according to any specifications prescribed from time to time by the Secretary of State.

**SECTION 4.** Section 23-15-531.6, Mississippi Code of 1972, is amended as follows:

23-15-531.6. (1) For each primary or general election, the officials in charge of the election shall utilize at least seventy-five percent (75%) of all the DRE units that are available to the county or municipality, as the case may be.

(2) The officials in charge of the election shall ensure the delivery of the proper DRE units to the polling places of the respective precincts at least one (1) hour before the time for opening the polls at each election and shall cause each unit to be set up in the proper manner for use in voting.

(3) The officials in charge of the election shall require that each DRE unit be thoroughly tested, inspected and sealed prior to the delivery of each DRE unit to the polling place. Prior to opening the polls each day on which the units will be used in an election, the manager shall break the seal on each unit, turn on each unit, certify that each unit is operating properly and is set to zero, and print a zero tape certifying that each unit is set to zero and shall keep or record such certification on each unit.

(4) The officials in charge of the election and poll managers shall provide ample protection against molestation of and injury to the DRE units, and, for that purpose, the officials in charge of the election and poll managers may call upon any law enforcement officer to furnish any assistance that may be necessary. It shall be the duty of any law enforcement officer to furnish assistance when so requested by the officials in charge of the election or poll manager.

(5) The officials in charge of the election, in conjunction with the governing authorities, shall, at least one (1) hour prior to the opening of the polls:

(a) Provide sufficient lighting to enable electors to read the ballot and which shall be suitable for the use of the poll managers in examining the booth and conducting their responsibilities;

(b) Provide directions for voting on the DRE units which shall be prominently posted within each voting booth and at least two (2) sample ballots for the primary or general election which shall be prominently posted outside the enclosed space within the polling place;

(c) Ensure that each DRE unit's tabulating mechanism is secure throughout the day during the primary or general election; and

(d) Provide such other materials and supplies as may be necessary or required by law.

**SECTION 5.** The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

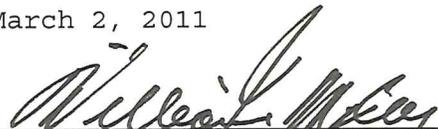
**SECTION 6.** This act shall take effect and be in force from

and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.

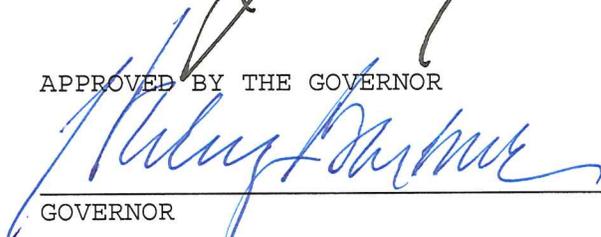
PASSED BY THE SENATE  
February 8, 2011

  
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PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 2, 2011

  
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SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
\_\_\_\_\_  
GOVERNOR

