



DELBERT HOSEMANN  
*Secretary of State*

## Election Code Update Study Group

Mississippi Secretary of State's Office  
125 S. Congress Street - 17th Floor  
Jackson, Mississippi

Thursday, July 16, 2015  
11:00 a.m.

### AGENDA

**11:00 Welcome and Opening Remarks**

Delbert Hosemann, *Mississippi Secretary of State*

**11:10 Group Vote on Draft Changes to Election Code Articles 1 through 7**

- *Removal of candidate from ballot for noncompliance with campaign finance requirements*
- *Number of additional poll managers*
- *Legislature ruling on candidate qualification contests*
- *Online Voter Registration Requirements*

Preston Goff, *Assistant Secretary of State - Policy and Research*

**11:30 Review and Group Discussion on Draft Changes to Election Code Articles 9, 11 and 13**

- *Deadline to change county districts and precincts*
- *Redistricting/Existing Districts*
- *Candidate Qualifying*
- *Candidate Withdrawal, Party Substitutions and Write-in Provisions*

Hawley Robertson, *Senior Attorney - Elections*

**12:00 Break for Lunch**

**12:15 Review and Group Discussion of Draft Changes to Election Code Articles 15 and 17**

- *Resolution Board*
- *Voter Assistance*
- *Affidavit Voting*
- *Cross Over Voting*
- *Challenged Ballots*

Kim Turner, *Assistant Secretary of State - Elections*

**1:00 Adjourn**

Next Meeting Date: Wednesday, August 12, 2015 at 11 a.m.



23-15-###. **Duties of the state board of election**

**commissioners.** The duties of the board shall include, but not be limited to:

(1) Ruling on candidate qualifications for statewide, Supreme Court, Court of Appeals, congressional district, circuit and chancery court district, other state district, and legislative offices;

(2) Approve state ballot for the offices stated in subpart (1);

(3) To remove candidates' names from the ballot for failure to comply with campaign finance filing requirements for the offices stated in subpart (1); and

(4) To adopt such administrative rules and regulations as are necessary to carry out the administration of this chapter.

23-15-235. **Appointment of additional managers.** In addition to the managers appointed pursuant to Section 23-15-231, for the first five hundred (500) registered voters in each voting precinct, the election commissioners may, in their discretion, appoint not more than three (3) persons to serve as managers of the election. The election commissioners may, in their discretion, appoint three (3) additional persons to serve as managers for each one thousand (1,000) registered voters or fraction thereof in each voting precinct above the first five hundred (500), not to exceed six (6) additional managers under this section. Any person appointed as manager shall be a

qualified elector of the county in which the voting precinct is located.

23-15-263. **Duties of county executive committees at primary elections.** (1) Unless otherwise provided in this chapter, the county executive committee at primary elections shall perform all duties that relate to the qualification of candidates for primary elections, print ballots for primary elections, appoint the primary election officers, resolve contests in regard to primary elections, and perform all other duties required by law to be performed by the county executive committee; however, each house of the Legislature shall rule on the qualifications of the membership of its respective body in contests involving the qualifications of such members. The executive committee shall be subject to all the penalties to which county election commissioners are subject, except that Section 23-15-217 shall not apply to members of the county executive committee who seek elective office.

(2) A member of a county executive committee shall be automatically disqualified to serve on the county executive committee, and shall be considered to have resigned therefrom, upon his qualification as a candidate for any elective office. The provisions of this subsection shall not apply to a member of a county executive committee who qualifies as a candidate for a municipal elective office.

(3) The primary election officers appointed by the executive committee of the party shall have the powers and

perform the duties, where not otherwise provided, required of such officers in a general election, and any and every act or omission which by law is an offense when committed in or about or in respect to such general elections, shall be an offense if committed in or about or in respect to a primary election; and the same shall be indictable and punishable in the same way as if the election was a general election for the election of state and county officers, except as specially modified or otherwise provided in this chapter.

23-15-###. **Online voter registration.** (1) A person may register to vote under this section if the person is:

(a) eligible to register to vote under Section 23-15-11; and

(b) has a current and valid Mississippi driver's license or photo identification card issued by the Mississippi Department of Public Safety.

(2) A person described in subsection (1) of this section may submit a voter registration application using the procedures set forth in this section.

(3)(a) The Secretary of State shall, in conjunction with the Mississippi Department of Public Safety, establish a secure Internet website to permit persons described in subsection (1) of this section to submit voter registration applications. The form of the online application shall be established by rule duly adopted by the Secretary of State.

(b) The secure website established under this subsection shall allow a person described in subsection (1) of this section to submit an application:

(i) For registration as a first-time voter in Mississippi; or

(ii) To change the applicant's name, address or other information set forth in the applicant's existing voter registration record.

(c) Upon the submission of an application through the secure website, the software used by the Secretary of State for processing applications through the website shall provide for verification that:

(i) The applicant has a current and valid Mississippi driver's license or photo identification card issued by the Mississippi Department of Public Safety and the number for that driver's license or photo identification card provided by the applicant matches the number for the applicant's driver's license or photo identification card that is on file with the Mississippi Department of Public Safety;

(ii) The date of birth provided by the applicant matches the date of birth that is on file with the Mississippi Department of Public Safety; and

(iii) The applicant is a citizen of the State of Mississippi and of the United States and that the information provided by the applicant matches the information on file with the Mississippi Department of Public Safety.

If any of these items do not match or if the application is incomplete, the application shall be reviewed by the county registrar of the applicant's county of residence and either completed or rejected in accordance with Section 23-15-47(e).

(4) Any person who attempts to register to vote under this section shall be subject to the penalties for false registration provided for in Section 23-15-17.

(5) The Secretary of State and the Department of Public Safety shall enter into a Memorandum of Understanding providing for the sharing of information required to facilitate the requirements of this section.



## ARTICLE 9. SUPERVISOR'S DISTRICTS AND VOTING PRECINCTS

### **§ 23-15-281. Fixing supervisors districts, voting precincts and voting places.**

(1) Each county shall be divided into ~~supervisors~~supervisors' districts in accordance with Miss. Code Ann. Section 19-3-1, which shall be the same as those for the election of members of the board of supervisors, and ~~may~~shall be subdivided thereafter into voting precincts; and there shall be only one (1) voting place in each voting precinct, ~~but the supervisors districts, voting precincts and voting places as now fixed in each county shall remain until altered.~~ Provided, however, that such boundaries, if altered, shall conform to visible natural or artificial boundaries such as streets, highways, railroads, rivers, lakes, bayous or other obvious lines of demarcation except county lines and municipal corporate limits. The board of supervisors, ~~no later than April 1, 1987~~, shall notify the office of the Secretary of State of the boundary of each ~~supervisors~~supervisor's district and voting precinct as then fixed and shall provide said office a legal description and a map of each ~~supervisors~~supervisor's district and voting precinct and shall indicate the voting place in each such district. The board of supervisors shall also ensure the legal description and map of each supervisor's district is available in the circuit clerk's office for public inspection.

### **~~§ 23-15-283. Alteration of boundaries.~~**

~~The board of supervisors shall have power to alter the boundaries of the supervisors districts, voting precincts and the voting place therein. If the board of supervisors orders a change in the boundaries, they shall notify the commissioners of election, who shall at once cause the registration books of voting precincts affected by the order to be changed to conform to the change so as to contain only the names of the qualified electors in the voting precincts as made by the change of boundaries. Upon the order of change in the boundaries of any voting precinct or the voting place therein, the board of supervisors shall notify the Office of the Secretary of State and provide the Office of the Secretary of State a legal description and a map of any boundary change.~~

(2) The board of supervisors is authorized, by order spread upon the minutes of the board setting forth the cost and source of funds therefor, to purchase improved or unimproved property and to construct, reconstruct, repair, renovate and maintain polling places, or to pay to private property owners reasonable rental fees when the property is used as a polling place for a period not to exceed the day immediately preceding the election, the day of the election, and the day immediately following the election. The county board of supervisors shall ensure each polling place is accessible to all voters, structurally sound, and compliant with the Americans with Disability Act.

(3) All facilities owned or leased by the state, county, municipality, or school district may be made available at no cost to the board of supervisors for use as polling places to such extent as may be agreed to by the authority having control or custody of such facilities.

§ 23-15-283. Establishment and alteration of boundaries.

~~(1) No change shall be implemented or enforced until the requirements of this section have been met.~~

~~§ 23-15-285. Entry of boundaries and alterations thereto on minutes of board of supervisors; limit on number of voters within each precinct or ballot box.~~

The board of supervisors shall cause an entry to be made on the minutes of the board at some meeting, as early as convenient, defining the boundaries of the several supervisors districts and voting precincts in the county, and designating the voting place in each voting precinct; ~~and as soon as practicable after any change is made in any supervisors district, voting precinct or any voting place, the~~

~~(2) The board of supervisors shall cause such change have power to be entered on alter the minutes boundaries of the board in such manner as to be easily understood supervisor's districts, voting precincts and the voting place therein.~~

~~(a) The changed boundaries shall conform to visible natural or artificial boundaries such as streets, highways, railroads, rivers, lakes, bayous or other obvious lines of demarcation, with the exception of county lines and municipal corporate limits.~~

~~(b) The districts resulting from the changed boundaries shall contain only the names of the qualified electors in the voting precincts resulting from the change of boundaries.~~

~~(c) As soon as practicable after any change is made in any supervisors district, voting precinct or any voting place, the board of supervisors shall cause such change to be entered on the minutes of the board in such manner as to be easily understood. The board of supervisors shall immediately submit any boundary changes to the circuit clerk as required by Section 23-15-##.~~

~~(3) The circuit clerk, in conjunction with the election commissioners, shall notify any voter affected by a change in polling place by mailing the voter a new voter registration card showing the new polling location.~~

~~(4) Notwithstanding the authority granted in subsection (2), no changes shall be made to:~~

~~(a) any supervisor's district or voting precinct in any calendar year in which the general election of county supervisor is held.~~

~~(b) the location of any polling place within sixty (60) days of any election conducted in that polling place.~~

~~(6) Upon the order of change in the boundaries of any voting precinct or the voting place therein, the board of supervisors shall notify the Office of the Secretary of State and provide the Office of the Secretary of State a legal description, a map of any boundary change, and location of the polling place along with the physical address and name of building if applicable. No change shall be implemented or enforced until the requirements of this section have been met.~~

~~No voting precinct shall have more than five hundred (500) qualified electors residing in its boundaries. Subject to the provisions of this section, each board of supervisors of the various counties of this state shall as soon as practical after the effective date of this section, alter or change the boundaries of the various voting precincts to comply herewith and shall from time to time make such changes in the boundaries of voting precincts so that there shall never be more than five hundred (500) qualified electors within the boundaries of the various voting precincts of this state; provided further, this limitation shall not apply to voting precincts that are so divided, alphabetically or otherwise, so as to have less than five hundred (500) qualified electors in any one (1) box within a voting precinct. However, the limitation of five hundred (500) qualified electors to the voting precinct shall not apply to voting precincts in which voting machines are used at all elections held in that voting precinct. No change in any supervisors district or voting precinct shall take effect less than thirty (30) days before the qualifying deadline for the office of county supervisor. Any change in any boundary of a supervisors district or voting precinct that is approved under the Voting Rights Act of 1965 less than thirty (30) days before such qualifying deadline shall be effective only for an election for county supervisor held in a year following the year in which such change is approved under the Voting Rights Act of 1965. Provided, however, that, with the exception of county lines and municipal corporate limits, such altered boundaries shall conform to visible natural or artificial boundaries such as streets, highways, railroads, rivers, lakes, bayous or other obvious lines of demarcation.~~

**§ 23-15-##. Officials authorized to implement new boundary lines in the Statewide Elections Management System.**

(1) Only officials certified by the Secretary of State shall be authorized to implement boundary lines in the Statewide Elections Management System. The training and certification required under this subsection shall be available to the circuit clerk, county election commissioners, or any other individual designated by the board of supervisors to be responsible for inputting boundaries into the Statewide Elections Management System.

(2) Any government entity authorized to adopt, amend, or alter boundaries will immediately forward all amended boundary lines to the appropriate circuit clerk, who shall, if authorized under subsection (1), implement the new boundary lines in the Statewide Elections Management System. If the circuit clerk is not the appropriate person to implement the amended boundary lines, the clerk shall immediately forward a copy of all materials the appropriate party. Copies of any boundary changes within the county will be maintained in the office of the circuit clerk and be made available for public inspection. No change shall be implemented or enforced until the requirements of this section have been met.

## ARTICLE 11. NOMINATIONS

### § 23-15-291. Nomination for state, district, county and county district office to be by primary election.

All nominations for state, district, county and county district officers made by the different parties of this state shall be made by primary elections. All primary elections shall be governed and regulated by the election laws of the state in force at the time the primary election is held.

### § 23-15-293. Each county or part of county to vote for and nominate candidates for state and state district office, and for legislative office for district containing county or part of county.

Candidates for state and state district office, and ~~candidates for legislative offices for districts composed of more than one county or parts of more than one county~~, shall be voted for and nominated by all the counties or parts of counties within their respective districts, and all said district nominations shall be under the supervision and control of the state executive committee of the respective political parties, which committees shall discharge in respect to such state district nominations all the powers and duties imposed upon them in connection with nominations of candidates for other state officers.

### § 23-15-295. ~~Withdrawal of candidate.~~

~~When any person has qualified in the manner provided by law as a candidate for party nomination in any primary election, such person shall have the right to withdraw his name as a candidate by giving notice of his withdrawal in writing to the secretary of the proper executive committee at any time prior to the printing of the official ballots, and in the event of such withdrawal the name of such candidate shall not be printed on the ballot. When a candidate for party nomination for a state or district office who has qualified with the state executive committee withdraws as a candidate as is herein set forth after the sample of the official ballot has been approved and certified by the State Executive Committee the Secretary or Chairman of the State Executive Committee shall forthwith notify the county executive committee of each county affected or involved of the fact of such withdrawal and such notification shall authorize said county executive committees to omit the name of the withdrawn candidate from the ballot if such notification is received prior to the printing of the ballot. In the case of the withdrawal of any candidate, the fee paid by such candidate shall be retained by the state or county executive committee, as the case may be.~~

### § 23-15-296. Written notification to Secretary of State.

All political parties registered with the Secretary of State shall notify the Secretary of State in writing within two (2) working days of each qualifying deadline of the name, mailing address and office sought of all candidates for statewide, state district and legislative office who have submitted qualifying papers to the political party on or before the qualifying deadline, ~~and all political parties shall notify the Secretary of State of any such candidate who withdraws his candidacy within two (2) working days of receiving written notice of the withdrawal.~~

**§ 23-15-297. Fee required to be paid upon entering race for party nomination.**

All candidates upon entering the race for party nominations for office shall first pay to the proper officer as provided for in Section 23-15-299 for each primary election the following amounts:

(a) Candidates for Governor not to exceed Three Hundred Dollars (\$300.00).

(b) Candidates for Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, Auditor of Public Accounts, Commissioner of Insurance, Commissioner of Agriculture and Commerce, State Highway Commissioner and State Public Service Commissioner, not to exceed Two Hundred Dollars (\$200.00).

(c) Candidates for district attorney, not to exceed One Hundred Dollars (\$100.00).

(d) Candidates for State Senator, and State Representative, not to exceed Fifteen Dollars (\$15.00).

(e) Candidates for sheriff, chancery clerk, circuit clerk, tax assessor, tax collector, county attorney, county superintendent of education and board of supervisors, not to exceed Fifteen Dollars (\$15.00).

(ef) Candidates for county surveyor, county coroner, justice court judge and constable, not to exceed Ten Dollars (\$10.00).

(fg) Candidates for United States Senator, not to exceed Three Hundred Dollars (\$300.00).

(gh) Candidates for United States Representative, not to exceed Two Hundred Dollars (\$200.00).

**§ 23-15-299. Time for payment of fee; written statement to accompany fee; recordation and disbursement of fee; determination of candidate's qualifications; declaration of nominee in single candidate race; special qualifying deadline in 2011 if census received late.**

(1)(a) Assessments made pursuant to paragraphs (a), (b), (c) and (ed) of Section 23-15-297 and assessments made pursuant to paragraph (d) of Section 23-15-297 for legislative offices shall be paid by each candidate to the Secretary of the State Executive Committee with which the candidate is affiliated by 5:00 p.m. on March 1 of the year in which the primary election for the office is held or on the date of the qualifying deadline provided by statute for the office, whichever is earlier; however, no such assessments may be paid before January 1 of the year in which the primary election for the office is held. If March 1 or the qualifying deadline provided by statute for the office occurs on a Saturday, Sunday or legal holiday, then the assessments required by this subsection shall be due by 5:00 p.m. on the last business day immediately preceding March 1 or such qualifying deadline.

(b) If the 2010 census redistricting information that is provided to the state in accordance

~~with Public Law 94-171 has not been received from the United States Secretary of Commerce by the Governor of the State of Mississippi by January 1, 2011, then the qualifying deadline for legislative offices shall be changed for the year 2011 only, as follows: Assessments made pursuant to paragraph (d) of Section 23-15-297 for legislative offices shall be paid by each candidate to the Secretary of the State Executive Committee with which the candidate is affiliated by 5:00 p.m. on June 1, 2011. This paragraph (b) shall stand repealed on July 1, 2012; however, no such assessments may be paid before January 1 of the year in which the election for the office is held.~~

(2) Assessments made pursuant to paragraphs ~~(de)~~ and ~~(ef)~~ of Section 23-15-297, ~~other than assessments made for legislative offices,~~ shall be paid by each candidate to the circuit clerk of such candidate's county of residence by 5:00 p.m. on March 1 of the year in which the primary election for the office is held or on the date of the qualifying deadline provided by statute for the office, whichever is earlier; however, no such assessments may be paid before January 1 of the year in which the election for the office is held. The circuit clerk shall forward the fee and all necessary information to the secretary of the proper county executive committee within two (2) business days.

(3) Assessments made pursuant to paragraphs (f) and (g) of Section 23-15-297 must be paid by each candidate to the Secretary of the State Executive Committee with which the candidate is affiliated by 5:00 p.m. sixty (60) days before the presidential preference primary in years in which a presidential preference primary is held; however, no such assessments may be paid before January 1 of the year in which the primary election for the office is held. If March 1 or the qualifying deadline provided by statute for the office occurs on a Saturday, Sunday or legal holiday, then the assessments required by this subsection shall be due by 5:00 p.m. on the last business day immediately preceding March 1 or such qualifying deadline. Assessments made pursuant to paragraphs (f) and (g) of Section 23-15-297, in years when a presidential preference primary is not being held, shall be paid by each candidate to the Secretary of the State Executive Committee with which the candidate is affiliated by 5:00 p.m. on March 1 of the year in which the primary election for the office is held; however, no such assessments may be paid before January 1 of the year in which the primary election for the office is held. No candidate may attempt to qualify with any political party which does not have a duly organized county executive committee, and the circuit clerk shall not accept any assessments made pursuant to paragraphs (e) and (f) of Section 23-15-297 in which the circuit clerk does not have contact information for the secretary of the county executive committee.

(4)(a) The fees paid pursuant to subsections (1), (2) and (3) of this section shall be accompanied by a written statement containing the name and address of the candidate, the party with which he or she is affiliated and the office for which he or she is a candidate.

(b) The State Executive Committee shall transmit to the Secretary of State a copy of the written statements accompanying the fees paid pursuant to subsections (1) and (2) of this section. All copies must be received by the Office of the Secretary of State by not later than 6:00 p.m. on the date of the qualifying deadline; provided, however, the failure of the Office of the Secretary of State to receive such copies by 6:00 p.m. on the date of the qualifying deadline shall not affect the qualification of a person who pays the

required fee and files the required statement by 5:00 p.m. on the date of the qualifying deadline. The name of any person who pays the required fee and files the required statement after 5:00 p.m. on the date of the qualifying deadline shall not be placed on the primary election ballot.

(5) The secretary or circuit clerk to whom such payments are made shall promptly receipt for same stating the office for which such candidate making payment is running and the political party with which he or she is affiliated, and he or she shall keep an itemized account in detail showing the exact time and date of the receipt of each payment received by him or her and, where applicable, the date of the postmark on the envelope containing the fee and from whom, and for what office the party paying same is a candidate.

(6) The secretaries of the proper executive committee shall hold said funds to be finally disposed of by order of their respective executive committees. Such funds may be used or disbursed by the executive committee receiving same to pay all necessary traveling or other necessary expenses of the members of the executive committee incurred in discharging their duties as committeemen, and of their secretary and may pay the secretary such salary as may be reasonable.

(7) Upon receipt of the proper fee and all necessary information, the proper executive committee shall then determine whether each candidate is a qualified elector of the state, state district, legislative, county or county district which they seek to serve at the time of the qualifying deadline unless otherwise provided by law, and whether each candidate meets all other qualifications to hold the office he is seeking or presents absolute proof that he will, subject to no contingencies, meet all qualifications on or before the date of the general or special election at which he could be elected to office. The executive committee shall determine whether the candidate has taken the steps necessary to qualify for more than one (1) office at the election. The committee also shall determine whether any candidate has been convicted of any felony in a court of this state, or has been convicted on or after December 8, 1992, of any offense in another state which is a felony under the laws of this state, or has been convicted of any felony in a federal court on or after December 8, 1992. Excepted from the above are convictions of manslaughter and violations of the United States Internal Revenue Code or any violations of the tax laws of this state unless the offense also involved misuse or abuse of his office or money coming into his hands by virtue of his office. If the proper executive committee finds that a candidate either (a) is not a qualified elector, (b) does not meet all qualifications to hold the office he seeks and fails to provide absolute proof, subject to no contingencies, that he will meet the qualifications on or before the date of the general or special election at which he could be elected, or (c) has been convicted of a felony as described in this subsection, and not pardoned, then the executive committee shall notify the candidate and give the candidate an opportunity to be heard. The executive committee shall mail notice to the candidate at least three (3) business days before the hearing to the address provided by the candidate on the qualifying forms, and the committee shall attempt to contact the candidate by telephone, e-mail and facsimile if the candidate provided this information on the forms. If the candidate fails to appear at the hearing or to prove he meets all qualifications to hold the office subject to no contingencies, then the name of such candidate shall not be placed upon the ballot. If the proper executive committee determines that the candidate has taken the steps necessary to qualify for more than one (1) office at the election, the action required by Section 23-15-905, shall be taken.

Where there is but one (1) candidate for each office contested at the primary election, the proper executive committee when the time has expired within which the names of candidates shall be furnished shall declare such candidates the nominees.

(8) No candidate may qualify by filing the information required by this section by using the Internet.

**§ 23-15-301. Payment of election expenses.**

All the expenses of printing the tickets or primary election ballots, for necessary stationery, and for paying the managers, clerks and returning officer of every primary election authorized by this chapter held in any county shall be paid by the board of supervisors of such county out of the general funds of the county, but such officers of primary elections shall receive only such compensation as is authorized by Section 23-15-227 to be paid managers, clerks and returning officer for like services in holding elections thereunder. However, this section shall not apply to the expenses of a primary election held by any political party which at either of the last two (2) preceding general elections for the office of Governor or either of the last two (2) preceding national elections for President of the United States did not vote as many as twenty percent (20%) of the total vote cast in the entire state.

**§ 23-15-303. Each political party or organization to hold independent primary election; resolving dispute as to place for holding election.**

When two (2) or more political parties or political organizations are holding primary elections, each shall be conducted entirely independent of the other but at the same time.

~~The board of supervisors or the supervisor of the district in which the voting precinct is located shall have authority, and it is made its and his duty when requested, to specifically designate the respective places where the precinct election of each party shall be held where there may be a dispute as to the room or exact place for holding such precinct elections.~~

**§ 23-15-305. Majority vote required for nomination; run-off elections.**

The candidate who received the majority number of votes cast for the office which he seeks shall thereby become the nominee of his party for such office and no person shall be declared to be the nominee of his party unless and until he has received a majority of the votes cast for such office, except as hereinafter provided. If no candidate received such majority of the votes cast in the first primary, then the two (2) candidates who receive the highest number of votes cast for such office shall have their names submitted as such candidates to the second primary and the candidate who leads in such second primary shall be nominated for the office.

If the candidate who received the second highest number of votes cast for such office for any reason declines to enter the second primary, then in that event the candidate who received the third highest shall have his name submitted to the second primary, together with the candidate who received the highest

number of votes cast for such office.

If the candidate who received the third highest number of votes cast for such office for any reason declines to enter the second primary, then in that event the candidate who received the fourth highest shall have his name submitted to the second primary, together with the candidate who received the highest number of votes cast for such office.

If no candidate will enter the second primary with the candidate who received the highest number of votes cast, then the candidate who received the highest number of votes cast in the first primary shall be declared the nominee of his party for such office.

**§ 23-15-307. Nomination as condition of being placed on general election ballot and holding office.**

The name of any candidate shall not be placed upon the official ballot in general elections as a party nominee who is not nominated as herein provided, and the election of any party nominee who shall be nominated otherwise than as provided in this chapter shall be void and he shall not be entitled to hold the office to which he may have been elected. ~~No political party shall be entitled to recognition, as such, in the appointment of the county or precinct election officers, unless it has made its nominations as herein provided.~~

**§ 23-15-309. Nomination for elective municipal office to be made at primary election; fee requirements; determination of candidate's qualifications.**

(1) Nominations for all municipal officers which are elective shall be made at a primary election, or elections, to be held in the manner prescribed by law. All persons desiring to be candidates for the nomination in the primary elections shall first pay Ten Dollars (\$10.00) to the clerk of the municipality, at least sixty (60) days prior to the first primary election, no later than 5:00 p.m. on such deadline day.

(2) The fee paid pursuant to subsection (1) of this section shall be accompanied by a written statement containing the name and address of the candidate, the party with which he is affiliated, and the office for which he is a candidate.

(3) The clerk shall promptly receipt the payment, stating the office for which the person making the payment is running and the political party with which such person is affiliated. The clerk shall keep an itemized account in detail showing the time and date of the receipt of such payment received by him, from whom such payment was received, the party with which such person is affiliated and for what office the person paying the fee is a candidate. ~~No candidate may attempt to qualify with any political party which does not have a duly organized municipal executive committee, and the municipal clerk shall not accept any assessments made pursuant to paragraphs (1) in which the municipal clerk does not have contact information for the secretary of the municipal executive committee.~~ The clerk shall promptly supply all necessary information and pay over all fees so received to the secretary of the proper municipal executive committee. Such funds may be used and disbursed in the same manner as is allowed in Section

23-15-299 in regard to other executive committees.

(4) Upon receipt of the above information, the proper municipal executive committee shall then determine, at the time of the qualifying deadline, whether each candidate is a qualified elector of the municipality, and of the ward if the office sought is a ward office, shall determine whether each candidate either meets all other qualifications to hold the office he is seeking or presents absolute proof that he will, subject to no contingencies, meet all qualifications on or before the date of the general or special election at which he could be elected to office. The executive committee shall determine whether the candidate has taken the steps necessary to qualify for more than one (1) office at the election. The committee also shall determine whether any candidate has been convicted of any felony in a court of this state, or has been convicted on or after December 8, 1992, of any offense in another state which is a felony under the laws of this state, or has been convicted of any felony in a federal court on or after December 8, 1992. Excepted from the above are convictions of manslaughter and violations of the United States Internal Revenue Code or any violations of the tax laws of this state unless such offense also involved misuse or abuse of his office or money coming into his hands by virtue of his office. If the proper municipal executive committee finds that a candidate either (a) does not meet all qualifications to hold the office he seeks and fails to provide absolute proof, subject to no contingencies, that he will meet the qualifications on or before the date of the general or special election at which he could be elected, or (b) has been convicted of a felony as described in this subsection and not pardoned, then the executive committee shall notify the candidate and give the candidate an opportunity to be heard. The executive committee shall mail notice to the candidate at least three (3) business days before the hearing to the address provided by the candidate on the qualifying forms, and the committee shall attempt to contact the candidate by telephone, e-mail and facsimile if the candidate provided this information on the forms. If the candidate fails to appear at the hearing or to prove he meets all qualifications to hold the office subject to no contingencies, then the name of such candidate shall not be placed upon the ballot. If the executive committee determines that the candidate has taken the steps necessary to qualify for more than one (1) office at the election, the action required by Section 23-15-905, shall be taken.

(5) Where there is but one (1) candidate, the proper municipal executive committee when the time has expired within which the names of candidates shall be furnished shall declare such candidate the nominee.

**§ 23-15-311. Payment of municipal primary election expenses.**

All the expenses of printing the tickets, paying the managers, clerks and returning officer of a municipal primary election shall be paid by the municipality from the general funds thereof, but such officers of primary elections shall receive only such compensation as is authorized by law or ordinance to be paid managers, clerks and returning officer for like services rendered in the final and regular general elections held in such municipality.

**§ 23-15-313. Selection of temporary executive committee in municipality not having party executive committee; notice to public; county executive committee to serve as municipal executive committee under certain circumstances; person convicted of felony barred from serving as member of municipal executive committee.**

(1) If there be any political party, or parties, in any municipality which shall not have a party executive committee for such municipality, such political party, or parties, shall within thirty (30) days of the date for which a candidate for a municipal office is required to qualify in that municipality select qualified electors of that municipality and of that party's political faith to serve on a temporary municipal executive committee until members of a municipal executive committee are elected at the next regular election for executive committees. The temporary municipal executive committee shall be selected in the following manner: The chairman of the county executive committee of the party desiring to select a temporary municipal executive committee shall call, upon petition of five (5) or more members of that political faith, a mass meeting of the qualified electors of their political faith who reside in such municipality to meet at some convenient place within such municipality, at a time to be designated in the call, and at such mass convention the members of that political faith shall select a temporary municipal executive committee which shall serve until members of a municipal executive committee are elected at the next regular election for executive committees. The public shall be given notice of such mass meeting as provided in Section 23-15-315. The chairman of the county executive committee shall authorize the call within five (5) calendar days of receipt of the petition. If the chairman of the county executive committee is either incapacitated, unavailable or nonresponsive and does not authorize the mass call within five (5) calendar days of receipt of the petition, any elected officer of the county executive committee may authorize the call within five (5) calendar days. If no elected officer of the county executive committee acts to approve such petition after an additional five (5) calendar days from the date, the chair of the county executive committee not taking action as provided by this section, the petitioners shall be authorized to produce the call themselves.

(2) If no municipal executive committee is selected or otherwise formed before an election, the county executive committee may serve as the temporary municipal executive committee and exercise all of the duties of the municipal executive committee for the municipal election. After a county executive committee has fulfilled its duties as the temporary municipal executive committee, as soon as practicable thereafter, the county executive committee shall select a municipal executive committee no later than before the next municipal election.

(3) A person who has been convicted of a felony in a court of this state or any other state or a court of the United States, shall be barred from serving as a member of a municipal executive committee.

**§ 23-15-315. Publication of notice to public.**

The county executive committee chairman shall publish a copy of his call for a meeting in some newspaper published at least once per week in the municipality affected for three (3) weeks preceding the date set for the mass convention, or if there be no newspaper published in the municipality, then in some newspaper having general circulation in the municipality and by posting notices continuously in three (3)

public places in the municipality, one (1) of which shall be city hall or be the regular location where the municipal governing authority meets to conduct business not less than three (3) weeks before the date for the mass convention.

**§ 23-15-295. Withdrawal of candidate or nominee.**

(1) (a) Any candidate for office may withdraw at any time prior to the election.

(b) The candidate's withdraw will become effective when the candidate provides the written notice of withdrawal to the secretary of the executive committee, Secretary of State, or Circuit Clerk with whom the candidate originally qualified.

(c) Upon receipt of the notice of withdrawal, the secretary of the executive committee will immediately forward a copy of the withdrawal to the Secretary of State and appropriate Circuit Clerk and notify the appropriate county election officials of the candidate's withdrawal.

(2) (a) If the notice of withdrawal is received more than fifty-five (55) days before the date of the election, the candidate's name will not appear on the ballot.

(b) If the notice of withdrawal is received less than fifty-five (55) days before the date of the election, the candidate's withdrawal will be effective, but the candidate's name will appear on the ballot.

(3) A nominee who wishes to withdraw after the primary election shall file the notice of withdrawal with the secretary of the appropriate state executive committee and the State Board of Election Commissioners. Any nominee who withdraws claiming a "legitimate nonpolitical reason" must also comply with the requirements of Section 23-15-317.

**23-15-##. Withdrawal of candidate or vacancy occurring before the party primary election.**

(1) If the only qualified candidate for a party primary dies, is removed, or withdraws more than fifty-five (55) days before the primary election, the executive committee with which the candidate originally qualified shall nominate a substitute candidate.

(2) If a vacancy occurs under subsection (1) which would allow for a substitute candidate to be named, each political party registered with the Secretary of State, that does not have at least one (1) qualified candidate for that office, shall be allowed to name a candidate for such primary election.

(3) If the vacancy occurs less than fifty-five (55) days before the election no substitution will be allowed under this section.

**23-15-317. Withdrawal of nominee or vacancy occurring after the party primary election.**

(1) If the nominee for any office dies, is removed, or withdraws for a legitimate nonpolitical reason, as defined in subsection (3), more than fifty-five (55) days before the election for which he is the party nominee, the executive committee with which the candidate originally qualified shall nominate a substitute candidate.

(2) If a vacancy occurs under subsection (1) which would allow for a substitute nominee to be named,

each political party registered with the State Board of Election Commissioners that does not have nominee for that office, shall be allowed to name one nominee for that office to appear on the ballot.

(3) "Legitimate nonpolitical reason" as used in this article shall be limited to the following:

(a) Reasons of health, which shall include any health condition which, in the written opinion of a medical doctor, would be harmful to the health of the candidate if he continued or would impair his capability to properly carry out the functions of the office being sought.

(b) Family crises, which shall include circumstances which would substantially alter the duties and responsibilities of the candidate to the family or to a family business.

(c) Substantial business conflict arising after the candidate qualifies, which shall include the policy of an employer prohibiting employees from being candidates for public offices and an employment change which would result in the ineligibility of the candidate or impair his capability to properly carry out the functions of the office being sought.

(4) A candidate who wishes to withdraw for a legitimate nonpolitical reason shall submit his reason by sworn affidavit. Such affidavit shall be filed with the state party chairman of the nominee's party and the State Board of Election Commissioners. A substitute nominee shall be authorized under this section unless the State Board of election Commissioners denies the affidavit as constituting a "legitimate nonpolitical reason" within five (5) days of the date the affidavit is submitted to the board.

(5) Immediately upon approval or disapproval of the affidavit, the State Board of Election Commissioners shall notify the state executive committee of each party registered with the Secretary of State or State Board of Election Commissioners.

(6) If the vacancy occurs less than fifty-five (55) days before an election, no substitution will be allowed under this section.

**§ 23-15-317. Nomination of nominee when vacancy in nomination occurs between primary election and general election; procedure for withdrawal based upon legitimate nonpolitical reason.**

If any person nominated for office in a primary election shall die, be removed after his nomination or withdraw or resign from his candidacy for a legitimate nonpolitical reason as defined in this section, and such vacancy in nomination shall occur between the primary election and the ensuing general election, then the municipal, county or state executive committee with which the original nominee qualified as a candidate in the primary election shall nominate a nominee for such office. Where such a party nominee is unopposed each political party registered with the State Board of Election Commissioners shall have the privilege of nominating a candidate for the office involved. Such nominee shall be duly certified by the respective executive committee chairman. Within two (2) days after such nomination is made by the appropriate executive committee, such committee shall formally notify

~~the Secretary of State of the name of the nominee. The Secretary of State shall thereupon officially notify the appropriate officials charged with conducting the election for the office wherein the vacancy occurred of the name of the nominee. All nominations made pursuant to the provisions of this section shall have the same force and effect and shall entitle the nominees to all rights and privileges that would accrue to them as if they had been nominated in the regular primary election.~~

~~"Legitimate nonpolitical reason" as used in this section shall be limited to the following:~~

~~(a) Reasons of health, which shall include any health condition which, in the written opinion of a medical doctor, would be harmful to the health of the candidate if he continued.~~

~~(b) Family crises, which shall include circumstances which would substantially alter the duties and responsibilities of the candidate to the family or to a family business.~~

~~(c) Substantial business conflict, which shall include the policy of an employer prohibiting employees being candidates for public offices and an employment change which would result in the ineligibility of the candidate or which would impair his capability to properly carry out the functions of the office being sought.~~

~~Any candidate who withdraws based upon a "legitimate nonpolitical reason" which is not covered by the above definition shall have the strict burden of proof for his reason.~~

~~A candidate who wishes to withdraw for a legitimate nonpolitical reason shall submit his reason by sworn affidavit. Such affidavit shall be filed with the state party chairman of the nominee's party and the State Board of Election Commissioners. No substitution of candidates shall be authorized, except for death or disqualification, unless the State Board of Election Commissioners approves the affidavit as constituting a "legitimate nonpolitical reason" for the candidate's resignation within five (5) days of the date the affidavit is submitted to the board.~~

~~Immediately upon approval or disapproval of such affidavit, the State Board of Election Commissioners shall notify the respective executive committee of same.~~

**§ 23-15-319. Applicability of chapter to municipal primary elections.**

All the provisions of this subarticle as far as practicable shall apply to and regulate primary elections for the nomination of elective municipal offices. Candidates for the nomination of such municipal offices shall file with the clerk of the city, village or town, the affidavits and reports required of candidates for party nominations to any county or county district office to be filed pursuant to this chapter.

## ARTICLE 13. BALLOTS

### SUBARTICLE A. PRIMARY ELECTIONS

#### **§ 23-15-331. Duties of state executive committee.**

It shall be the duty of the state executive committee of each political party to furnish to each county executive committee, not less than fifty (50) days prior to the election, the names of all state and state district candidates and all candidates for legislative districts composed of more than one county or parts of more than one county who have qualified as provided by law, and in accordance with the requirements of Section 23-15-333 a sample of the official ballot to be used in the primary, the general form of which shall be followed as nearly as practicable.

#### **§ 23-15-333. Duties of county executive committee; order in which titles of various offices are to be listed on the ballot.**

(1) The county executive committee shall have printed all necessary ballots, for use in primary elections. The county executive committee shall have printed all necessary absentee ballots forty-five (45) days prior to the election as required by law. The ballots shall contain the names of all the candidates to be voted for at such election, and there shall be left on each ballot one (1) blank space under the title of each office for which a nominee is to be elected; and in the event of the death of any candidate whose name shall have been printed on the ballot, the name of ~~the any~~ candidate ~~duly substituted in the place of the deceased candidate who is qualified to hold the office~~ may be written in such blank space by the voter. Except as otherwise provided in subsection (2) of this section, ~~the order in which the titles to the various offices shall be printed, and~~ the size, print and quality of the paper of the ballot is left to the discretion of the county executive committee. Provided, however, that in all cases the arrangement of the names of the candidates for each office shall be alphabetical. No ballot shall be used except those so printed.

(2) The ~~titles for the various offices shall be listed in the following order~~ order in which the titles to the various offices for state and county elections and other offices and issues shall be printed as follows:

- (a) Candidates ~~for national office, electors, or delegates for President;~~
- (b) Candidates for ~~statewide office~~ United States Senator or United States Representative;
- (c) Candidates for state ~~wide office:~~ Governor, Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, Auditor of Public Accounts, Commissioner of Agriculture and Commerce, Commissioner of Insurance;
- (d) Candidates for state district office: Mississippi Transportation Commissioner, Public Service Commissioner, District Attorney;
- (~~e~~) Candidates for legislative office: Senator and House of Representative;
- (~~e~~) Candidates for countywide office;
- (~~f~~) Candidates for county district office.

The order in which the titles for the various offices are listed within ~~each of the categories listed in this~~

~~subsection paragraphs (f) and (g) is left to the discretion of the county executive committee. Candidates' names shall be listed alphabetically under each office by the candidate's last name.~~

~~(3) If after the deadline to qualify as a candidate for an office, there shall be only one (1) person who has duly qualified to be a candidate for the office in the primary election, the name of such person shall be placed on the ballot; provided, however, that if there shall be not more than one (1) person duly qualified to be a candidate for each office on the primary election ballot, the election for all offices on the ballot shall be dispensed with and the appropriate executive committee shall declare each candidate as the party nominee if the candidate meets all the qualifications to hold the office.~~

~~The county executive committee shall also prepare full instructions for the guidance of electors at elections as to obtaining ballots, the manner of marking them, and the mode of obtaining new ballots in the place of those spoiled by accident. The instructions shall be printed in large, clear type on "Cards of Instruction," and the county executive committee shall furnish the same in sufficient numbers for the use of electors. The cards shall be preserved by the officers of election and returned by them to the county executive committee and they may be used, if applicable, in subsequent elections.~~

(4)(a) If it is eligible under Section 23-15-266, the county executive committee may enter into a written agreement with the circuit clerk or the county election commission authorizing the circuit clerk or the county election commission to perform any of the duties required of the county executive committee pursuant to this section. Any agreement entered into pursuant to this subsection shall be signed by the chairman of the county executive committee and the circuit clerk or the chairman of the county election commission, as appropriate. The county executive committee shall notify the State Executive Committee and the Secretary of State of the existence of such agreement.

(b) If it is eligible under Section 23-15-266, the municipal executive committee may enter into a written agreement with the municipal clerk or the municipal election commission authorizing the municipal clerk or the municipal election commission to perform any of the duties required of the municipal executive committee pursuant to this section. Any agreement entered into pursuant to this subsection shall be signed by the chairman of the municipal executive committee and the municipal clerk or the chairman of the municipal election commission, as appropriate. The municipal executive committee shall notify the State Executive Committee and the Secretary of State of the existence of such agreement.

**§ 23-15-335. Duties of person designated by county executive committee to distribute ballots.**

(1) The county executive committee shall designate a person whose duty it shall be to distribute all necessary ballots for use in a primary election, and shall designate one (1) among the managers at each polling place to receive and receipt for the blank ballots to be used at that place. When the blank ballots are delivered to a local manager, the distributor shall take from the local manager a receipt therefor signed in duplicate by both the distributor and the manager, one of which receipts the distributor shall deliver to the circuit clerk and the other shall be retained by the local manager and said last mentioned duplicate receipt shall be enclosed in the ballot box with the voted ballots when the polls have been closed and the votes have been counted. The printer of the ballots shall take a receipt from the distributor of the ballots

for the total number of the blank ballots delivered to the distributor. The printer shall secure all ballots printed by him in such a safe manner that no person can procure them or any of them, and he shall deliver no blank ballot or ballots to any person except the distributor above mentioned, and then only upon his receipt therefor as above specified. The distributor of the blank ballots shall so securely hold the same that no person can obtain any of them, and he shall not deliver any of them to any person other than to the authorized local managers and upon their respective receipts therefor. The executive committee shall see to it that the total blank ballots delivered to the distributor, shall correspond with the total of the receipts executed by the local managers.

(2)(a) If it is eligible under Section 23-15-266, the county executive committee may enter into a written agreement with the circuit clerk or the county election commission authorizing the circuit clerk or the county election commission to perform any of the duties required of the county executive committee pursuant to this section. Any agreement entered into pursuant to this subsection shall be signed by the chairman of the county executive committee and the circuit clerk or the chairman of the county election commission, as appropriate. The county executive committee shall notify the State Executive Committee and the Secretary of State of the existence of such agreement.

(b) If it is eligible under Section 23-15-266, the municipal executive committee may enter into a written agreement with the municipal clerk or the municipal election commission authorizing the municipal clerk or the municipal election commission to perform any of the duties required of the municipal executive committee pursuant to this section. Any agreement entered into pursuant to this subsection shall be signed by the chairman of the municipal executive committee and the municipal clerk or the chairman of the municipal election commission, as appropriate. The municipal executive committee shall notify the State Executive Committee and the Secretary of State of the existence of such agreement.

(3) Any person charged with any of the duties prescribed in this section who shall willfully or with culpable carelessness violate the same shall be guilty of a misdemeanor.

#### SUBARTICLE B. OTHER ELECTIONS

##### **§ 23-15-351. Authority to print ballots; penalties.**

It shall be the duty of the chairman of the election commission of each county to have printed all necessary ballots for use in elections, except ballots in municipal elections which shall be printed as herein provided by the authorities of the respective municipalities; and the said election commissioner shall cause the official ballot to be printed by a printer sworn to keep the ballots secret under the penalties prescribed by law. The printer shall deliver to the election commissioners for holding elections, a certificate of the number of ballots printed for each precinct, and shall not print any additional ballots, except on instruction of proper election commissioners; and failure to observe either of these requirements shall be a misdemeanor.

[In the case of the statewide special election for the selection of the official state flag provided for in Section 1 of Laws, 2001, ch. 301, the provisions of this article regarding the printing and distribution of](#)

~~the official ballots, shall be governed by the provisions of Section 1(2) of Laws, 2001, ch. 301.~~

**§ 23-15-353. Sufficient ballots to be printed and distributed; cards of instruction.**

The officer charged with printing and distributing the official ballot shall ascertain from the registrar, at least ten (10) days before the day of election, the number of registered voters in each voting precinct; and he shall have printed and distributed a sufficient number of ballots for use in each precinct. ~~He shall also prepare full instructions for the guidance of electors at elections as to obtaining ballots, the manner of marking them, and the mode of obtaining new ballots in the place of those spoiled by accident. The instructions shall be printed in large, clear type, on "cards of instruction," and the officer shall furnish the same in sufficient numbers for the use of electors. The cards shall be preserved by the officers of election and returned by them to the commissioners of election; and they may be used, if applicable, in subsequent elections.~~

**§ 23-15-355. Payment of ballot expenses.**

Ballots in all elections shall be printed and distributed at public expense and shall be known as "official ballots." The expense of printing such ballots shall be paid out of the county treasury, except that in municipal elections such expenses shall be paid by the respective cities, towns and villages. ~~In the case of the statewide special election for the selection of the official state flag provided for in Section 1 of Laws, 2001, ch. 301, the provisions of this section regarding payment of the expenses of printing the official ballots shall be governed by the provisions of Section 1(2) of Laws, 2001, ch. 301.~~

**§ 23-15-357. Back and outside of ballot.**

On the back and outside of the ballot shall be printed the words "OFFICIAL BALLOT," the name of the voting precinct or place for which the ballot is prepared, and the date of the election.

**§ 23-15-359. Names of candidates to be printed on ballot; filing of petition for office; inapplicability of section to municipal elections; special elections; determination of candidate's qualifications; declaration of nominee in single candidate race.**

(1) The ballot shall contain the names of all party nominees certified by the appropriate executive committee, and independent and special election candidates who have timely filed petitions containing the required signatures, if the candidates meet all of the qualifications to hold the office sought. A petition requesting that an independent or special election candidate's name be placed on the ballot for any office shall be filed as provided for in subsection (3) or (4) of this section, as appropriate, and shall be signed by not less than the following number of qualified electors:

(a) For an office elected by the state at large, not less than one thousand (1,000) qualified electors.

(b) For an office elected by the qualified electors of a Supreme Court district, not less than three hundred (300) qualified electors.

(c) For an office elected by the qualified electors of a congressional district, not less than two hundred (200) qualified electors.

(d) For an office elected by the qualified electors of a circuit or chancery court district, not less than one hundred (100) qualified electors.

(e) For an office elected by the qualified electors of a senatorial or representative district, not less than fifty (50) qualified electors.

(f) For an office elected by the qualified electors of a county, not less than fifty (50) qualified electors.

(g) For an office elected by the qualified electors of a supervisors district or justice court district, not less than fifteen (15) qualified electors.

(2)(a) Unless the petition required above shall be filed as provided for in subsection (3) or (4) of this section, as appropriate, the name of the person requested to be a candidate, unless nominated by a political party, shall not be placed upon the ballot. The ballot shall contain the names of each candidate for each office, and such names shall be listed under the name of the political party such candidate represents as provided by law and as certified to the circuit clerk by the state executive committee of such political party. In the event such candidate qualifies as an independent as provided in this section, he shall be listed on the ballot as an independent candidate.

(b) The name of an independent or special election candidate who dies before the printing of the ballots, shall not be placed on the ballots.

(3) Original Ppetitions for offices described in paragraphs (a), (b), (c), (d) and (e) of subsection (1) of this section shall be filed with the State Board of Election Commissioners by no later than 5:00 p.m. on the same date or business day, as applicable, by which candidates for nominations in the political party primary elections are required to pay the fee provided for in Section 23-15-297, Mississippi Code of 1972; however, no petition may be filed before January 1 of the year in which the election for the office is held.

(4) Original Ppetitions for offices described in paragraphs (f) and (g) of subsection (1) of this section shall be filed with the proper circuit clerk by no later than 5:00 p.m. on the same date or business day, as applicable by which candidates for nominations in the political party elections are required to pay the fee provided for in Section 23-15-297; however, no petition may be filed before January 1 of the year in which the election for the office is held. The circuit clerk shall notify the county commissioners of election of all persons who have filed petitions with such clerk. Such notification shall occur within two (2) business days and shall contain all necessary information.

(5) The commissioners may also have printed upon the ballot any local issue election matter that is authorized to be held on the same date as the regular or general election pursuant to Section 23-15-375;

however, the ballot form of such local issue must be filed with the commissioners of election by the appropriate governing authority not less than sixty (60) days ~~previous to~~before the date of the election.

(6) The provisions of this section shall not apply to municipal elections or to the election of the offices of justice of the Supreme Court, judge of the Court of Appeals, circuit judge, chancellor, county court judge and family court judge.

(7) Nothing in this section shall prohibit special elections to fill vacancies in either house of the Legislature from being held as provided in Section 23-15-851. In all elections conducted under the provisions of Section 23-15-851, there shall be printed on the ballot the name of any candidate who, not having been nominated by a political party, shall have been requested to be a candidate for any office by a petition filed with the State Board of Election Commissioners and signed by not less than fifty (50) qualified electors.

(8) The appropriate election commission shall determine, at the time of qualifying, whether each candidate is a qualified elector of the state, state district, county or county district they seek to serve, and whether each candidate meets all other qualifications to hold the office he is seeking or presents absolute proof that he will, subject to no contingencies, meet all qualifications on or before the date of the general or special election at which he could be elected to office. The election commission shall determine whether the candidate has taken the steps necessary to qualify for more than one (1) office at the election. The election commission also shall determine whether any candidate has been convicted of any felony in a court of this state, or has been convicted on or after December 8, 1992, of any offense in another state which is a felony under the laws of this state, or has been convicted of any felony in a federal court on or after December 8, 1992. Excepted from the above are convictions of manslaughter and violations of the United States Internal Revenue Code or any violations of the tax laws of this state, unless the offense also involved misuse or abuse of his office or money coming into his hands by virtue of his office. If the appropriate election commission finds that a candidate either (a) is not a qualified elector, (b) does not meet all qualifications to hold the office he seeks and fails to provide absolute proof, subject to no contingencies, that he will meet the qualifications on or before the date of the general or special election at which he could be elected, or (c) has been convicted of a felony as described in this subsection, and not pardoned, then the election commission shall notify the candidate and give the candidate an opportunity to be heard. The election commission shall mail notice to the candidate at least three (3) business days before the hearing to the address provided by the candidate on the qualifying forms, and the committee shall attempt to contact the candidate by telephone, e-mail and facsimile if the candidate provided this information on the forms. If the candidate fails to appear at the hearing or to prove he meets all qualifications to hold the office subject to no contingencies, then the name of such candidate shall not be placed upon the ballot. If the appropriate election commission determines that the candidate has taken the steps necessary to qualify for more than one (1) office at the election, the action required by Section 23-15-905, shall be taken.

(9) If after the deadline to qualify as a candidate for an office or after the time for holding any party primary for an office, there shall be only one (1) person who has duly qualified to be a candidate for the office in the general election, the name of such person shall be placed on the ballot; provided, however,

that if there shall be not more than one (1) person duly qualified to be a candidate for each office on the general election ballot, the election for all offices on the ballot shall be dispensed with and the appropriate election commission shall declare each candidate elected without opposition if the candidate meets all the qualifications to hold the office as determined pursuant to a review by the commission in accordance with the provisions of subsection (8) of this section and if the candidate has filed all required campaign finance disclosure reports as required by Section 23-15-807.

~~(10) The petition required by this section may not be filed by using the Internet.~~

**§ 23-15-361. Names of municipal office candidates to be printed on ballot; filing of petition for municipal office; determination of candidate's qualifications; declaration of nominee in single candidate race.**

(1) The municipal general election ballot shall contain the names of all candidates who have been put in nomination by the municipal primary election of any political party. There shall be printed on the ballots the names of all persons so nominated, whether the nomination be otherwise known or not, upon the written request of one or more of the candidates so nominated, or of any qualified elector who will make oath that he was a participant in the primary election, and that the person whose name is presented by him was nominated by such primary election. The municipal election commissioner designated to have the ballots printed shall also have printed on the ballot in any municipal general election the name of any candidate who, not having been nominated by a political party, shall have been requested to be a candidate for any office by a petition filed with the clerk of the municipality no later than 5:00 p.m. on the same date by which candidates for nomination in the municipal primary elections are required to pay the fee provided for in Section 23-15-309, and signed by not less than the following number of qualified electors:

(a) For an office elected by the qualified electors of a municipality or a municipal district having a population of one thousand (1,000) or more, not less than fifty (50) qualified electors.

(b) For an office elected by the qualified electors of a municipality or a municipal district having a population of less than one thousand (1,000), not less than fifteen (15) qualified electors.

(2) Unless the petition required above shall be filed no later than 5:00 p.m. on the same date by which candidates for nomination in the municipal primary election are required to pay the fee provided for in Section 23-15-309, the name of the person requested to be a candidate, unless nominated by a political party, shall not be placed upon the ballot. The ballot shall contain the names of each candidate for each municipal office, and such names shall be listed under the name of the political party such candidate represents as provided by law and as certified to the municipal clerk by the municipal executive committee of such political party. ~~Provided further, however, that nothing in this section shall prohibit a person from qualifying as a nominee of a political party, or from requesting to be a candidate for the office by filing a petition, in the event of the death of a candidate for the office which makes it impossible to have an election contest.~~ In the event such candidate qualifies as an independent as herein provided, he shall be listed on the ballot as an independent candidate.

(3) The clerk of the municipality shall notify the municipal commissioners of election of all persons who have filed petitions pursuant to subsection (1) of this section within two (2) business days of the date of filing.

(4) The ballot in elections to fill vacancies in municipal elective office shall contain the names of all persons who have qualified as required by Section 23-15-857.

(5) The municipal commission shall determine, at the time of qualifying, whether each party candidate in the municipal general election is a qualified elector of the municipality, and of the ward if the office sought is a ward office and shall determine whether each candidate either meets all other qualifications to hold the office he is seeking or presents absolute proof that he will, subject to no contingencies, meet all qualifications on or before the date of the general or special election at which he could be elected to office. The municipal election commission also shall determine whether any candidate has been convicted of any felony in a court of this state, or has been convicted on or after December 8, 1992, of any offense in another state which is a felony under the laws of this state, or has been convicted of any felony in a federal court on or after December 8, 1992. Excepted from the above are convictions of manslaughter and violations of the United States Internal Revenue Code or any violations of the tax laws of this state unless such offense also involved misuse or abuse of his office or money coming into his hands by virtue of his office. If the municipal election commission finds that a candidate either (a) is not a qualified elector, (b) does not meet all qualifications to hold the office he seeks and fails to provide absolute proof, subject to no contingencies, that he will meet the qualifications on or before the date of the general or special election at which he could be elected, or (c) has been convicted of a felony as described above and not pardoned, then the election commission shall notify the candidate and give the candidate an opportunity to be heard. The election commission shall mail notice to the candidate at least three (3) business days before the hearing to the address provided by the candidate on the qualifying forms, and the committee shall attempt to contact the candidate by telephone, e-mail and facsimile if the candidate provided this information on the forms. If the candidate fails to appear at the hearing or to prove he meets all qualifications to hold the office subject to no contingencies, then the name of the candidate shall not be placed upon the ballot.

(6) If after the deadline to qualify as a candidate for an office or after the time for holding any party primary election for an office, there shall be only one (1) person who has duly qualified to be a candidate for the office in the general election the name of such person shall be placed on the ballot; provided, however, that if there shall be not more than one (1) person duly qualified to be a candidate for each office on the general election ballot, the election for all offices on the ballot shall be dispensed with and the municipal election commission shall declare each candidate elected without opposition if the candidate meets all the qualifications to hold the office as determined pursuant to a review by the commission in accordance with the provisions of subsection (5) of this section and if the candidate has filed all required campaign finance disclosure reports as required by Section 23-15-807.

**§ 23-15-363. Names of candidates who have not duly withdrawn not omitted from ballot.**

After the proper officer has knowledge of or has been notified of the nomination, as provided, of any candidate for office, the officer shall not omit his name from the ballot, unless upon the written request of the candidate nominated, made at least ten (10) days before the election, and in no case after such ballot has been printed; and every ballot shall contain the names of all candidates nominated as specified, and not duly withdrawn.

**§ 23-15-365. Write-in candidates; applicability of section to elections conducted under Sections 23-15-974 through 23-15-985.**

(1) In general and special election. ~~There~~ shall be left on each ballot one (1) blank space under the title of each office to be voted for, and in the event of the death, resignation, withdrawal or removal of any candidate whose name shall have been printed on the official ballot, the name of the candidate duly substituted in the place of such candidate who is qualified to hold the office may be written in such blank space by the voter.

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

**§ 23-15-367. Arrangement of names of candidates, order of titles of offices, and printing of official ballot generally; order in which titles of various offices are to be listed on the ballot; furnishing of sample of official ballot; alphabetical arrangement in primary elections.**

(1) Except as otherwise provided by Sections 23-15-974 through 23-15-985 and subsection (2) of this section, ~~the arrangement of the names of the candidates, and the order in which the titles of the various offices shall be printed, and~~ the size, print and quality of paper of the official ballot is left to the discretion of the officer charged with printing the official ballot; ~~but the arrangement need not be uniform.~~

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

(a) Candidates, electors, or delegates for President.

(b) Candidates for United States Senator or United States Representative.

(c) Candidates for statewide office: Governor, Lieutenant Governor, Attorney General, Secretary of State, State Treasurer, Auditor of Public Accounts, Commissioner of Agriculture and Commerce, Commissioner of Insurance.

(d) Candidates for state district office: Mississippi Transportation Commissioner, Public Service Commissioner, District Attorney.

(e) Candidates for legislative office: Senator and House of Representatives.

(e) Candidates for countywide office.

(f) Candidates for county district office.

~~(a) Candidates for national office; (b) Candidates for statewide office; (c) Candidates for state district office; (d) Candidates for legislative office; (e) Candidates for countywide office; (f) Candidates for county district office.~~

The order in which the titles for the various offices are listed within paragraphs (e) and (f) is left to the

discretion of the county election commissioners. Nominees of political parties qualified to conduct primary elections as defined in section 23-15-301 shall be listed first alphabetically by the candidate's last name, followed by any all other candidates listed alphabetically by last name. The order in which the titles for the various offices are listed within each of the categories listed in this subsection is left to the discretion of the officer charged with printing the official ballot.

(3) It is the duty of the Secretary of State, with the approval of the Governor, to furnish the designated commissioner of each county a sample of the official ballot, not less than fifty-five (55) days prior to the election, the general form of which shall be followed as nearly as practicable.

**§ 23-15-369. Form and substance of proposed constitutional amendment or other public measure.**

(1)(a) Whenever a constitutional amendment is submitted to the vote of the people, the substance of such amendment shall be printed in clear and unambiguous language on the ballot after the list of candidates, if any, followed by the word "YES" and also by the word "NO", and shall be styled in such a manner that a "YES" vote will indicate approval of the proposal and a "NO" vote will indicate rejection.

(b) The substance of the amendment shall be an explanatory statement not exceeding seventy-five (75) words in length of the chief purpose of the measure. Such statement shall be prepared by the Legislature and included in the concurrent resolution proposing the amendment to the Constitution. The statement shall avoid, whenever possible, the use of legal terminology or jargon and shall use instead, simple, ordinary, everyday language. The Secretary of State shall give each proposed constitutional amendment a designating number for convenient reference specific to the election in which the amendment appears on the ballot. This number designation shall appear on the ballot. Designating numbers shall be assigned in the order of filing or certification of the amendments. The Secretary of State shall furnish the designating number and the substance of each amendment to the circuit clerk of each county in which such amendment is to be voted on.

(c) The full text of each proposed constitutional amendment shall be published by the Secretary of State as provided for in Section 7-3-39, Mississippi Code of 1972, and shall be posted prominently in all polling places, with copies of said proposed amendment to be otherwise available at each polling place.

(2) Except as may be otherwise provided in subsection (1) of this section, whenever any public measure, question or matter that requires an affirmative or negative vote is submitted to a vote of the electors, the measure or matter shall be printed on the ballot and also the words "FOR" or "AGAINST" to be so arranged by the proper officer so that the voter can intelligently vote his preference.

**§ 23-15-371. Loss or destruction of official ballots.**

In case the official ballots prepared shall be lost or destroyed, the commissioners of election shall have like ballots furnished in place of those lost or destroyed, if time remain therefor. If from any cause there should be no official ballots or an insufficient number at a voting place, and not sufficient time in which

to have them printed, the ballots may be written; but, if written by anyone except the voter alone for himself, the names of all candidates shall be written thereon, without any mark or device by which one name may be distinguished from another, and such ballots shall be marked by the voter as provided for printed ballots. If the manager designated fails to have the ballots at the voting place at the proper time, or if he fails to distribute them, the managers, or those of them present at the election, shall provide ballots, and select some suitable person to distribute them, who shall take the oath required of the managers, and distribute the ballots according to law.

**§ 23-15-373. Report regarding lost ballots.**

Within one (1) day after election day, the managers of election shall report to the election commissioners, under oath, as to the loss of official ballots, the number lost, and all facts connected therewith, which report the commissioners may deliver to the grand jury, if deemed advisable.

**§ 23-15-375. Local issues.**

Local issue elections may be held on the same date as any regular or general election, but not the same date as a primary election. A local issue election held on the same date as the regular or general election shall be conducted in the same manner as the regular or general election using the same poll workers and the same equipment. A local issue may be placed on the regular or general election ballot pursuant to the provisions of Section 23-15-359, Mississippi Code of 1972. The provisions of this section and Section 23-15-359 with regard to local issue elections shall not be construed to affect any statutory requirements specifying the notice procedure and the necessary percentage of qualified electors voting in such an election which is needed for adoption of the local issue. Whether or not a local issue is adopted or defeated at a local issue election held on the same day as a regular or general election shall be determined in accordance with relevant statutory requirements regarding the necessary percentage of qualified electors who voted in such local issue election, and only those persons voting for or against such issue shall be counted in making that determination. As used in this section "local issue elections" include elections regarding the issuance of bonds, local option elections, elections regarding the levy of additional ad valorem taxes and other similar elections authorized by law that are called to consider issues that affect a single local governmental entity. As used in this section "local issue" means any issue that may be voted on in a local issue election.



## ARTICLE 15. VOTING SYSTEMS

### SUBARTICLE A. GENERAL PROVISIONS

~~§ 23-15-391. Voting machines, electronic voting systems, or~~ Optical mark reading equipment, or direct recording electronic voting equipment ~~to be used unless paper ballot will be less expensive.~~

The board of supervisors of each county ~~in the State of Mississippi and the governing authorities of each municipality~~ shall utilize ~~voting machines, electronic voting systems,~~ optical mark reading equipment or direct recording electronic voting equipment which shall comply with the specifications provided by law. ~~The e~~ Election commissioners may ~~designate conduct special and municipal elections, as well as runoff elections resulting therefrom, elections to be administered by paper ballot when~~ the election commissioners determine ~~that~~ administration of ~~such an~~ election by paper ballot will be less expensive than administration of the same election by ~~voting machines, electronic voting systems,~~ optical mark reading equipment or direct recording electronic voting equipment.

~~§ 23-15-393. In counties having a population of greater than 250,000, the number of voting machines used in each voting precinct to be distributed in direct proportion to voter turnout in elections in preceding two years; such counties to create special fund to deposit monies received for reimbursement under "Help America Vote Act of 2002; use of monies deposited to upgrade direct recording electronic voting equipment."~~

~~(1) In any county having a population greater than two hundred fifty thousand (250,000) according to the 2000 federal decennial census, the number of voting machines to be used in each voting precinct must be distributed in direct proportion to voter turnout in all elections held within such county for the preceding two (2) years, with a greater number of voting machines to be used in voting precincts where voter turnout has been the highest.~~

~~(2) The county board of supervisors of any county having a population greater than two hundred fifty thousand (250,000) according to the 2000 federal decennial census shall create a special fund to deposit any monies received by such county for reimbursement to comply with the "Help America Vote Act of 2002" for direct recording electronic voting equipment purchased within five (5) years preceding the effective date of this act. Monies deposited in such special fund shall be used by such county board of supervisors only to upgrade direct recording electronic voting equipment, to purchase additional voting equipment or to improve such voting equipment. This subsection shall stand repealed on July 1, 2010.~~

## SUBARTICLE B. VOTING MACHINES

### **§ 23-15-401. Definitions.**

The list of candidates used or to be used on the front of the voting machines for a voting precinct in which a voting machine is used pursuant to law shall be deemed official ballots under this chapter. The word "ballot" as used in this chapter (except when reference is made to irregular ballots) means that portion of the cardboard or paper or other material within the ballot frames containing the name of the candidate and the designation of the party by which he was nominated, or a statement of a proposed constitutional amendment, or other question or proposition, with the word "YES" for voting for any question or proposition, and the word "NO" for voting against any question. The term "question" shall mean any constitutional amendment, proposition, or other question submitted to the voters at any election. The term "official ballot" shall mean the printed strips of cardboard containing the names of the candidates nominated and a statement of the questions submitted. The term "irregular ballot" shall mean a vote cast, by or on a special device, for a person whose name does not appear on the ballots. The term "voting machine custodian" shall mean the person who shall have charge of preparing and arranging the voting machine for elections. The term "protective counter" shall mean a separate counter built into the voting machine which cannot be reset, which records the total number of movements of the operating lever. The term "officials in charge of the election" shall mean the state election commissioners, the county election commissioners, the county executive committee, the municipal election commissioners, the municipal executive committee, or any other official or officials empowered by law or who may in the future be empowered by law to hold an election.

### **§ 23-15-403. Authority to purchase or rent voting machines; construction of voting machines.**

The board of supervisors of any county in the State of Mississippi and the governing authorities of any municipality in the State of Mississippi are hereby authorized and empowered, in their discretion, to purchase or rent any voting machine or machines which shall be so constructed as to fulfill the following requirements: It shall secure to the voter secrecy in the act of voting; it shall provide facilities for voting for all candidates of as many political parties or organizations as may make nominations, and for or against as many questions as submitted; it shall, except at primary elections, permit the voter to vote for all the candidates of one party or in the part for the candidates of one or more other parties; it shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but not more; it shall prevent the voter from voting for the same person more than once for the same office; it shall permit the voter to vote for or against any question he may have the right to vote on, but no other; if used in primary elections, it shall be so equipped that the election officials can lock out all rows except those of the voter's

party by a single adjustment on the outside of the machine; it shall correctly register or record and accurately count all votes cast for any and all persons and for or against any and all questions; it shall be provided with a "protective counter" or "protective device" whereby any operation of the machine before or after the election will be detected; it shall be provided with a counter which shall show at all times during an election how many persons have voted; it shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters; it may also be provided with one (1) device for each party, for voting for all the presidential electors of that party by one (1) operation, and a ballot therefor containing only the words "Presidential Electors For" preceded by the name of that party and followed by the names of the candidates thereof for the offices of President and Vice President, and a registering device therefor which shall register the vote cast for said electors when thus voted collectively; provided, however, that means shall be furnished whereby the voter can cast a vote for individual electors when permitted to do so by law.

**§ 23-15-405. Use of voting machines.**

~~Whenever the board of supervisors of any county or the governing authorities of any municipality shall purchase or rent voting machines that meet the requirements of this article, such voting machines may be used at all elections held in such county or municipality, or in any part thereof, for voting, registering and counting votes cast at such elections. In providing voting machines, the board of supervisors is hereby empowered to purchase or rent voting machines for each voting precinct in the entire county, including those located within the municipality, or, in the discretion of the board, voting machines may be purchased or rented only for those voting precincts located outside the limits of the municipalities located in said county. The board of supervisors of any county and the governing authorities of any municipality may jointly purchase or rent voting machines for all of the voting precincts in the entire county. Whenever voting machines have been purchased or rented by either the board of supervisors or the governing authorities of a municipality, for use at voting precincts within the county or within the municipality, said voting machines may be used at said voting precincts in all elections, and the officials in charge of the election to be held shall cause the voting machines to be prepared and used at such election as provided for herein. Voting machines of different kinds may be adopted for different counties within the state.~~

~~Voting machines may be used in combination with paper ballots in any election at the discretion of and under rules and regulations set up by the officials in charge of the election.~~

**§ 23-15-407. Preservation and repair of voting machines.**

~~The board of supervisors of any county or the governing authorities of any municipality may~~

provide for each voting precinct one or more voting machines in complete working order, and thereafter the circuit clerk where machines are purchased or rented by the board of supervisors, and clerk of the municipalities where purchased by the governing authorities of a municipality, shall preserve and keep them in repair, and shall have custody thereof when not in use at an election.

**§ 23-15-409. Form of ballots.**

All ballots for use in voting machines shall be furnished by the same officer whose duty it is to furnish regular ballots and shall be printed on paper or clear white material, of such form and size as will fill the ballot frames of the machines, in plain color type as large as the space will reasonably permit. The names of the candidates for each office shall be arranged on each voting machine, either in columns or horizontal rows; the caption of the various ballots on said machines shall be so placed on said machines as to indicate to the voter what key lever or other device is to be used or operated in order to vote for the candidate or candidates of his choice. The order of the arrangement of parties and of candidates shall be as now required by law.

**§ 23-15-411. Sample or instruction ballots.**

The officer who furnishes the official ballots for any polling place where a voting machine is to be used, shall also provide two (2) sample ballots or instruction ballots, which sample or instruction ballots shall be arranged in the form of a diagram showing such portion of the front of the voting machine as it will appear after the official ballots are arranged thereon or therein for voting on election day. Such sample ballots shall be open to the inspection of all voters on election day, in all primaries and general elections where voting machines are used.

**§ 23-15-413. Official ballots to be provided for each polling place; return of ballots.**

Two (2) sets of official ballots shall be provided for each polling place for each voting precinct for use in and upon the voting machine, one (1) set thereof shall be inserted or placed in or upon the voting machine and the other shall be retained in the custody and possession of the circuit clerk in county and countywide elections and the clerk of the municipality in municipal elections, unless it shall become necessary during the course of the election to make use of the same upon or in the voting machine. At the close of the election, all official ballots (except those actually in or upon the voting machine at the close of the election), whether the same shall have been used in the machine or not, shall be returned to the official providing the same in the manner herein provided.

**§ 23-15-415. Preparation and protection of voting machines.**

It shall be the duty of the authorities in charge of any election where a voting machine is to be used, to have the machine at the proper polling place or places before the time fixed for opening of the polls, and the counters set at zero, and otherwise in good and proper order for use at such election. For the purpose of placing ballots in the ballot frames of the machine, putting it in order, setting, testing and adjusting and delivering the machine, the authorities in charge of elections may employ one or more competent persons, to be known as custodian or custodians of voting machines, who shall be fully competent, thoroughly instructed, and sworn to perform his duties honestly and faithfully, and for such purpose shall be appointed and instructed at least thirty (30) days before the election. All voting machines to be used in an election shall be properly prepared at least three (3) days prior to the election day. When a voting machine has been properly prepared for election, it shall be locked against voting and sealed; and the keys thereof shall be delivered to the registrar, together with a written report made by the custodian or official preparing the machine, stating that it is in every way properly prepared for the election. After the voting machine has been transferred to the polling place, it shall be the duty of the managers to provide ample protection against molestation or injury to the machine. All voting machines used in any election shall be provided with a screen, hood or curtain which shall be so made and adjusted as to conceal the voter and his action while voting.

**§ 23-15-417. Instruction of election managers and clerks.**

At least twenty one (21) days before each election, the officials in charge of the elections shall appoint one or more persons to instruct the managers and clerks that are to serve in a voting precinct in the use of the machine, and in their duties in connection therewith; and he shall give to each manager and clerk, who has received such instruction and is fully qualified to properly conduct the election with the machine, a certificate to that effect. For the purpose of giving such instruction, the person or persons appointed as instructors shall call such meeting or meetings of the managers and clerks as shall be necessary. Such person shall, within five (5) days, file a report with the officials in charge of the elections, stating that he has instructed the managers and clerks, giving the names of such officers, and the time and place where such instruction was given. The managers and clerks of each voting precinct in which a voting machine is to be used shall attend such meeting, or meetings, as shall be called for the purpose of receiving such instruction concerning their duties as shall be necessary for the proper conduct of the election with the machine. No manager or clerk shall serve in any election at which a voting machine is used, unless he shall have received such instruction and is fully qualified to perform the duties in connection with the machine, and has received a certificate to that effect, provided, however, that this shall not prevent the appointment of a person as a manager or clerk to fill a vacancy in an emergency.

**~~§ 23-15-419. Exhibition of voting machine containing sample ballot.~~**

~~Where voting machines are to be used, officials in charge of the election shall designate suitable and adequate times and places where voting machines containing sample ballots, showing titles of offices to be filled, and, so far as practicable, the names of candidates to be voted for at the next election, shall be exhibited for the purpose of giving instructions as to the use of voting machines to all voters who apply for the same. No voting machine, which is to be assigned for use in an election, shall be used for instruction after having been prepared and sealed for the election. During public exhibition of any voting machine for the instruction of voters previous to an election, the counting mechanism thereof shall be concealed from view and the doors may be temporarily opened only when authorized by the officials in charge of the election.~~

**~~§ 23-15-421. Preparation and delivery of official ballots.~~**

~~Official ballots of the form and description set forth in this chapter for use upon voting machines shall be prepared and furnished in the same manner, at the same time, and be delivered to the same officials as now provided by law.~~

**~~§ 23-15-423. Size of voting precincts; minimum number of voting machines to be used.~~**

~~(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.~~

**~~§ 23-15-425. Non-delivery, loss, destruction or theft of official ballots.~~**

~~If the official ballots for a voting precinct, at which a voting machine is to be used, shall not be delivered in time for use on election day or after delivery shall be lost, destroyed or stolen, the official or officials, whose duty it now is, in such case, to provide other ballots for use at such elections in lieu of those lost, destroyed or stolen, shall cause other ballots to be prepared, printed or written, as nearly as may be, of the form and description of the official ballots, and officials in~~

charge of the election shall cause the ballots so substituted to be used at the election in the same manner, as nearly as may be, as the official ballots would have been.

**§ 23-15-427. Inoperative voting machines.**

In case any voting machine used in any voting precinct shall, during the time the polls are open, become injured so as to render it inoperative in whole or in part, it shall be the duty of the manager immediately to give notice thereof to the registrar providing such machine, and it shall be the duty of the registrar, if possible, to substitute a perfect machine for the injured machine; and, at the close of the polls, the records of both machines shall be taken, and the votes shown on their counters shall be added together in ascertaining and determining the results of the election; but if no other machine can be prepared for use at such election, and the one injured cannot be repaired in time for use at such election, unofficial ballots made as nearly as possible in the form of the official ballot may be used, received by the managers and placed by them in a receptacle in such case to be provided by the managers, and counted with the votes registered on the voting machine; and the result shall be declared the same as though there had been no accident to the voting machine; the ballots thus voted shall be preserved and returned as herein directed, with a certificate or statement setting forth how and why the same were voted.

**§ 23-15-429. Opening of polls.**

Prior to the opening of the polls, the managers and clerks of each voting precinct shall meet at the polling place at the time set for opening of the polls, at each election, and shall proceed to arrange the furniture, stationery and voting machine for the conduct of the election. The keys to the voting machines shall be delivered to the managers before the time set for opening the polls, in a sealed envelope, on which shall be written or printed the number and location of the voting machine, and the number of the seal and the number registered on the protective counter or device, as reported by the custodian or official preparing the machine. Before opening the envelope, all managers and clerks present shall examine the number on the seal on the machine, also the number registered on the protective counter, and shall see if they are the same as the number written on the envelope; and if they are not the same, the machine must not be opened until the custodian, or other authorized person, shall have been notified and shall have presented himself at the polling place for the purpose of re-examining such machine and shall certify that it is properly arranged.

If the numbers on the envelope are the same as those on the machine, the election officers shall proceed to open the doors concealing the counters, and each officer shall carefully examine every counter and see that it registers zero, and the same shall be subject to the inspection of official watchers. The machine shall remain locked against voting until the polls are formally

opened, and shall not be operated except by voters in voting. If any counter is found not to register zero, the manager shall immediately notify the officials in charge of the election or the custodian, who shall, if practicable, adjust the counters at zero; but if it shall be impracticable to so adjust such counters before the time set for opening the polls, the managers shall immediately make a written statement of the designating letter and number of such counter, together with the number registered thereon, and shall sign and post same upon the wall of the polling room, where it shall remain throughout election day, and, in filling out the statement of canvass, they shall subtract such number from the number then registered thereon.

**§ 23-15-431. Voting irregular ballot for person whose name does not appear on voting machine.**

Ballots voted for any person whose name does not appear on the machine as a nominated candidate for office, are herein referred to as irregular ballots. In voting for presidential electors, a voter may vote an irregular ticket made up of the names of persons in nomination by different parties, or partially of names of persons so in nomination and partially of persons not in nomination, or wholly of persons not in nomination by any party. Such irregular ballots shall be deposited, written or affixed in or upon the receptacle or device provided on the machine for that purpose. With that exception, no irregular ballot shall be voted for any person for any office whose name appears on the machine as a nominated candidate for that office; any irregular ballot so voted shall not be counted. An irregular ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

**§ 23-15-433. Arrangement of polling room; who may be present during elections.**

At all elections where voting machines are used, the arrangement of the polling room shall be the same as is now provided by law; the exterior of the voting machine and every part of the polling room shall be in plain view of the managers and clerks; the voting machine shall be placed at least three (3) feet from every wall or partition of the polling room and at least four (4) feet from any table where any of the managers and clerks may be engaged or seated. The voting machine shall be so placed that the ballots on the face of the machine can be plainly seen by the managers and clerks and the party watchers when not in use by voters. The managers and clerks shall not themselves be, or permit any other person to be, in any position or near any position that will permit one to see or ascertain how a voter votes, or has voted. The manager attending the machine shall inspect the face of the machine, after each voter has cast his vote, to see that the ballots on the face of the machine are in their proper places and that the machine has not been injured. During elections, the door or other covering of the counter compartment of the machine shall not be unlocked or opened. No person shall be permitted in or about the polling room

except as now provided by law in elections where ballots and ballot boxes are used.

**§ 23-15-435. Casting vote.**

Where a voter presents himself for the purpose of voting, the clerks shall ascertain whether his name is upon the pollbook, and if his name appears thereon and no challenge be interposed, the voter shall go to the voting machine for the purpose of casting his vote. No voter shall remain in the voting machine booth longer than ten (10) minutes, if no one is waiting to vote, and no longer than five (5) minutes if someone is waiting to vote, and, having cast his vote, the voter shall at once emerge therefrom, and leave the polling room by the exit opening; if he shall refuse to leave after the lapse of time stated above, he shall be removed by the election officers. No voter, after having entered and emerged from the voting machine booth, shall be permitted to re-enter the same on any pretext whatever.

**§ 23-15-437. Instruction of voters.**

For the instruction of voters on any election days, there shall, so far as practicable, be provided for each polling place a mechanically operated model of a portion of the face of the machine. Such model, if furnished, shall, during the election, be located on the clerk's table, or in some other place which the voters must pass to reach the machine, and each voter shall, before entering the machine, be instructed regarding its operation and such instruction illustrated on the model, and the voter given opportunity to personally operate the model. The voter's attention shall also be called to the diagram of the face of the machine so that the voter can become familiar with the location of the questions and the names of the offices and candidates. In case any voter, after entering the voting machine, shall ask for further instructions concerning the manner of voting, two (2) election officers may, if necessary, enter the booth and give him such instructions, but no manager or person assisting a voter shall, in any manner request, suggest or seek to persuade or induce any such voter to vote any particular ticket, or for any particular ticket, or for any particular candidate, or for or against any particular ticket, or for or against any particular candidate, or for or against any particular amendment, question or proposition. After giving such instructions and before such voter shall have registered his vote, the officers or person assisting him shall retire and such voter shall then register his vote in secret as he may desire.

**§ 23-15-439. Assistance to blind or physically disabled voters.**

The provisions of the election law relating to the assistance to be given to blind or physically disabled voters shall apply also where voting machines are used, and the word "booth," when used in such elections, shall be interpreted to include the voting machine enclosure or curtain.

**§ 23-15-441. Closing polls; reading and announcing vote; statements of canvass.**

Immediately upon the close of the polls, the managers shall lock and seal the voting machine against further voting and open the counter compartment in the presence of the persons who may be lawfully present at that time, giving full view of the counters. The manager shall then, in the order of the offices as their titles are arranged on the machine, read and announce in distinct tones the result as shown by the counters and shall then read the votes recorded for each office on the irregular ballots; he shall also, in the same manner, read and announce the vote on each constitutional amendment, proposition or other question. As each vote is read and announced, it shall be recorded on two (2) statements of canvass by the two (2) clerks, and, when completed, shall be compared with the numbers on the counters of the machine. If found to be correct, the statements of canvass, after being duly certified and sworn to, shall be filed as now provided by law for filing election returns. After the reading and announcing of the vote, and before the doors of the counter compartment of the voting machine shall be closed, ample opportunity shall be given to any person or persons lawfully present to compare the results so announced with the counters of the machine and any necessary corrections shall then and there be made by the managers or clerks. There shall be furnished two (2) copies of a statement of canvass to conform to the requirements of the voting machine or machines being used.

**§ 23-15-443. Locking counter compartment; securing irregular ballots.**

The managers and clerks shall, as soon as the count is completed and fully ascertained, lock the counter compartment, and it shall so remain for a period of thirty (30) days or until it must be prepared for use in another election, except it be ordered opened by a court of competent jurisdiction. Whenever irregular ballots of whatever description have been voted, the managers and clerks shall return all such ballots in a properly secured package endorsed "IRREGULAR BALLOTS" and return and file such package with the original statement of the result of the election made by them. Said package shall be preserved for six (6) months next succeeding such election, and it shall not be opened or its contents examined during that time except by court order. At the end of said six (6) months, said package may be opened and said ballots disposed of at the discretion of the registrar.

**§ 23-15-445. Securing keys to voting machines; storing machines.**

The keys of the machine shall be enclosed in an envelope to be supplied by the registrar on which shall be written the number of the machine and the voting precinct and ward where it has been used, which envelope shall be securely sealed and endorsed by the manager, and shall be returned to the officer from whom the keys were received. The number on the seal and the number registered on the protective counter shall be written on the envelope containing the keys.

All keys for voting machines shall be kept securely locked by the registrar having them in charge. It shall be unlawful for any unauthorized person to have in his possession any key or keys of any voting machine, and all election officers or persons entrusted with such keys for election purposes, or in the preparation therefor, shall not retain them longer than necessary to use them for such legal purposes. All machines shall be stored as soon after the close of the election as possible, and the machines shall at all times be stored in a suitable place.

**§ 23-15-447. Penalties for unlawful possession of voting machine or keys and for tampering with machine.**

Any unauthorized person found in possession of any such voting machine or keys thereof shall be deemed guilty of a misdemeanor and fined in a sum not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00), imprisonment in the county jail, not less than ten (10) nor more than thirty (30) days. Any person willfully tampering or attempting to tamper with, disarrange, deface or impair in any manner whatsoever, or destroy any such voting machine while the same is in use at any election, or who shall, after such machine is locked in order to preserve the registration or record of any election made by the same, tamper or attempt to tamper with any voting machine, shall be deemed guilty of a felony, and, upon conviction thereof, shall be imprisoned in the state prison of this state at hard labor for not less than three (3) nor more than ten (10) years.

**§ 23-15-449. Applicability of laws now in force; absentee ballots.**

All laws relating to elections now in force in this state shall apply to all elections under this chapter so far as the same may be applicable thereto, and so far as such provisions are not inconsistent with the provisions of this chapter. Absentee ballots shall be voted as now provided by law.

**§ 23-15-451. Sections supplemental to law now in force.**

Sections 23-15-401 through 23-15-451 are supplemental and in addition to the election laws of the State of Mississippi as now in effect or as may be amended.

SUBARTICLE C. ELECTRONIC VOTING SYSTEMS

PART I. GENERAL PROVISIONS

**§ 23-15-461. Definitions.**

As used in this subarticle, unless otherwise specified:

(a) "Automatic tabulating equipment" includes apparatus necessary to automatically examine and count votes as designated on ballots or ballot cards and tabulate the results.

(b) "Ballot card" means a tabulating card on which votes may be recorded by means of punching or marking.

(c) "Ballot labels" means the cards, papers, booklet, pages or other material, containing the names of offices and candidates and the statements of measures to be voted on, which are placed on the voting device.

(d) "Ballot" means a paper ballot on which votes are recorded, or alternatively may mean ballot cards and ballot labels.

(e) "Chad" means the part of a ballot card that is designed to be punched out by the voter.

(f) "Counting center" means one or more locations used for the automatic counting of ballots. (g)

"Electronic voting system" means a system in which votes are recorded on a paper ballot or ballot cards by means of marking or punching, and such votes are subsequently counted and tabulated by automatic tabulating equipment at one or more counting centers.

(h) "Voting device" means an apparatus which the voter uses to record his votes by marking or punching a hole in a paper ballot or tabulating card, which votes are subsequently counted by electronic tabulating equipment.

**§ 23-15-463. Authority to purchase or rent electronic voting system and to change boundaries of precinct within which system is used; applicable law; absentee ballots.**

The board of supervisors of any county in the State of Mississippi and the governing authorities of any municipality in the State of Mississippi are hereby authorized and empowered, in their discretion, to purchase or rent voting devices and automatic tabulating equipment used in an electronic voting system which meets the requirements of Section 23-15-465, and may use such system in all or a part of the precincts within its boundaries, or in combination with paper ballots in any election or primary. It may enlarge, consolidate or alter the boundaries of precincts where an electronic voting system is used. The provisions of Sections 23-15-461 through 23-15-485 shall be controlling with respect to elections where an electronic voting system is used, and shall be liberally construed so as to carry out the purpose of this chapter. The provisions of the election law relating to the conduct of elections with paper ballots, insofar as they are applicable and not inconsistent with the efficient conduct of elections with electronic

voting systems, shall apply. Absentee ballots shall be voted as now provided by law.

**§ 23-15-465. Construction of electronic voting system.**

No electronic voting system, consisting of a marking or voting device in combination with automatic tabulating equipment, shall be acquired or used in accordance with Sections 23-15-461 through 23-15-485 unless it shall:

- (a) Provide for voting in secrecy when used with voting booths;
- (b) Permit each voter to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote; to vote for as many persons for an office as he is entitled to vote for; to vote for or against any question upon which he is entitled to vote; and the automatic tabulating equipment shall reject choices recorded on his ballot card or paper ballot if the number of choices exceeds the number which he is entitled to vote for the office or on the measure;
- (c) Permit each voter, at presidential elections, by one (1) mark or punch to vote for the candidates of that party for President, Vice President, and their presidential electors, or to vote individually for the electors of his choice when permitted by law;
- (d) Permit each voter, at other than primary elections, to vote for the nominees of one or more parties and for independent nominees;
- (e) Permit each voter to vote for candidates only in the primary in which he is qualified to vote;
- (f) Permit each voter to vote for persons whose names are not on the printed ballot or ballot labels;
- (g) Prevent the voter from voting for the same person more than once for the same office;
- (h) Be suitably designed for the purpose used, of durable construction, and may be used safely, efficiently and accurately in the conduct of elections and counting ballots;
- (i) Be provided with means for sealing the voting or marking device against any further voting after the close of the polls and the last voter has voted;
- (j) When properly operated, record correctly and count accurately every vote cast;

~~(k) Be provided with a mechanical model for instructing voters, and be so constructed that a voter may readily learn the method of operating it;~~

~~(l) Be safely transportable, and include a light to enable voters to read the ballot labels and instructions.~~

**~~§ 23-15-467. Use of voting equipment.~~**

~~Whenever the board of supervisors of any county or the governing authorities of any municipality shall purchase or rent voting equipment that meets the requirements of this chapter, such voting equipment may be used at all elections held in such county or municipality, or in any part thereof, for voting, registering, or counting votes cast at such elections as provided by Section 23-15-405 with respect to voting machines.~~

**~~§ 23-15-469. Form of ballots and ballot labels; posting of sample ballots and instructions; write-in ballots.~~**

~~Ballots and ballot labels shall, as far as practicable, be in the same order of arrangement as provided for paper ballots, except that such information may be printed in vertical or horizontal rows, or in a number of separate pages which are placed on the voting device. Ballot labels shall be printed in plain clear type in black ink and upon clear white materials of such size and arrangement as to fit the construction of the voting device. Arrows may be printed on the ballot labels to indicate the place to punch the ballot card, which may be to the right or left of the names of candidates and propositions. The titles of offices may be arranged in vertical columns or on a series of separate pages, and shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected. In case there are more candidates for an office than can be printed in one (1) column or on one (1) ballot page, the ballot or ballot label shall be clearly marked that the list of candidates is continued on the following column or page, and, so far as possible, the same number of names shall be printed on each column or page. The names of candidates for each office shall be printed in vertical columns or on separate pages, grouped by the offices which they seek. In partisan elections, the party designation of each candidate, which may be abbreviated, shall be printed following his name.~~

~~Two (2) sample ballots, which shall be facsimile copies of the official ballot or ballot labels, and instructions to voters, shall be provided for each precinct and shall be posted in each polling place on election day.~~

Sample ballots may be printed on a single page or on a number of pages stapled together. A separate write-in ballot, which may be in the form of a paper ballot, card or envelope in which the voter places his ballot card after voting, shall be provided if required to permit voters to write in the title of the office and the name of a person not on the printed ballot for whom he wishes to vote.

**§ 23-15-471. Preparation and delivery of necessary forms and supplies.**

The official ballots, ballot labels, ballot cards, sample ballots and other necessary forms and supplies of the form 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 officials, in the same manner and time, and delivered to the same officials as provided by law with respect to paper ballots. If ballot cards are used, each card shall have a serially numbered stub which shall be removed in the presence of an election officer by the voter before being deposited in the ballot box.

**§ 23-15-473. Storage, maintenance and repair of voting devices; use of unofficial ballots when device malfunctions.**

The circuit court clerk shall be the custodian of voting devices acquired by a county, who shall be charged with the proper storage, maintenance and repair of voting devices, and the preparation of them for voting prior to elections. After they have been prepared for an election and at least three (3) days prior thereto, the voting devices shall be available for public inspection at a time and place designated by the custodian. Thereafter they shall be locked or sealed before delivery to the managers of the election. The custodian shall immediately repair, replace or remove any voting device which fails to function properly on election day. The clerk of any municipality which acquires voting devices shall be the custodian of such voting devices and perform the same functions.

If a voting device at a polling place malfunctions and cannot be repaired or replaced quickly and there is no other device in the polling place that can be used to perform the function of the device that malfunctions, unofficial ballots made as nearly as possible in the form of the official ballot may be used until the voting device is repaired or replaced. Such ballots shall be received by the managers and placed by them in a receptacle in such case to be provided by the managers, and counted with the votes registered on the voting device; and the result shall be declared the same as though there had been no accident to the voting device; the ballots thus voted shall be

preserved and returned as herein directed, with a certificate or statement setting forth how and why the same were voted.

**~~§ 23-15-475. Instruction of polling officers; public display of voting devices.~~**

~~Prior to each election, the officials in charge of the election shall provide for the instruction of the polling officers in their duties as provided in Section 23-15-417 with respect to voting machines, and shall place voting devices on public display at such times and places as they may determine for the education of voters in their use.~~

**~~§ 23-15-477. Opening and closing polls; instructing voters; spoiled ballots.~~**

~~Not less than thirty (30) minutes before the opening of the polls, the voting precinct election officers shall arrive at the polling place and set up the voting booths so that they will be in clear view of the election officers; open the voting devices, place them in the voting booths, and examine them to see that they have the correct ballot labels by comparing them with the sample ballots, and are in proper working order; and open and check the ballots, ballot cards, supplies, records and forms, and post the sample ballots and instructions to voters. Each voter shall be instructed how to operate the voting device before he enters the voting booth. If he needs additional instruction after entering the voting booth, two (2) election officers may, if necessary, enter the booth and give him such additional instructions. Any voter who spoils his ballot or ballot card may return it and secure another. The word "SPOILED" shall be written across the face of the ballot and it shall be placed in the envelope for spoiled ballots. If ballot cards are used, the voter, after he has marked his ballot card, shall remove the stub in the presence of the election officer, and deposit the ballot card inside the ballot box. No ballot from which the stub has been detached without the presence of the election officer shall be accepted by the judge in charge of the ballot box, but it shall be marked "SPOILED" and placed with the spoiled ballots. As soon as the polls have been closed and the last qualified voter has voted, the voting devices shall be sealed against further voting. All unused ballots or ballot cards shall be placed in a container which shall be sealed and returned to the officials in charge of the election.~~

**~~§ 23-15-479. Report of voters; sealing and delivery of ballot box; return of records and supplies.~~**

~~The managers shall prepare a report in duplicate of the number of voters who have voted, as indicated by the poll list, and shall place this report in the ballot box, which thereupon shall be~~

sealed with a paper seal signed by the managers so that no additional ballots may be deposited or removed from the ballot box. Two (2) managers shall forthwith deliver the ballot box to the counting center or other designated place and receive a signed, numbered receipt therefor. The poll list, register of voters, unused ballots and ballot cards, spoiled ballots, and other records and supplies, shall be returned as directed by the officials in charge of the election.

**§ 23-15-481. Testing of tabulating equipment.**

Prior to the start of the count of the ballots, the commissioners of elections, in conjunction with the circuit clerks or officials in charge of the election shall have the automatic tabulating equipment tested to ascertain that it will accurately count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least forty-eight (48) hours prior thereto by publication once in one or more daily or weekly newspapers published in the county, city or jurisdiction where such equipment is used, if a newspaper is published therein; otherwise in a newspaper of general circulation therein. The test shall be witnessed by representatives of the political parties, candidates, the press and the public. It shall be conducted by processing a pre-audited group of ballots so punched or marked as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made and certified to by the officials in charge before the count is started. The tabulating equipment shall pass the same test at the conclusion of the count before the election returns are approved as official. On completion of the count, the programs, test materials and ballots shall be sealed and retained as provided for paper ballots.

**§ 23-15-483. Counting vote.**

(1) All proceedings at the counting center shall be under the direction of the commissioners of elections or officials in charge of the election, and shall be conducted under the observation of the public, but no persons except those authorized for the purpose shall touch any ballot or ballot card or return. All persons who are engaged in processing and counting of the ballots shall be deputized in writing and take an oath that they will faithfully perform their assigned duties. Persons assigned to operate the automatic tabulating equipment shall submit evidence satisfactory to the commissioners of elections or officials in charge of the elections of their qualifications to operate said equipment.

(2) The commissioners of elections or the officials in charge of the election shall appoint

~~qualified electors of the county to serve as judges on a resolution board in the manner provided in Section 23-15-523 to review all ballots that have been rejected by the electronic voting system tabulating equipment and are damaged or defective. An odd number of members shall be appointed to the resolution board.~~

~~(3)(a) If any ballot is damaged or defective so that it cannot be properly counted by the automatic tabulating equipment, the ballot shall be deposited in an envelope provided for that purpose marked "RESOLUTION BOARD." All such ballots shall be carefully handled so as to avoid disturbing any chad or mark on the ballot.~~

~~(b) The commissioners of election or officials in charge of the election shall direct the judges or the resolution board to manually count any damaged or defective ballots, who shall determine the intent of the voter and record the vote consistent with this determination.~~

~~(c) As an alternative to the procedure provided for in paragraph (b) of this subsection, the resolution board may be instructed by the officials in charge of the election to prepare a duplicate to the damaged or defective ballot in the following manner:~~

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

~~(ii) The resolution board shall mark the first original they examine as "Original #1" and the duplicate of this original as "Duplicate #1." Subsequent originals and duplicates shall be likewise marked and numbered consecutively so the duplicate of each original can be identified. Duplicate ballots may be printed in a different color from the original ballots so that they may be easily distinguished for the originals.~~

~~(iii) The duplicate ballots prepared pursuant to this paragraph shall be counted by the electronic tabulating equipment.~~

~~(4) If the resolution board is directed to manually count damaged or defective ballots, the board shall examine each damaged or defective ballot and determine the intent of the voter. A vote on a ballot in which a hole is punched by the voter to indicate a vote shall not be counted unless:~~

~~(a) At least two (2) corners of the chad are detached; (b) Light is visible through the hole; (c) An indentation on the chad from the stylus or other object is clearly present and indicates a clearly ascertainable intent of the voter to vote; or (d) The chad reflects by other means a clearly ascertainable intent of the voter to vote based on the totality of the ballot.~~

~~(5) All ballots that are rejected by the automatic tabulating equipment and which contain overvotes shall be inspected by the resolution board. In cases in which a ballot appearing to contain overvotes is reviewed by the resolution board, the board shall apply the following standards in determining the intent of the voter:~~

~~(a) When an elector casts more votes for any office or measure than the voter is entitled to cast, all the elector's votes for that office or measure are invalid and the voter shall be deemed to have voted for none of them.~~

~~(b) In an election for President of the United States, if the voter votes for both the candidates for president and vice president of the United States from the same party ticket or independent candidate choices, if such option is available to the voter due to the design of the electronic voting system ballot, then the vote is counted as a single vote for the joint candidates for president and vice president.~~

~~(6) Subsections (2) and (3) of this section shall not supercede any clearly ascertainable intent of the voter.~~

~~(7) If for any reason it becomes impractical to count all or a part of the ballots with the automatic tabulating equipment, the officials in charge of the election may direct that the ballots be counted manually and voter intent shall be determined by following the provisions of subsections (2), (3) and (4) of this section in cases of overvoted ballots or those appearing to be blank.~~

~~(8) The return printed by the automatic tabulating equipment, to which have been added the ballots that have been manually counted and which has been duly certified by the officials in charge of the election, shall constitute the official return of each voting precinct or supervisors district. Unofficial and incomplete returns may be released during the count. Upon completion of the count, the official returns shall be open to the public.~~

~~(9) Automatic tabulating equipment shall be programmed, calibrated, adjusted and set up to reject ballot cards that appear to be damaged or defective. Any switch, lever or feature on automatic tabulating equipment that enables or permits the automatic tabulating equipment to override the rejection of damaged or defective ballot cards so that such cards will not be reviewed by the resolution board shall not be utilized.~~

~~(10) Ballots shall be manually counted by the resolution board only when the ballots are:~~

~~(a) Properly before the resolution board due to being rejected by the automatic tabulating equipment because the ballots appear to be damaged or defective or are rejected by the automatic tabulating equipment for any other reason; or~~

~~(b) Properly before the resolution board due to a malfunction in the automatic tabulating equipment.~~

~~(11) The resolution board shall make and keep a record regarding the handling and counting of all ballots inspected under this section.~~

~~§ 23-15-485. Authority of Secretary of State and commissioners of elections:~~

~~The Secretary of State shall have the power to issue supplementary instructions and procedures for the safe and efficient use of electronic voting systems and to carry out the purpose of this chapter. Subject to such instructions and procedures and the provisions of this chapter, the commissioners of elections shall have the power to make all necessary and desirable provisions for the conduct of elections with approved electronic voting systems.~~

~~*PART 2. TRAINING ON USE OF ELECTRONIC VOTING EQUIPMENT*~~

~~§ 23-15-491. Repealed.~~

SUBARTICLE B. D. OPTICAL MARK READING EQUIPMENT

~~§ 23-15-501. Sections supplemental to law now in effect.~~

~~Sections 23-15-501 through 23-15-525 are supplemental and in addition to the election laws of the State of Mississippi as now in effect or as may be amended.~~

~~§ 23-15-503. Definitions.~~

As used in this subarticle, unless otherwise specified:

(a) "Optical Mark Reading (OMR)" means optical mark reading is a method of capturing data electronically into a computer system.

(b) "Optical mMark #Reading eEquipment (OMR)" reads pen or pencil marks made in

~~pre-defined positions on paper ballots means any apparatus necessary~~ to automatically examine and count votes ~~as designated on paper ballots.~~

(c) "Counting center" means one or more locations used for the automatic counting of ballots.

~~(d) "Electronic voting systems" means a system in which votes are recorded on a paper ballot by means of marking, and such votes are subsequently counted and tabulated by optical mark reading equipment at one or more counting centers.~~

~~(e) "Marking device" means a pen or pencil used by which the voters to mark their paper ballots, readable by the OMR Equipment, use to record their votes by marking a paper ballot.~~

~~(f) "Ballot" means a paper ballot on which votes are recorded by means of marking the ballot with a marking device.~~

**§ 23-15-505. Authority to purchase or rent optical mark reading equipment; applicable law.**

The board of supervisors of any county ~~in the State of Mississippi~~ and the governing authorities of any municipality ~~in the State of Mississippi~~ are hereby authorized and empowered, in their discretion, to purchase or rent optical mark reading equipment ~~used in an electronic voting system~~ which meets the requirements of Section 23-15-507 and may use such system in all or a part of the precincts within its boundaries. ~~It may enlarge, consolidate or alter the boundaries of precincts where an electronic voting system is used.~~ The provisions of this chapter shall be controlling with respect to elections ~~in which~~ ~~where any~~ OMR Equipment system is used, and shall be liberally construed so as to carry out the purpose of this chapter. The provisions of the election law relating to the conduct of elections with paper ballots, ~~that are to be manually tabulated~~, insofar as they are applicable ~~and not in conflict with the efficient conduct of the systems~~, shall apply.

**§ 23-15-507. Construction of optical mark reading equipment system.**

No optical mark reading equipment system shall be acquired or used in accordance with this chapter unless it shall:

(a) Permit each eligible voter to cast a ballot in each election ~~vote at any election~~ for all persons ~~and no others~~ for whom ~~and for which~~ they are lawfully entitled to vote; to vote for as many persons for an office as they are lawfully entitled to vote ~~for~~; and to vote for or against any ballot initiative, measure or other local issue questions upon which they are lawfully entitled to vote;

(b) The OMR tabulating equipment shall be capable of rejecting choices ~~marked recorded~~ on the ballot if the number of choices exceeds the number which the voter is entitled to vote for the office or on the measure;

(c) Permit each voter, ~~at in~~ presidential elections, by one (1) mark to vote for the candidates of ~~one that~~ party for President, Vice-President, and their presidential electors, or to vote individually for the electors of their choice when permitted by law;

(d) Permit each voter, ~~at in~~ other than primary elections, to vote for the nominees of one or more parties and for independent ~~candidates nominees~~;

~~(e) Permit each voter to vote for candidates only in the primary in which they are qualified to vote;~~

(f) Permit each voter to vote for persons whose names are not on the printed ballot;

(g) Be suitably designed for the purpose used, of durable construction, and may be used safely, efficiently and accurately in the conduct of elections and the counting of ballots;

(h) Be provided with means for sealing the ballots after the close of the polls ~~and the last voter has voted~~;

(i) When properly operated, record correctly and count accurately all votes cast; and

(j) Provide the voter with a set of instructions ~~that will be so~~ displayed ~~so the that~~ a voter may readily learn the method of voting.

~~§ 23-15-509. Use of optical mark reading system.~~

~~Whenever the board of supervisors of any county or the governing authorities of any municipalities shall purchase or rent any OMR voting system that meets the requirements of this article, such system may be used at all elections held in such county or municipality, or in any part thereof, for voting, registering or counting votes cast at such elections as provided by Section 23-15-405 with respect to voting machines.~~

Comment [KT1]: Redundant of 23-15-391.

**§ 23-15-511. Form of ballots; posting of sample ballots; ballot security envelopes.**

The ballots shall, as far as practicable, ~~to~~ be in the same order of arrangement as provided for paper ballots that are to be counted manually, except that such information may be printed in vertical or horizontal rows. Nothing in this chapter shall be construed as prohibiting the information being presented to the voters from being printed on both sides of a single ballot. In those years when a special election shall occur on the same day as the general election, the names of candidates in any special election and the general election shall be placed on the same ballot by the commissioners of elections or officials in charge of the election, but the general election candidates shall be clearly distinguished from the special election candidates. At any time a special election is held on the same day as a party primary election, the names of the candidates in the special election may be placed on the same ballot by the officials in charge of the election, but the party primary candidates shall be clearly distinguished from the ~~as~~ special election candidates ~~or primary election candidates~~.

Ballots shall be printed in plain clear type in black ink and upon clear white materials of such size and arrangement as to be compatible with the OMR tabulating equipment. ~~Absentee ballots shall be prepared and printed in the same form and shall be on the same size and texture as the regular official ballots, except that they shall be printed on tinted paper; or the ink used to print the ballots shall be of a color different from that of the ink used to print the regular official ballots.~~ Arrows may be printed on the ballot to indicate the place to mark the ballot, which may be to the right or left of the names of candidates, initiative measures, referenda or other local option elections and propositions. The titles of offices may be arranged in vertical columns on the ballot and shall be printed above or at the side of the names of candidates so as to indicate clearly the candidates for each office and the number to be elected. In case there are more candidates for an office than can be printed in one (1) column, the ballot shall be clearly marked that the list of candidates is continued on the following column. The names of candidates for each office shall be printed in vertical columns, grouped by ~~the offices which they seek~~. In partisan elections, the party designation of each candidate, which may be abbreviated, shall be printed following his name.

~~Two (2)~~ A sample ballots, which shall be a facsimile ~~ballots~~ of the official ballot, and instructions to the voters, shall be provided for each precinct and shall be posted in each polling place on election day.

A separate ballot security envelope or suitable equivalent in which the voter can place his ballot after voting, shall be provided to conceal the choices the voter has made. ~~Absentee voters will receive a similar ballot security envelope provided by the county in which the absentee voter will~~

~~insert their voted ballot, which then can be inserted into a return envelope to be mailed back to the election official. Absentee ballots will not be required to be folded when a ballot security envelope is provided.~~

**§ 23-15-513. Preparation and delivery of necessary forms and supplies; minimum number of ballots to be printed.**

(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 election, the number of official ballots that shall be printed by each respective executive committee shall be not less than one hundred twenty-five percent (125%) of the highest number of votes cast in a comparable primary election conducted by the same political party in the preceding ten (10) years.~~

~~(23) 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 ~~sixty seventy-five~~ percent (75% ~~60%~~) of the registered voters eligible to vote in the election.~~

**§ 23-15-515. Storage, maintenance, repair and preparation of equipment.**

The circuit ~~court~~ clerk shall be the custodian of OMR ~~tabulating~~ equipment acquired by the county, who shall be charged with the proper storage, maintenance and repair of the OMR equipment, ~~and preparation of them for tabulating prior to elections. The municipal clerk shall be the custodian of OMR tabulating equipment acquired by the ~~of any~~ municipality, who shall be charged with the proper storage, maintenance and repair of the OMR equipment, which acquires OMR tabulating equipment shall be the custodian of such equipment and perform the same functions.~~

The custodian ~~or the officials in charge of the election~~ shall ~~cause the repair of, or replace,~~ any ~~tabulating OMR~~ equipment which fails to function properly on election day. ~~The clerk of any municipality which acquires OMR tabulating equipment shall be the custodian of such equipment and perform the same functions.~~

**§ 23-15-517. Opening and closing polls; instructing voters; spoiled ballots.**

At least an hour thirty (30) minutes before the opening of the polls, the officials in charge of the election ~~voting precinct election officers~~ shall arrive at the polling place and set up the voting booths so ~~that~~ they will be in clear view of the poll managers ~~election officers~~; the poll managers ~~voting precinct election officers~~ shall examine the ballots to verify ~~that~~ they have the correct ballots for their precinct and check the supplies, records and forms, and post the sample ballots and instructions to the voters. They shall also inspect the ballot boxes to insure they contain only voted absentee ballots in their envelopes with respective applications. ~~are empty~~, and then seal the box for voting.

Each voter shall receive written and/or verbal instructions by the poll managers ~~voting precinct election official~~ instructing the voter how to properly vote the paper ballot before ~~they~~ he enters the voting booth. If any voter needs additional instructions after entering the voting booth, two (2) poll managers ~~election officers~~ may, if necessary, enter the booth and give him such additional instructions. If any voter spoils a ballot he may obtain others, one (1) at a time, not exceeding three (3) in all, upon returning each spoiled ballot. The word "SPOILED" shall be written across the face of the ballot and it shall be deposited into the sealed ballot box. ~~and it shall be placed in the envelope for spoiled ballots.~~ When As soon as the polls have been closed upon the casting of the last ballot or 7:00 p.m., whichever is later. ~~and the last qualified voter has voted;~~ and the poll managers break the seal on the ballot box to begin processing absentee ballots. ~~ballots marked as spoiled shall be bundled together and placed in an envelope for spoiled ballots.~~ the ballots shall be sealed against further voting. Upon the completion of all closing procedures. ~~the envelope containing all spoiled ballots.~~ together with all ~~a~~ All unused ballots, shall be placed in the ballot box or such other ~~a~~ container provided for that purpose ~~which~~ shall be sealed and returned to the officials in charge of the election.

**§ 23-15-519. Report of voters; delivery of ballot box; return of records and supplies.**

The managers shall prepare a ballot accounting report ~~in duplicate of to document~~ the number of voters who have voted, as indicated by the receipt book, poll list, and the number of ballots used in the election. ~~and shall place~~ This report shall be placed in the ballot box, together with the receipt books, absentee ballots, affidavit ballots, challenged ballots, curbside ballots, emergency ballots, spoiled ballots, and unused balloted, which thereupon shall be sealed with a tamper-proof paper seal ~~signed by the managers~~ so that no additional ballots may be deposited or removed from the ballot box. The receiving and returning manager ~~or other person who acts as returning officer~~ shall forthwith deliver the ballot box to the counting center or other designated place and receive a signed, numbered receipt therefor. The poll books, list, register of voters, unused ballots, spoiled ballots, and other records and supplies, shall be returned as directed by the officials in charge of the election.

**§ 23-15-521. Testing of tabulating equipment.**

Prior to the start of the count of the ballots, the commissioners of elections or their designee(s) or officials in charge of the election shall have the OMR ~~tabulating~~ equipment tested to ascertain ~~that~~ it will accurately count the votes cast for all offices and on all measures. Representatives of the political parties, candidates, the press and the general public may witness the test conducted on the OMR ~~tabulating~~ equipment. The test shall be conducted by processing a preaudited group of ballots so marked as to record a predetermined number of valid votes for each candidate and on each measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the OMR ~~tabulating~~ equipment to reject such votes. If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made and certified to by the commissioners of election or their designee(s) officials in charge before the count is started. On completion of the count, the programs, test materials and ballots shall be sealed and retained as provided for paper ballots.

**§ 23-15-523. Counting vote.**

(1) All proceedings at the counting center shall be under the direction of the commissioners of elections or officials in charge of the election, and shall be conducted under the observations of the public, but no persons except those authorized for the purpose shall touch any ballot. All persons who are engaged in processing and counting of the ballots shall be deputized in writing and have taken the oath provided in Section 268, Mississippi Constitution of 1890 that they will faithfully perform their assigned duties.

(2) The commissioners of elections 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 judges-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 tabulating equipment and that are damaged or defective, blank or overvoted will be reviewed by said board. The officials in charge of the Commissioners of election, candidates who are on the ballot at the election and the spouse, parents, siblings or children of such a candidate(s) shall not be appointed to the resolution board. In general and special elections, if the election is not a primary election, 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.

(3)(a) If any ballot is damaged or defective so that it cannot be properly counted by the OMR tabulating equipment, the ballot will be deposited in an envelope provided for that purpose

marked "RESOLUTION BOARD." All such ballots shall be carefully handled so as to avoid altering, removing or adding any mark on the ballot.

(b) The commissioners of election or the officials in charge of the election shall have the judges on the resolution board ascertain the intent of the voter, if possible, and, if so, manually count any damaged or defective ballots, who shall determine the intent of the voter and record the vote consistent with this determination.

(c) As an alternative to the procedure provided for in paragraph (b) of this subsection, the resolution board may be instructed by the officials in charge of the election to shall prepare a duplicate to the damaged or defective ballot in the following manner:

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

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

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

(4) Ballots that have been rejected by the OMR tabulating equipment for appearing to be "blank" shall be examined by the resolution board to verify if they are blank or were marked with a "nondetectable" marking device. If it is determined ~~that~~ the ballot was marked with a nondetectable device, the resolution board shall prepare a duplicate to the original blank ballot in the same manner and in accordance with the same process set forth above at paragraph 3(c), may mark over the voter's mark with a detectable marking device.

(5) All ballots ~~that are~~ rejected by the OMR tabulating equipment and which contain overvotes shall be inspected by the resolution board. Regarding those ballots upon which an overvote appears and voter intent cannot be determined by ~~inspection of~~ the resolution board, the officials in charge of the election may use the OMR tabulating equipment in determining the vote in the races which are unaffected by the overvote. All other ballots which are overvoted shall be counted manually following the provisions of this section at the direction of the officials in charge of the election. If for any reason it becomes impracticable to count all or a part of the

~~ballots with the OMR tabulating equipment, the officials in charge may direct that they be counted manually, and voter intent shall be determined by following the provisions of this section.~~ The return printed by the OMR tabulating equipment to which have been added the manually tallied ballots, which shall be duly certified by the officials in charge of the election, shall constitute the official return of each voting precinct. Unofficial and incomplete returns may be released during the count. Upon the completion of the counting, the official returns shall be open to the public.

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

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

(b) The voter blackens the arrow, oval, circle or square adjacent to the ballot measure or the name of the candidate in pencil or ink and the blackened portion extends beyond the boundaries of the arrow, oval, circle or square.

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

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

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

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

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

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

(a) When an elector casts more votes for any office or measure than he or she is entitled to cast at an election, all the elector's votes for that office or measure are invalid and the elector is deemed to have voted for none ~~of them except as provided in paragraph (b) of this subsection~~. If an elector casts less votes for any office or measure than he or she is entitled to cast at an election, all votes cast by the elector shall be counted but no vote shall be counted more than once.

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

(c) When permitted by applicable law, nNo write-in vote for a candidate whose name is printed on the ballot shall be regarded as defective-invalid due to misspelling a write-in candidate's name, or by abbreviation, addition or omission or use of a wrong initial in the name, as long as the intent of the voter can be ascertained.

(d) In any case where a voter writes in the name of a candidate for President of the United States whose name is printed on the general election ballot, the failure by the voter to write in the name of a candidate for the Office of Vice President of the United States on the general election ballot does not invalidate the elector's vote for the slate of electors for any candidate whose name is written in for the Office of President of the United States.

(e) For any ballot measure in which the words "for" or "against" are printed on a ballot, if the voter shall write the word "for" or the word "against" instead of or in addition to marking the ballot in accordance with the ballot instruction in the space adjacent to the preprinted words "for" or "against," the resolution board shall, in reviewing such ballot, count the vote in accordance with the voter's handwritten preference, unless the voter marks the ballot in the space adjacent to the preprinted words "for" or "against" contrary to the handwritten preference, in which case no vote shall be recorded for such ballot in regard to the ballot measure.

(f) For any ballot measure in which the words "yes" or "no" are printed on a ballot, if the voter shall write the word "yes" or the word "no" instead of or in addition to marking the ballot in accordance with the ballot instructions in the space adjacent to the preprinted words "yes" or "no," the resolution board shall, in reviewing such ballot, count the vote in accordance with the voter's handwritten preference, unless the voter marks the ballot in the space adjacent to the preprinted words "yes" or "no" contrary to the handwritten preference, in which case no vote shall be recorded for such ballot in regard to the ballot measure.

(8) OMR tabulating equipment shall be programmed, calibrated, adjusted and set up to reject

ballots ~~cards that~~ appearing to be damaged or defective. Any switch, lever or feature on OMR tabulating equipment that enables or permits the OMR tabulating equipment to override the rejection of damaged or defective ballot ~~cards~~ so that such ~~cards~~ ballots will not be reviewed by the resolution board, shall not be utilized.

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

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

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

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

(11) The executive committee of each county or municipality, in the case of a primary election, or the commissioners of election of each county or municipality, in the case of all other elections, in conjunction with the circuit or municipal clerk respectively, shall sponsor and conduct, a training session for up to two (2) hours, not less than five (5) days prior to each election, to instruct those Qqualified electors who are appointed to serve as members of the resolution board as to their specific duties in the election. No member appointed to serve on the resolution board shall serve in any election unless he has received such instruction once during the twelve (12) months immediately preceding the date upon which such election is held. Online training courses developed by the Secretary of State, though not sponsored or conducted by the executive committee or the commissioners of election, may be utilized to meet the requirements of this paragraph. shall be required to have the training required for election managers pursuant to Section 23-15-239.

**§ 23-15-525. Authority of Secretary of State and commissioners of elections.**

The Secretary of State shall have the power to issue supplementary instructions and procedures for the safe and efficient use of OMR ~~tabulating~~ equipment within the State of Mississippi and to carry out the purpose of this chapter. Subject to such instructions and procedures of the Secretary of State and the provisions of this chapter, the commissioners of elections shall have the power to make ~~all additional necessary and desirable~~ provisions for the conduct of elections with the OMR equipment. approved electronic voting systems.

SUBARTICLE ~~EC~~. DIRECT RECORDING ELECTRONIC VOTING EQUIPMENT (DRE)

§ 23-15-531. Definitions.

As used in this subarticle:

- (a) ~~"DRE" means direct recording electronic voting equipment.~~
- (b) "Direct recording electronic voting equipment (DRE)" means a computer driven unit for casting and counting votes on which an elector touches a video screen or a button adjacent to a video screen to cast his or her vote.

23-15-531.05 Authority to purchase or rent direct recording electronic voting equipment

The board of supervisors of each county and the governing authorities of each municipality are hereby authorized and empowered, in their discretion, to purchase or rent direct recording electronic voting equipment which meets the requirements of Section 23-15-531.1 and may use such system in all or a part of the precincts within its boundaries. The provisions of this chapter shall be controlling with respect to elections in which a DRE system is used, and shall be liberally construed so as to carry out the purpose of this chapter. The provisions of the election law relating to the conduct of elections with paper ballots, insofar as they are applicable, shall apply.

§ 23-15-531.1. Minimum requirements DRE systems must meet to be used in elections.

No DRE system shall be acquired or used in accordance with this chapter unless it shall: Each DRE unit shall:

- (a) Permit the voter to verify, in a private and independent manner, the votes selected by the voter on the ballot before the ballot is cast and counted;
- (b) Provide the voter with the opportunity, in a private and independent manner, to change the ballot or correct any error before the ballot is cast and counted, including, but not limited to, the opportunity to correct the error through the issuance of a replacement ballot if the voter is otherwise unable to change the ballot or correct any error;
- (c) If the voter chooses ~~selects votes for~~ more candidates for a single office than are eligible for election:

(i) Notify the voter ~~that~~ he has selected more candidates for that office than are eligible for election;

(ii) Notify the voter before his vote is cast and counted of the effect of casting multiple votes for such an office; and

(iii) Provide the voter with the opportunity to correct the ballot before the ballot is cast and counted;

(d) Produce a permanent paper record with a manual audit ~~capability~~~~capacity which shall be available for any recount conducted with respect to the election in which the DRE unit is used;~~

(e) Have the capability to print the ballots cast by electors ~~to be utilized in the event of a recount conducted with respect to the election in which the DRE is used;~~

(f) Be accessible for individuals with disabilities, including, but not limited to, nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation, including privacy and independence, as for other voters. This requirement may be satisfied through the use of at least one (1) DRE unit or other voting unit equipped for individuals with disabilities at each polling place;

(g) Provide alternative language accessibility pursuant to the requirements of the Voting Rights Act of 1965; and

(h) Have a residual vote rate in counting ballots attributable to the voting system and not to voter error that complies with error rate standards established under the voting system standards issued by the Federal Election Commission ~~which were~~ in effect as of October 29, 2002.

**§ 23-15-531.2. Manner in which DREs must be arranged at polling places.**

DREs shall be arranged in the polling place in such a manner as to: (a) ensure the privacy of the elector while voting on such units; (b) allow monitoring of the units by the poll managers while the polls are open; and (c) permit the public and authorized poll watchers to observe voting without affecting the privacy of the electors.

**§ 23-15-531.3. Form of ballot; requirements where color display is used.**

(1) The ballots for DREs shall be of such size and arrangement as will suit the construction of the DRE screen and shall be in plain, clear type that is easily readable by persons with normal vision.

(2)(a) If the equipment has the capacity for color display, the names of all candidates in a particular race shall be displayed in the same color, font and size, and the political party or affiliation of candidates may be displayed in a color different from that used to display the names of the candidates, but all political party or affiliations shall be displayed in the same color. All political party names shall be displayed in the same size and font.

(b) All ballot questions, local options, referenda and constitutional amendments shall be displayed in the same color.

**~~§ 23-15-531.4. Duties of official in charge of election in regard to use of DREs; circuit clerk to be custodian of DRE units; testing of DRE units prior to election~~ Storage, maintenance, and repair of DRE units.**

~~(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, who shall be charged with the proper storage, maintenance and repair of the DRE voting equipment. The municipal clerk shall be the custodian of the DRE voting equipment acquired by the municipality, who shall be charged with the proper storage, maintenance and repair of the DRE voting equipment.~~

~~The custodian shall provide compensation for the safe storage and care of the DRE units and related equipment if the same are stored and secured by a person or entity other than the circuit or municipal clerk.~~

~~(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.~~

**§ 23-15-531.5. Arrangement of offices, names of candidates and questions on DRE ballots; ~~write-in ballots.~~**

(1) The arrangement of offices, names of candidates and ballot questions upon the DRE ballots shall conform as nearly as practicable to the arrangement of offices, names of candidates and ballot questions on paper ballots.

(2) The officials in charge of the election of each county or municipality shall cause the creation of the database for each DRE unit which is to be used in any precinct within the county or municipality.

~~(2) A separate write-in ballot, which may be in the form of a paper ballot, card or envelope in which the voter places his ballot card after voting, shall be provided if required to permit voters to write in the title of the office and the name of the person not on the printed ballot for whom he wishes to vote. The design of the write-in ballot shall permit the officials in charge of the election and poll workers when obtaining the vote count from such systems to determine readily whether an elector has cast any write-in vote not authorized by law.~~

**§ 23-15-531.6. Minimum number of machines to be used; officials to ensure delivery of proper DRE units to polling places at least one hour before polls open; each unit to be thoroughly tested, inspected and sealed prior to delivery to polling place; protection against molestation of or injury to DRE units; preparation of DRE units for voting.**

(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. For all other elections in which the commissioners of election choose to utilize DRE voting equipment, at least one-third (33.3%) of all DRE units available to the county or municipality, as the case may be, shall be used in such election(s).

(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)(a) On or before the second day preceding any election, except runoff elections, the commissioners of election or their designee(s) shall cause each DRE unit to be tested for logic and accuracy, to ascertain the units will correctly count the votes cast for all offices and on all questions in a manner the Secretary of State may further prescribe by rule or regulation.

(b) On or before the second day preceding any runoff election, the officials in charge of the election shall cause at least one-third (33.3%) of the number of DRE units available to the county or municipality, as the case may be, to be tested for logic and accuracy at random, to ascertain the units will correctly count the votes cast for all offices. In no event shall the officials in charge of the election test less than one (1) DRE unit per polling place. 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 testing of the DRE units.

(4) The commissioners of election or their designee(s) shall test all memory cards to be used in any election.

~~(53)~~ 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.

~~(64)~~ 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.

~~(75)~~ 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)~~one (1) sample ballots for ~~the each~~ primary or general election which shall be prominently posted outside the enclosed space within the polling place;

(c) Ensure that each DRE voting equipment and 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.

~~§ 23-15-531.7. Demonstration on use of DREs.~~

~~The officials in charge of the election shall place on public exhibition and demonstrate the use of the DRE units throughout the county or municipality during the month preceding each primary and general election. At least during the initial year in which DRE equipment is used in a county or municipality, all officials in charge of the election shall offer a series of demonstrations and organized voter education initiatives to educate electors in the use of such equipment in voting.~~

~~§ 23-15-531.8. Storage of DRE units when not in use.~~

~~(1) All DRE units and related equipment shall be properly stored and secured when not in use.~~

~~(2) The circuit clerk shall store the DRE units and related equipment under his or her supervision when it is not in use at an election. The circuit clerk shall provide compensation for the safe storage and care of such units and related equipment if the units and related equipment are stored by a person or entity other than the circuit clerk.~~

**§ 23-15-531.9. Manner in which elector to vote on DRE unit; voiding of ballots in certain instances when elector does not complete voting process.**

(1) A duly qualified elector shall cast his vote on a DRE unit by touching the screen or pressing the appropriate button on the unit for the candidate or ballot measure issue of the elector's choice. After pressing the appropriate button on the unit or location on the screen to cast the ballot, the elector's vote shall be final and shall not be subsequently altered.

(2) If an elector leaves the voting booth without having pressed the appropriate button on the unit or location on the screen to finally cast his or her ballot and cannot be located to return to the booth to complete the voting process, then a poll manager shall take the steps necessary to void the ballot that was not completed by the elector and an appropriate record shall be made of the event. or the DRE unit shall be allowed to time-out, thereby voiding the ballot.

**§ 23-15-531.10. Counting votes and determining results in elections conducted with DREs.**

(1) In elections in which DRE voting equipment is used, the ballots shall be counted at the

precinct under the direction of the officials in charge of the election. All persons who perform any duties at the precinct shall have taken the oath provided in Section 268, Mississippi Constitution of 1890 ~~be deputized by the officials in charge of the election~~ and only such persons ~~so deputized~~ shall touch any ballot, container, paper or machine utilized in the conduct of the count or ~~be permitted to be in the immediate area designed for officers deputized to conduct the count.~~

(2) All proceedings at the precincts shall be open to the view of the public, but no person except one employed and designated for the purpose by the officials in charge of the election shall touch any ballot, any DRE unit or the tabulating equipment.

(3) After the polls have closed and all voting in the precinct has ceased, the poll manager shall shut down the DRE units and extract the election results from each unit as follows:

(a) The manager shall obtain the results tape from each DRE unit and verify that the number of ballots cast as recorded on the tape matches the public count number as displayed on the DRE unit; and

~~(b) If a system is established by the Secretary of State, the poll manager shall first transmit the election results extracted from each DRE unit in each precinct via modem to the central tabulating center of the county; and~~

~~(c)~~ (e) The manager shall ~~then~~ extract the memory card, if applicable, from each DRE unit.

(4)(a) Upon completion of shutting down each DRE unit and extracting the election results, the manager shall cause to be completed and signed a ballot recap form, in sufficient counterparts, showing:

(i) The number of valid ballots;

(ii) The number of spoiled ~~and invalid~~ ballots;

(iii) The number of affidavit ballots;

(iv) The number of accepted and rejected absentee ballots;

(v) The number of challenged and rejected ballots; and

(iv) The number of unused ~~affidavit ballots and any other unused paper~~ ballots.

(b) The manager shall cause to be placed in the ballot ~~box or supply container~~ should the same be capable of being sealed and secured one (1) copy of the recap form, affidavit ballots, absentee ballots, spoiled ballots, challenged and rejected ballots and any unused, ~~defective, spoiled and invalid paper~~ ballots, ~~each enclosed in an envelope or communication pack.~~

(5) The manager shall collect and retain the zero tape and the results tape for each DRE unit and place the tapes with the memory card, if any, for each unit and enclose all such items for all of the DRE units used in the precinct in ~~one (1) envelope or communication pack~~ the memory card transport bag which shall be sealed and initialed by the manager so that it cannot be opened without breaking the seal. The memory card transport bag shall be placed in the ballot box.

(6) The receiving and returning manager shall then deliver the sealed ballot box envelope or communication pack to the tabulating center for the county or municipality or to such other place designated by the officials in charge of the election and shall receive a receipt therefor. The copies of the recap forms, unused ballots, records and other materials shall be returned to the designated location and retained as provided by law.

(7) Upon receipt of the sealed ballot box and memory card transport bag therein envelope or communication pack containing the zero tapes, results tapes and memory cards, the officials in charge of the election shall verify the signatures on the memory card transport bag envelope or communication pack. Once verified, the officials in charge of the election shall break the seal of the memory card transport bag envelope or communication pack and remove its contents. The circuit clerk (or registrar) officials in charge of the election shall then download the results stored on the memory card from each DRE unit into the election management system located at the central tabulation point of the county in order to obtain election results for certification.

**~~§ 23-15-531.11. Challenged ballots.~~**

~~In the case of challenged ballots cast on direct recording electronic voting equipment, the ballots shall be coded in such a way that the ballot of a challenged voter can be separated from other valid ballots at the time of tabulation and the challenged ballots shall be counted, challenged or rejected in accordance with the challenged ballot law.~~

**§ 23-15-531.12. Irregular paper ballots to be cast where DRE equipment becomes inoperable.**

If for any reason any direct recording electronic voting equipment shall become inoperable, the

poll managers, or the officials in charge of the election, shall direct voters to ~~go to~~ an operating ~~DRE unit terminal~~ or to cast ~~irregular ballots, if necessary, which shall be~~ emergency paper ballots. Such paper ballots shall be administered, ~~as far as is practicable,~~ in accordance with the laws concerning paper ballots.

**§ 23-15-531.13. Unlawful to tamper with or damage DRE unit or tabulating computer or attempt to prevent correct operation of any DRE prohibited; penalties.**

Any person who willfully tampers with or damages any DRE unit or tabulating computer or device to be used or being used at or in connection with any ~~primary or~~ election or who prevents or attempts to prevent the correct operation of any DRE unit or tabulating computer or device shall be guilty of a felony and, upon conviction, be punished by imprisonment for not less than three (3) years nor more than ten (10) years.

Article 17. Conduct of Election

§ 23-15-541. Hours; managers' duties; assisting disabled voters

(1) At all elections, the polls shall be opened promptly at seven o'clock in the morning and be kept open until the last qualified voter in line at the polling place at seven o'clock p.m. has cast his ballot or seven o'clock in the evening, whichever is later. ~~and no longer. One (1) hour prior to.~~ Upon the opening of the polls, and not before, the managers of the election shall designate two (2) of their number, other than the manager theretofore designated as the receiving and returning manager to receive the blank ballots, who shall thereupon be known respectively as the initialing manager and the alternate initialing manager. The alternate initialing manager, in the absence of the initialing manager, shall perform all of the duties and undertake all of the responsibilities of the initialing manager. When any person entitled to vote shall appear to vote, the managers shall locate the voter's name in the pollbook, identify the voter by requiring the voter to submit acceptable photo identification as required by Section 23-15-563, and then the voter shall sign his name in the a receipt book or booklet provided for that purpose and to be used at that election only ~~and said receipt book or booklet shall be used in lieu of the list of voters who have voted formerly made by the managers or clerks~~; whereupon and not before, the initialing manager or, in his absence, the alternate initialing manager shall endorse his initials on the back of an official blank ballot, prepared in accordance with law, and at such place on the back of the ballot that the initials may be seen after the ballot has been marked and folded, and when so endorsed he shall deliver it to the voter, which ballot the voter shall mark in the manner provided by law, which when done the voter shall deliver the ballot to the initialing manager or, in his absence, to the alternate initialing manager, in the presence of the others, and the manager shall see that the ballot so delivered bears on the back thereof the genuine initials of the initialing manager, or alternate initialing manager, and if so, but not otherwise, the ballot shall be put into the ballot box; and when so done one (1) of the managers or a duly appointed clerk shall mark the pollbook "VOTED" across from the voter's name and in the appropriate column. ~~make the proper entry on the pollbook.~~ If the voter is unable to write his name on the receipt book, a manager or clerk shall note on the back of the ballot that it was received for by his assistance.

(2)(a) A poll manager shall be authorized to allow a physically disabled person to vote curbside during the hours in which the polls are open as described in this section.

Where the managers of an election, exercising their sound discretion, determine that a physically disabled person has arrived at the polls in a motor vehicle to vote, two (2) or more managers shall carry the pollbook, the receipt book, and a ballot or voting device to the motor vehicle. ~~and~~ after determining whether the disabled person is a qualified elector as provided by law by; locating the disabled voter's name in the pollbook, the managers shall identify the disabled voter

by requiring the voter to submit acceptable photo identification as required by Section 23-15-563, and then the voter shall sign his name in the receipt book and shall allow the disabled elector to cast his or her ballot in secret. To ensure the privacy of the disabled voter, able-bodied passengers in the motor vehicle, other than the disabled voter and other disabled persons, shall be required to exit the motor vehicle until after the disabled voter has completed casting his or her ballot. After the disabled elector casts his or her ballot, the managers shall mark ~~the pollbook-~~ "voted" by the elector's name and in the appropriate column in the pollbook.

(b) If the ballot that is provided to the disabled elector is a paper ballot, the initialing manager shall initial the ballot as provided by law, and the disabled elector, after marking his or her ballot shall fold the ballot or place it in the ballot sleeve. The initialing manager or alternate initialing manager shall determine whether the initials on the ballot are genuine, and upon a determination that the initials are genuine, mark "voted" by the elector's name and in the appropriate column in the pollbook. The initialing manager or alternate initialing manager shall without delay place the ballot in the ballot box.

(c) If, while a voter is voting by curbside, there are less than three (3) managers immediately present within the polling place conducting an election ~~or a political party primary~~, all voting at the polls shall stop until the managers conducting the curbside voting ~~procedure return to the polls~~ so ~~that~~ there are at least three (3) poll managers immediately present within the polling place to conduct the election ~~or party primary~~ at all times, and until a minimum of three (3) managers are present, the remaining poll manager or managers shall ensure the security of the ballot box, the voting devices, and any ballots and election materials.

**§ 23-15-543. Receipt booklet**

The receipt booklet, mentioned in Section 23-15-541, shall not be taken out of the polling place at any time until finally ~~is~~ enclosed in the ballot box, except in case of any adjournment, when the receipt booklet shall be sealed ~~locked~~ in the ballot box. As opposed to placing signatures in a paper receipt booklet, voters' signatures may be electronically captured in the polling place and a paper version thereof generated after the close of the polling place, which shall be sealed in the ballot box.

**§ 23-15-545. Marking poll book**

At each election, at least one (1) poll ~~the managers~~ shall be charged with writing ~~cause one (1) of~~

~~the clerks to write~~ in the pollbook the word "VOTED," in the column having at its head the date of the election, opposite the name of each elector upon return of a marked paper ballot by the elector bearing the initials of the initialing or alternate initializing manager. When utilizing a DRE voting machine in the polling place, the word "VOTED" shall be marked by at least one (1) poll manager in the pollbook in the column having at its head the date of the election, opposite the name of the elector upon the presentation of a voter access card to the voter as he votes.

**§ 23-15-547. Overvotes and Undervotes ~~Ballots not counted~~**

When an elector casts more votes for an office or measure than he is entitled to cast at an election, all the elector's votes for that office or measure are invalid and the elector is deemed to have voted for none. The elector's votes cast for other office(s) or measure(s), unaffected by the overvote, shall be counted. If an elector casts less votes for an office or measure than he is entitled to cast at an election, all votes cast by the elector shall be counted but no vote shall be counted more than once.

~~If the voter marks more names than there are persons to be elected to an office, or if for any reason it be impossible to determine from the ballot the voter's choice for any office voted for, his ballot so cast shall not be counted for that office. A ballot not provided in accordance with law shall not be deposited or counted.~~

**§ 23-15-549. Assisting voters**

Any voter who affirmatively declares to the poll manager(s) of the election that he requires assistance to vote by reason of blindness, disability or inability to read or write may be given assistance by a relative within the second degree of kinship or poll worker. A second degree relative is defined as a spouse, parent, sibling, child, grandparent, grandchild, aunt, uncle, niece and nephew.

Voter assistance may not be provided by person of the voter's choice other than a candidate on the ballot, the spouse, parents, siblings or children of a candidate on the ballot, a poll watcher observing in the polling place on election day, the voter's employer, ~~or~~ agent of that employer, or officer or agent of the voter's union. No one (1) person shall be permitted to provide assistance in the marking of a voter's ballot to more than ten (10) voters in the same polling place.

**§ 23-15-551. Marking and casting; persons present**

On receiving his ballot, the voter shall forthwith go into one of the voting compartments, and shall there prepare his ballot by marking with ink or indelible pencil on the appropriate margin or place a cross (X) opposite the name of the candidate of his choice for each office ~~to be filled~~ or by ~~writing-in filling in~~ the name of ~~the a~~ candidate ~~substituted~~ in the blank space provided therefor, and marking a cross (X) opposite thereto, and likewise a cross (X) opposite the answer he desires to give in case of an election on a constitutional amendment, local option election, referenda or any other question or matter. As an alternative method, a voter may, at his option, prepare his ballot by marking with ink or indelible pencil in the appropriate margin or place a check, in the form of and similar to a "V", opposite the name of the candidate of his choice for each office ~~to be filled~~, or by ~~writing-in filling in~~ the name of ~~the a~~ candidate ~~substituted~~ in the blank space provided therefor, and marking a check, in the form of and similar to a "V", opposite thereto, and likewise a check, in the form of and similar to a "V", opposite the answer he desires to give in case of an election on a constitutional amendment, local option election, referenda or other question or matter, either of which methods of marking, whether by a cross (X) or by a check in the form of and similar to a "V", is authorized. Before leaving the voting compartment, the voter shall fold his ballot without displaying the markings thereof, but so that the words "OFFICIAL BALLOT," followed by the designation of the voting precinct and the date of the election, shall be visible to the ~~poll managers, then officers of the election. He shall then cast his ballot by deposit his ballot directly into the ballot box, handing the same to one (1) of the managers of the election for deposit in the ballot box;~~ poll managers, then officers of the election. He shall then cast his ballot by deposit his ballot directly into the ballot box, handing the same to one (1) of the managers of the election for deposit in the ballot box; ~~T~~his he shall do without undue delay, and as soon as he has voted he shall quit the ~~enclosed~~ place at once. A voter shall not be allowed to occupy a voting compartment already occupied by another voter, nor any compartment longer than ten (10) minutes, if other voters ~~are be~~ not waiting, nor longer than five (5) minutes if other voters ~~are be~~ waiting. A person shall not be allowed in the room in which the ballot boxes, compartments, tables and shelves are, except the officers of the election, and those appointed by them to assist therein, and those authorized by Section 23-15-577.

#### § 23-15-553. Removing ballots; spoiled ballots

A person shall not take or remove any ballot from the polling place before the close of the polls. If any voter spoils a ballot he may obtain others, one (1) at a time, not exceeding three (3) in all, upon returning each spoiled ballot. The word "SPOILED" shall be written across the face of the ballot and each shall be deposited into the sealed ballot box. When the polls have closed upon the casting of the last ballot or 7:00 p.m., whichever is later, and the poll managers break the seal upon the ballot box to begin closing procedures, such as the processing of absentee ballots, those ballots marked as "SPOILED" shall be bundled together and placed in a separate strong enve-

lope provided for spoiled ballots. The envelope containing all spoiled ballots shall be sealed in the ballot box upon the poll managers' completion of closing procedures and returned therein to the officials in charge of the election.

**§ 23-15-555. Prohibited conduct and sanctions**

Any voter who ~~shall, except as herein provided, allow his ballot to be seen by any person, or who shall make a false statement as to his inability to mark his ballot, or who shall place any mark upon his ballot by which it can afterwards be identified as the one ballot voted by him, or any person who shall interfere or attempt to interfere with any voter when inside the voting compartment or inclosed place, or when marking his ballot, or who shall endeavor to induce any voter before voting to show how he will mark his ballot, or after voting how he has marked his ballot, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00); and the election officers shall cause any person so violating the law to be arrested and carried before the proper officer or tribunal for ~~commitment and~~ trial for such offense.~~

**§ 23-15-557. Precincts and polling places**

The governing authorities of any municipality within the State of Mississippi are hereby authorized and empowered, in their discretion, to divide the municipality into a sufficient number of voting precincts of such size and location as is necessary, and there shall be the same number of polling places. The authority conducting an election shall not be required, however, to establish a polling place in each of said precincts, but such election authorities, whether in a primary or in a general election, may locate and establish such polling places, without regard to precinct lines, in such manner as in the discretion of such authority will better accommodate the electorate and better facilitate the holding of the election.

Comment [KT1]: Move to Article 9.

**§ 23-15-559. Municipalities, laws applicable**

The provisions of Sections 23-15-171 and 23-15-173 fixing the time for the holding of primary and general elections shall not apply to any municipality operating under a special or private charter where the governing board or authority thereof, on or before June 25, 1952, shall have adopted and spread upon its minutes a resolution or ordinance declining to accept such provisions, in which event the primary and general elections shall be held at the time fixed by the charter of such municipality.

Comment [KT2]: Move to Article 3, following Sections 23-15-171 and 23-15-173.

The provisions of Section 23-15-859 shall be applicable to all municipalities of this state, whether operating under a code charter, special charter, or the commission form of government, except in cases of conflicts between the provisions of such section and the provisions of the special charter of a municipality, or the law governing the commission form of government, in which cases of conflict the provisions of the special charter or the statutes relative to the commission form of government shall apply.

**Comment [KT3]:** Move this paragraph to follow Section 23-15-859.

**§ 23-15-561. Lotteries**

(1) It shall be unlawful during any primary or any other election for any candidate for any elective office or any representative of such candidate or any other person to publicly or privately put up or in any way offer any prize, cash award or other item of value to be raffled, drawn for, played for or contested for in order to encourage persons to vote or to refrain from voting in any election.

(2) Any person who shall violate the provisions of subsection (1) of this section shall, upon conviction thereof, be punished by a fine in an amount not to exceed Five Thousand Dollars (\$5,000.00).

(3) Any candidate who shall violate the provisions of subsection (1) of this section shall, upon conviction thereof, in addition to the fine prescribed above, be punished by:

(a) Disqualification as a candidate in the race for the elective office; or

(b) Removal from the elective office, if the offender has been elected thereto.

**§ 23-15-563. Voter identification requirement**

(1) Each person who shall appear to vote in person at a polling place or the registrar's office shall be required to identify himself or herself to an election manager or the registrar by presenting current and valid photo identification before such person shall be allowed to vote.

(2) The identification required by subsection (1) of this section shall include, but not be limited to, the following:

- (a) A current and valid Mississippi driver's license;
  - (b) A current and valid identification card issued by a branch, department, agency or entity of the State of Mississippi;
  - (c) A current and valid United States passport;
  - (d) A current and valid employee identification card containing a photograph of the elector and issued by any branch, department, agency or entity of the United States government, the State of Mississippi, or any county, municipality, board, authority or other entity of this state;
  - (e) A current and valid Mississippi license to carry a pistol or revolver;
  - (f) A valid tribal identification card containing a photograph of the elector;
  - (g) A current and valid United States military identification card;
  - (h) A current and valid student identification card, containing a photograph of the elector, issued by any accredited college, university or community or junior college in the State of Mississippi; and
  - (i) An official Mississippi voter identification card containing a photograph of the elector.
- (3)(a) A person who appears to vote in person at a polling place and does not have identification as required by this section may vote by affidavit ballot. The affidavit ballot shall then be counted if the person shall present acceptable photo identification to the registrar within five (5) days.
- (b) An elector who has a religious objection to being photographed may vote by affidavit ballot, and the elector, within five (5) days after the election, shall execute an affidavit in the registrar's office affirming that the exemption applies.
- (4) Any person who utilizes the provisions of this section to intimidate a voter, or to prevent a person from voting ~~a person~~ who is otherwise qualified to vote shall, upon conviction, be sentenced to pay a fine of not less than Five Thousand Dollars (\$5,000.00), or by imprisonment for not less than one (1) year nor more than five (5) years, or both.

(5) The intentional failure of an election official to require a voter to present identification as required by this section shall be considered corrupt conduct under Section 97-13-19 and shall be reported to the Secretary of State and the Attorney General.

**Subarticle B. Affidavit Ballots and Challenged Ballots**

**§ 23-15-571. Challenges**

(1) The following persons shall be designated as authorized challengers and shall be allowed to challenge the qualifications of any person offering to vote:

- (a) Any candidate whose name is on the ballot in the precinct in which the challenge is made;
- (b) Any official poll watcher of a candidate whose name is on the ballot in the precinct in which the challenge is made;
- (c) Any official poll watcher of a political party for the precinct in which the challenge is made;
- (d) Any qualified elector from the precinct in which the challenge is made; or
- (e) Any manager, clerk or poll worker in the polling place where the person whose qualifications are challenged is offering to vote.

(2) The challenge of any authorized challenger shall be considered and acted upon by the managers of the election.

(3) A person offering to vote may be challenged upon the following grounds:

- (a) That he is not a registered voter in the precinct;
- (b) That he is not the registered voter under whose name he has applied to vote;
- (c) That he has already voted in the election;
- (d) That he is not a resident in the precinct where he is registered;

- (e) That he has illegally registered to vote;
- (f) That he has removed his ballot from the polling place; or
- (g) That he is otherwise disqualified by law.

§ 23-15-573. Voting by affidavit ballot; form and contents of affidavit ballot envelope

(1) If any person declares ~~that~~ he is a registered voter in the jurisdiction in which he offers to vote and ~~that~~ he is eligible to vote in the election, but his name does not appear upon the pollbooks, or ~~that~~ he is not able to cast a regular election day ballot under a provision of state or federal law but is otherwise qualified to vote, or ~~that~~ he has been illegally denied registration, or he is unable to present an acceptable form of photo identification:

(a) A poll manager shall notify the person that he may cast an affidavit ballot at the election.

(b) The person shall be permitted to cast an affidavit ballot at the polling place upon execution of a written affidavit before one (1) of the managers of election stating that the individual:

(i) Believes he is a registered voter in the jurisdiction in which he desires to vote and is eligible to vote in the election; or

(ii) Is not able to cast a regular election day ballot under a provision of state or federal law but is otherwise qualified to vote; or

(iii) Believes that he has been illegally denied registration; or

(iv) Is unable to present an acceptable form of photo identification.

(c) The manager shall allow the individual to prepare his vote mark a paper ballot properly endorsed by the initialing or alternate initialing manager in accordance with Section 23-15-541, which shall be delivered by him to the proper election official who shall enclose it in an affidavit ballot envelope with bearing the written and signed affidavit of the voter, seal the envelope and mark plainly upon it the name of the person offering to vote.

(2) The affidavit ballot envelope shall include:

~~(a)~~ (a) The complete name of the voter,

~~(b) A present and previous physical and mailing address all required addresses and~~

~~(c) telephone numbers;~~

~~(d) A statement the affiant believes he is registered to vote in the jurisdiction in which he offers to vote,~~

~~(e) The signature of the affiant/voter, and~~

~~(f) The signature of the poll manager at the polling place at which the affiant offers to vote. ;~~

~~(3)(a) A separate register-receipt book shall be maintained for affidavit-voters ballots and the affiant shall sign the register-receipt book upon completing the affidavit ballot.~~

~~(b) If the affidavit voter is casting an affidavit ballot because the voter is unable to present an acceptable form of photo identification and the voter's name appears in the pollbook, then the manager shall write "VOTED" across from the voter's name and in the appropriate column in the pollbook.~~

~~(c) In canvassing the returns of the election, the executive committee in primary elections, or the election commissioners in other elections, shall examine the records and allow the ballot to be counted, or not counted as it appears legal.~~

~~(i) An affidavit ballot of a voter who was unable to present an acceptable form of photo identification shall not be rejected for this reason if the voter returns to the Circuit Clerk's Office within five (5) business days after the date of the election and presents an acceptable form of photo identification, or obtains the Mississippi Voter Identification Card, or executes a separate Affidavit of Religious Objection.~~

~~(4) When a person is offered the opportunity to vote by affidavit ballot, he shall be provided with written information that informs the person how to ascertain whether his affidavit ballot was counted and, if the vote was not counted, the reasons the vote was not counted.~~

~~(5) The registrar shall process all affidavit ballots by using the Statewide Elections Management System. The registrar shall account for all affidavit ballots cast in each election, categorizing the same by reason and recording the total number of affidavit ballots counted and not counted in each such category in the Statewide Elections Management System.~~

(56) The Secretary of State shall, by rule duly adopted, establish a uniform ~~affidavit and~~ affidavit ballot envelope which shall be used in all elections in this state. The Secretary of State shall print and distribute a sufficient number of ~~affidavits and~~ affidavit ballot envelopes to the registrar of each county for use in elections. The registrar shall distribute the ~~affidavits and~~ affidavit ballot envelopes to municipal and county executive committees for use in primary elections and to municipal and county election commissioners for use in all other elections.

(67) County registrars and municipal registrars shall ~~implement-maintain~~ a secure free access system that complies with the Help America Vote Act of 2002, by which persons who vote by affidavit ballot may determine if their ballots were counted, and if not, the reasons the ballot was not counted.

(78) Any person who votes in any election as a result of a federal or state court order or other order extending the time established by law ~~beyond the for~~ close of ing the polls on an election day, may only vote by affidavit ballot. Any affidavit ballot cast under this subsection shall be separated and kept apart from other affidavit ballots cast by voters not affected by the order.

#### § 23-15-574. Affidavit form compliance with state and federal law

If the enactment of any state or federal law shall require any modification to the form or language of the affidavit prescribed in Section 23-15-573, then the Secretary of State shall be authorized to promulgate an amended form of the affidavit to comply with the requirements of any such state or federal law, which shall be required to be used in all elections throughout this state.

#### ~~§ 23-15-575. Eligibility to participate in primary~~

~~No person shall be eligible to participate in any primary election unless he intends to support the nominations made in the primary in which he participates.~~

~~No person shall vote or attempt to vote in the primary election of one party when he shall have voted on the same date in the primary election of another party. No person shall vote or attempt to vote in the second (runoff) primary election of one party when he shall have voted in the first primary election of another party.~~

#### § 23-15-577. Right of candidates

Each candidate shall have the right, either in person or by a representative to be named by him, to be present at the polling place, and the managers shall provide him or his representative with a suitable position from which he or his representative may be able to observe carefully inspect the manner in which the election is held. He or his representative shall be allowed to challenge the qualifications of any person offering to vote, and his challenge shall be considered and acted upon by the managers. However, he or his representative shall not be allowed to interfere in the election process, which shall include, but not be limited to:

- (a) Communicating with any voter.
- (b) Physically touching or handling any ballot, absentee ballot envelope or absentee ballot application.
- (c) Viewing or photographing the pollbooks, or
- (a)(d) Photographing the receipt books.

**§ 23-15-579. Treatment of challenged ballots**

All votes, which shall be challenged at the polls, whether the question be raised by a manager or another authorized challenger, shall be considered by the poll managers at that time.

(a) When it shall so clearly appear in the unanimous opinion of the managers, either by admissions or statement of the person challenged or from documentary evidence, or oral evidence then presented to the managers, that the challenge is well taken, the vote shall be rejected entirely and shall not be counted. In such case, the challenged voter shall mark his choices and cast his vote by paper ballot. After the ballot has been marked by the challenged voter, it shall be marked by the poll managers on the back "REJECTED," and the name of the voter and the reason for the voter's rejection shall also be written on the back of the ballot. All rejected ballots shall be placed in the ballot box until the close of the polls at which time, upon the opening of the ballot box, all rejected ballots shall be placed in a separate strong envelope and returned to the ballot box.

(b) When it shall so clearly appear in the unanimous opinion of the managers, either by admissions or statement of the person challenged or from documentary evidence, or oral evidence then presented to the managers, that the challenge is frivolous and not made in good faith, the managers shall disregard such challenge and voter shall cast his vote as other voters in the polling place as though not challenged.

(c) When it shall not so clearly appear whether the challenge is well taken or frivolous and no unanimous decision can be made by the managers, the challenged ballot shall mark his choices and cast his vote by paper ballot. After the ballot has been marked by the challenged voter, it shall be marked by the poll managers on the back "CHALLENGED," and the name of the voter and ther

reason for the voter's challenge shall also be written on the back of the ballot. All challenged ballots shall be placed in the ballot box until the close of the polls at which time, upon the opening of the ballot box, all challenged ballots shall be removed therefrom and separately counted, tallied and totaled with a separate return made of the challenged votes. Challenged ballots shall be placed in a separate strong envelope, and returned to the ballot box.

~~All votes which shall be challenged at the polls, whether the question be raised by a manager or by another authorized challenger, shall be received when voted, but each of such challenged votes shall, by one (1) of the managers or clerks, be marked on the back "CHALLENGED" and all such challenged votes shall be placed in one or more strong envelopes; and when all the unchallenged votes have been counted, tallied and totaled the challenged votes shall then be counted, tallied and totaled and a separate return shall be made of the unchallenged votes and of those that are challenged. The envelope or envelopes containing the challenged votes, when counted and tallied, shall be securely sealed with all said challenged votes inclosed therein and placed in the box with the unchallenged votes. Provided, that when a vote is challenged at the polls it shall so clearly appear in the unanimous opinion of the managers, either by the admissions or statements of the person challenged or from official documentary evidence, or indubitable oral evidence then presented to the managers, that the challenge is well taken, the vote shall be rejected entirely and shall not be counted; but in such case the rejected ballot, after it has been marked by the challenged voter, shall be marked on the back "REJECTED" and the name of the voter shall also be written on the back, and said vote and all other rejected votes shall be placed in a separate strong envelope and sealed and returned in the box as in the case of challenged votes. The failure of a candidate to challenge a vote or votes at a box shall not preclude him from later showing, in the manner provided by law, that one or more votes have been improperly received or counted or returned as regards said box. If the managers of an election believe a challenge of a voter is frivolous or not made in good faith they may disregard such challenge and accept the offered vote as though not challenged.~~

**§ 23-15-581. Public counting**

~~When the last vote shall have been cast or at 7:00 p.m., whichever shall be later, polls shall be closed, the managers shall proclaim the polls close and then publicly break the seal upon and open the ballot box and to immediately proceed to count the ballots, at the same time reading aloud the names of the persons voted for, which shall be taken down ~~and called by the clerks in the presence of the managers~~. During the holding of the election and the counting of the ballots, the whole proceedings shall be in fair and full view of the voting public, candidates or their duly~~

~~authorized representatives and other authorized poll watchers~~, without unnecessary interference, delay or encroachment upon the good order of the duties and proceedings of the managers and other officers of the election. ~~Candidates or their duly authorized representatives shall have the right to reasonably view and inspect the ballots as and when they are taken from the box and counted, and to reasonably view and inspect the tally sheets, papers and other documents used in said election during the proceedings, but not including, of course, the secret ballots being voted and placed and held in the box.~~ There shall be no unnecessary delay and no adjournment except as provided by law.

### **Subarticle C. Determining the Results of Elections**

#### **§ 23-15-591. Proclaiming results; security**

When the votes have been completely and correctly counted and tallied by the managers they shall publicly proclaim the result of the election at their box and shall certify in duplicate a statement of the said result, said certificate to be signed by the managers ~~and clerks~~, one (1) of the certificates to be ~~ie~~nclosed in the ballot box, and the other to be delivered to and to be kept by one (1) of the managers and to be inspected at any time by any voter who so requests. When the count of the votes and the tally thereof have been completed, the managers shall lock and seal the ballot box, having first placed therein all ballots voted, all spoiled ballots and all unused ballots. There shall be ~~ie~~nclosed therein also one (1) of the duplicate receipts given by the manager who received the blank ballots received for that box; and the total ballots voted, and the spoiled ballots and the unused ballots must correspond in total with the said duplicate receipt or else the failure thereof must be perfectly accounted for by a written statement, under oath of the managers, which statement must be ~~ie~~nclosed in the ballot box. There shall be also ~~ie~~nclosed in said box the tally list, the receipt booklet containing the signed names of the voters who voted; and the number of ballots voted must correspond with the number of names signed in said receipt booklet.

#### **§ 23-15-593. Irregularities found**

When the ballot box is opened and examined by the county executive committee in the case of a primary election, or county election commissioners in the case of other elections, and it is found that there have been failures in material particulars to comply with the requirements of Section 23-15-591 and Section 23-15-895 to such an extent that it is impossible to arrive at the will of the voters at such precinct, the entire box may be thrown out unless it be made to appear with rea-

sonable certainty that the irregularities were not deliberately permitted or engaged in by the managers at that box, or by one (1) of them responsible for the wrong or wrongs, for the purpose of electing or defeating a certain candidate or candidates by manipulating the election or the returns thereof at that box in such manner as to have it thrown out; in which latter case the county executive committee, or the county election commission, as appropriate, shall conduct such hearing and make such determination in respect to said box as may appear lawfully just, subject to a judicial review of said matter as elsewhere provided by this chapter. Or the executive committee, or the election commission, or the court upon review, may order another election to be held at that box appointing new managers to hold the same.

**§ 23-15-595. Sealing, reopening and resealing**

The box containing the ballots and other records required by this chapter shall, as soon as practical after the ballots have been counted, be delivered by one (1) of the precinct managers to the clerk of the circuit court of the county and said clerk shall, in the presence of the manager making delivery of the box, place upon the lock of such box a tamper-proof metal seal ~~similar to the seal commonly used in sealing the doors of railroad freight cars~~. Such seals shall be numbered consecutively to the number of ballot boxes used in the election in the county, and the clerk shall keep in a place separate from such boxes a record of the number of the seal of each separate box in the county. The board of supervisors of the county shall pay the cost of providing such seals. Upon demand of the chairman of the county executive committee in the case of primary elections, or the county election commissioner in the case of other elections, the boxes and their contents shall be delivered to the county executive committee, or the county election commission, as appropriate, and after such committee or commission, as appropriate, has finished the work of tabulating returns and counting ballots as required by law, the said committee or commission, as appropriate, shall return all papers and ballots to the box of the precinct where such election was held, and it shall make redelivery of such boxes and their contents to the circuit clerk who shall reseal said boxes. Upon every occasion said boxes shall be reopened and each resealing shall be done as provided in this chapter.

**§ 23-15-597. Primaries, canvasses and announcements; agreements with election commissions**

(1) The county executive committee shall meet no later than a week from the on the first or second day after following each primary election, shall receive and canvass the returns which must be made within the time fixed by law for returns of general elections and declare the result,

and announce the name of the nominees for county and county district offices and the names of those candidates to be submitted to the second primary. The vote for state, state district offices and legislative offices shall be tabulated by precincts and certified to and returned to the state executive committee, such returns to be mailed by registered letter or any safe mode of transmission within thirty-six (36) hours after the returns are canvassed and the result ascertained. The state executive committee shall meet a week from the day following the first primary election held for state, state district offices and legislative offices, and shall proceed to canvass the returns and to declare the result, and announce the names of those nominated for the different offices in the first primary and the names of those candidates whose names are to be submitted to the second primary election. The state executive committee shall also meet a week from the day on which the second primary election was held and receive and canvass the returns for state and district offices, if any, and legislative offices, if any, voted on in such second primary. An exact and full duplicate of all tabulations by precincts as certified under this section shall be filed with the circuit clerk of the county who shall safely preserve the same in his office.

(2)(a) If it is eligible under Section 23-15-266, the county executive committee may enter into a written agreement with the circuit clerk or the county election commission authorizing the circuit clerk or the county election commission to perform any of the duties required of the county executive committee pursuant to this section. Any agreement entered into pursuant to this subsection shall be signed by the chairman of the county executive committee and the circuit clerk or the chairman of the county election commission, as appropriate. The county executive committee shall notify the state executive committee and the Secretary of State of the existence of such agreement.

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

**§ 23-15-599. Transmitting tabulated statements; forms**

(1)(a) Within ten (10) days after the first primary election and within ten (10) days after the

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

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

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

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

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

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

**§ 23-15-600. Forms; content and format**

All forms to be prescribed by the Secretary of State for the reporting of election returns hereunder shall be either hard copy forms on which precincts are listed horizontally and candidates

are listed vertically and/or a web-based system in which these forms, or forms similar to them, are made available to counties electronically.

**§ 23-15-601. Statement and certificate; draws**

(1) When the result of the election shall have been ascertained by the managers they, or one (1) of their number, or some fit person designated by them, shall, by noon of the ~~eighth second~~ day after the election, deliver to the commissioners of election, at the courthouse, a statement of the whole number of votes given for each person and for what office; and the commissioners of election shall canvass the returns, ascertain and declare the result, and, within ten (10) days after the day of the election, shall deliver a certificate of his election to the person having the greatest number of votes for representative in the Legislature of districts composed of one (1) county or less, or other county office, board of supervisors, justice court judge and constable. If it appears that two (2) or more candidates for Representative of the county, or part of the county, or for any county office, board of supervisors, justice court judge or constable standing highest on the list, and not elected, have an equal number of votes, the interested candidates shall appear before the commissioners of election within two (2) days after the canvass and the tie shall be determined by a toss of a coin the election shall be decided by lot fairly and publicly drawn by the commissioners, with the aid of two (2) or more respectable electors of the county, and a certificate of election shall be given accordingly. The foregoing provisions shall apply to Senators, if the county be a senatorial district.

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

**§ 23-15-603. Secretary of State and legislature**

(1) The commissioners of election shall, within ten (10) days after the general election, transmit to the Secretary of State, to be filed in his office, a statement of the whole number of votes given in their county and the whole number of votes given in each precinct in their county, for each candidate for any office at the election; but the returns of every election for Governor, Lieutenant Governor, Secretary of State, Attorney General, Auditor of Public Accounts, State Treasurer, Commissioner of Insurance and other state officers, shall each be made out separately, sealed up

together and transmitted to the seat of government, directed to the Secretary of State, and endorsed the "VOTE FOR STATE OFFICERS," to be delivered by the Secretary of State to the Speaker of the House of Representatives at the next ensuing session of the Legislature. In addition to the other information required pursuant to this subsection, the returns for state officers shall contain a statement of the whole number of votes given in each House of Representative district or portion thereof for each candidate for state office at the election.

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

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

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

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

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

**§ 23-15-605. Declaration and commission; draws**

The Secretary of State, immediately after receiving the returns of an election, not longer than thirty (30) days after the election, shall sum up the whole number of votes given for each candidate other than candidates for state offices, legislative offices composed of one (1) county or less, county offices and county district offices, according to the statements of the votes certified to him and ascertain the person or persons having the largest number of votes for each office, and

declare such person or persons to be duly elected; and thereupon all persons chosen to any office at the election shall be commissioned by the Governor; but if it appears that two (2) or more candidates for any district office where the district is composed of two (2) or more counties, standing highest on the list, and not elected, have an equal number of votes, the election shall be forthwith decided between the candidates having an equal number of votes by a toss of a coin ~~lot, fairly and publicly drawn~~, under the direction of the Governor and Secretary of State.

**§ 23-15-607. Judicial elections**

(1) The commissioners of election shall, within ten (10) days after an election for judges of the Supreme Court or Court of Appeals, transmit to the Secretary of State, to be filed in his office, a statement of the whole number of votes given in their county, and the whole number of votes given in each precinct in their county, for each candidate for the office of judge of the Supreme Court or Court of Appeals, and the Secretary of State shall immediately notify each member of the State Board of Election Commissioners in writing to assemble at his office on a day to be fixed by him, to be within ten (10) days after the receipt by him of such statement, and when assembled pursuant to such notice the State Board of Election Commissioners shall sum up the whole number of votes given for each candidate for judge of the Supreme Court or Court of Appeals according to the total number of votes in each county for each candidate as certified to the Secretary of State, ascertain the person or persons to be elected; and thereupon all persons chosen to such office at the election shall be commissioned by the Governor; but if it appears that two (2) or more candidates for judge of the Supreme Court or Court of Appeals standing highest on the list, and not elected, have an equal number of votes, the election shall be forthwith decided between the candidates having an equal number of votes by a toss of a coin ~~lots, fairly and publicly drawn~~ under the direction of the State Board of Election Commissioners.

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

“We, the undersigned commissioners of election, do hereby certify that this statement of the whole number of votes contain the official vote for the election reflected therein.”

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

**§ 23-15-609. Elections involving separate representation**

When a city or part of a county is entitled to separate representation in the Legislature, the commissioners of election shall prepare for the election, and shall receive and canvass the returns, declare the result, and transmit it to the Secretary of State, and act in all respects as in other elections.

**§ 23-15-611. Municipal elections**

(1) In municipal elections, managers of elections shall, immediately upon the closing of the polls, count the ballots and ascertain the number of votes cast in each voting precinct for each of the candidates or ballot measures and make a return thereof to the municipal election commissioners. On the day following the election, the election commissioners shall canvass the returns so received from all voting precincts and shall, within ~~six (6) business~~ five (5) days after such election, deliver to each person receiving the highest number of votes a certificate of election. If it shall appear that any two (2) or more of the candidates receiving the highest number of votes shall have received an equal number of votes, the election shall be decided by a toss of a coin under the direction of lot, fairly and publicly drawn by the election commissioners ~~with the aid of two (2) or more qualified electors of the municipality.~~

(2)(a) Within ~~ten (10) five (5)~~ days after any election, the municipal election commissioners shall transmit a statement to the Secretary of State certifying the name or names of the person or persons elected thereat, and such person or persons shall be issued commissions by the Governor. The statement shall also include vote totals for each candidate for each office and vote totals for and against ballot measures, if any, including the vote totals for each candidate a ballot measure in each precinct in the municipality.

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

“We, the undersigned municipal election commissioners, do hereby certify that this statement contains the official vote for the election reflected therein.”

(c) The statements required by this subsection shall be transmitted to the Secretary of State on such forms and by such methods as may be required by rules and regulations promulgated by the Secretary of State.

(d) If the statement certifying the names of the persons elected is not transmitted to the Secretary of State as required by this subsection, the Secretary of State may issue a show cause order directing the municipal election commissioners to provide to the Secretary of State written response containing the reasons for their failure to transmit the statement. The municipal election commissioners shall file their response to the show cause order with the Secretary of State within five (5) working days after the issuance of the show cause order. If the statement certifying the names of the persons elected is not transmitted to the Secretary of State within five (5) working days after the issuance of the show cause order, the Secretary of State may petition a court of competent jurisdiction to compel the municipal election commissioners to comply with this subsection. If the statement certifying the names of the persons elected is received by the Secretary of State within five (5) days after the issuance of the show cause order, a response to the show cause order shall not be required.

**§ 23-15-613. Residual vote reports**

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

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

(3) For every election, election commissions and county and municipal executive committees responsible for the conduct of elections in which ballots are generated that are counted by hand or by an electronic or automatic tabulating device shall report to the Secretary of State all residual votes for all candidates and ballot measures in the elections for which they are responsible for conducting. Such residual vote reports shall:

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

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

(c) Include a copy of a voided official ballot for the election as such ballot appeared to voters at

the election and copies of voided affidavit and absentee ballots if they are different from the official ballot;

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

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

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

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

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

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

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

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

(5) Not later than January 31 of the year following the election, the Secretary of State shall submit a report to the Governor, Lieutenant Governor and Speaker of the House of Representa-

tives analyzing the reports required to be filed pursuant to this section. The analysis shall include the following:

- (a) The performance of each voting device type used in the election;
  - (b) Any problems with voter or poll worker instructions or ballot design and layout that have been identified as a result of analyzing the reports received;
  - (c) Recommendations for reducing the number of residual votes reported; and
  - (d) Such other information as the Secretary of State deems beneficial.
- (6) The reports required pursuant to this section shall be in such form as may be required by rules and regulations promulgated by the Secretary of State.

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