MISSISSIPPI LEGISLATURE REGULAR SESSION 2009

By: Representatives Jones, Norquist, Reynolds, Bailey, Johnson, Bell, Broomfield, DuVall, McBride, Puckett, Warren

To: Apportionment and Elections

HOUSE BILL NO. 430

AN ACT TO CREATE THE "COMPREHENSIVE ELECTION REFORM ACT OF 2009"; TO PROVIDE THE TIMES AND DAYS ON WHICH A QUALIFIED ELECTOR MAY VOTE EARLY; TO PROVIDE THAT A COUNTY BOARD OF ELECTION COMMISSIONERS WITH THE CONSENT OF THE COUNTY BOARD OF SUPERVISORS MAY VOTE UNANIMOUSLY TO HAVE ADDITIONAL EARLY POLLING SITES; TO REQUIRE A COUNTY BOARD OF ELECTION COMMISSIONERS TO GIVE PUBLIC NOTICE OF THE TIMES AND LOCATIONS OF EARLY VOTING SITES; TO PROVIDE THAT A COUNTY BOARD OF ELECTION COMMISSIONERS SHALL SUPERVISE THE USE OF VOTING MACHINES DURING EARLY VOTING; TO PROVIDE THAT A PERSON WHO VOTES EARLY SHALL HAVE THE SAME ASSISTANCE DURING THE EARLY VOTING PERIOD THAT SUCH PERSON WOULD BE ENTITLED TO ON THE DAY OF ELECTION; TO PROVIDE THAT THE COUNTY REGISTRAR'S BUDGET SHALL BE PAID NOT LESS THAN MINIMUM WAGE FOR A PERIOD NOT TO EXCEED THIRTY-FIVE DAYS FOR HIRING ONE EXTRA DEPUTY FOR THE PURPOSE OF CARRYING OUT THE REQUIREMENTS OF THIS ACT; TO AMEND SECTION 23-15-353, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE OFFICER CHARGED WITH PRINTING AND DISTRIBUTING THE OFFICIAL BALLOT SHALL ASCERTAIN FROM THE REGISTRAR OR THE COUNTY BOARD OF ELECTION COMMISSIONERS, AT LEAST TEN DAYS BEFORE THE BEGINNING OF EARLY VOTING THE NUMBER OF BALLOTS TO BE DISTRIBUTED; TO AMEND SECTIONS 23-15-195, 23-15-449, 23-15-463, 23-15-641 AND 23-15-653, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING SECTIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known and may be cited as the "Comprehensive Election Reform Act of 2009."

SECTION 2. (1) Early voting shall be available for federal, state and county election to any qualified elector in the office of the registrar or outside the office of the registrar fifteen (15) days before the date of an election between the hours of 8:00 a.m. and 6:00 p.m. Monday through Friday, 8:00 a.m. and 5:00 p.m. Saturday and ending at 5:00 p.m. on the Saturday before the election.

(2) Early voting shall not be available on state or county holidays.

(3) Early voting that is conducted in the office of the registrar within a county having two (2) judicial districts shall be held in the registrar's office in each judicial district of the county.

SECTION 3. (1) The county board of election commissioners, with the consent of the county board of supervisors, may decide to hold early voting at additional polling sites outside the office of the registrar on any of the days and times provided for in Section 2 of this act. Any decision by the county board of election commissioners to have additional polling sites for early voting, shall be determined by unanimous vote. If the additional polling sites are approved unanimously, the county election commissioners shall notify the registrar within ten (10) days of its decision to hold early voting at additional polling sites.

(2) The county board of election commissioners shall appoint election managers and bailiffs for the additional early voting polling site or sites in the same manner as they are appointed for on election day. Such persons shall be referred to as election officials for the purposes of this act and take a sworn oath as provided in Section 23-15-237.

(3) (a) If the county board of election commissioners, with the consent of the county board of supervisors, decides to hold early voting at additional polling sites outside the office of the registrar, the registrar may choose not to hold early voting within the office of the registrar. If the registrar decides not to hold early voting within the office of the registrar, the registrar shall notify the county board of election commissioners within ten (10) days of receipt from the county election commissioners of the notice of additional polling sites.

(b) If the registrar decides not to hold early voting within the office of the registrar as provided in this act, the county election commissioners, with the consent of the county board of supervisors, shall hold early voting at one or more

conveniently located polling sites on the days and times provided in this act.

SECTION 4. The county board of election commissioners shall give public notice of the places and times for early voting at least twenty (20) days before an election.

SECTION 5. A person who desires to vote early shall appear at the office of the registrar or the location authorized for early voting. After signing the appropriate receipt book, the elector shall vote at the location in the same manner as such elector would on the day of the election. If the voter is not listed in the pollbook or the county voter registration record files, the voter's registration cannot be verified and the voter contends that he or she is eligible to vote, then the voter may vote by affidavit ballot as provided in Section 23-15-573.

Except as may be otherwise provided by this act, the election laws that govern procedures for a person who appears to vote on the day of election shall apply when a person appears to vote during the early voting period.

SECTION 6. (1) The registrar and county election commissioners shall choose voting locations that adequately allow the early voter to personally and secretly execute his or her ballot. An early voting roster shall be furnished to each early voting polling site by the registrar and county election commissioners.

(2) All votes cast at an early voting location shall be final. The votes cast during early voting shall be announced simultaneously with the vote cast on election day.

(3) The early voting election official shall record the date on each page of the early voting roster or early voting request form, enter the voter's precinct number on the early voting roster or early voting request form and keep a daily record of the number of early ballots cast.

(4) Immediately after the close of the additional polling sites each day that early voting is conducted there, all voted ballots, unvoted ballots, voting machines and all related election materials at each additional early voting polling site shall be stored in a secure location that is determined by the county board of election commissioners.

SECTION 7. (1) The county board of election commissioners shall supervise the use of voting machines during early voting. For purposes of this act, the term voting machines means any electronic voting device, electronic voting system, optical mark reading equipment, direct recording electronic voting equipment and any other equipment used for voting.

(2) At least one (1) voting machine equipped for use by individuals with disabilities shall be placed in each location designated for early voting. Those persons entitled under the law to vote early by personal appearance shall cast their votes on voting machines under the laws applicable to early voting, and the election official shall enter the name of each voter on a list at the time he or she votes.

(3) After regular business hours, the registrar at the registrar's designated early voting location or the election official at any off-site polling place shall secure the machines against further voting at the close of each day's voting in the presence of authorized poll watchers, if any. When early voting is concluded, the registrar or the election official shall secure the machines against further voting.

(4) At the time designated in the notice of election, a set of election officials for the machines used for early voting shall canvass the vote in the manner provided for regular polling sites. After the canvass has been made, the machines shall be secured and shall remain inaccessible to voting.

(5) The results of the canvass shall be returned to the county board of election commissioners to be tabulated and

canvassed with and in the same manner as the returns of other election precincts.

SECTION 8. Each candidate shall have the same rights to be present at early voting locations and to challenge the qualifications of any person offering to vote in the same manner as otherwise provided by law.

SECTION 9. The results of votes cast during early voting shall be announced simultaneously with the votes cast on election day.

SECTION 10. Except as provided in this act, early voting shall be conducted in the same manner as voting on election day. Conduct that is prohibited or restricted on election day shall be subject to the same prohibitions and restrictions on the days on which early voting is conducted.

SECTION 11. Any person voting early is entitled to the same assistance during the early voting period that such person would be entitled to as otherwise provided by law on the day of election.

SECTION 12. The county registrar's budget shall be paid not less than minimum wage for a period not to exceed thirty-five (35) days for hiring one (1) extra deputy for the purpose of carrying out the requirements of this act. The compensation for this one (1) extra deputy shall be established and paid by the county, city, or other political subdivision, the representatives of which call the election, or in the case of a state-funded election, by the State Board of Election Commissioners. Any additional deputies beyond the one (1) extra deputy may be hired as necessary to carry out the purposes of early voting and absentee voting, if approved and paid by the county board of supervisors. In the regular general election, the compensation for the one (1) extra deputy or additional deputies shall be paid by the county.

SECTION 13. Section 23-15-195, Mississippi Code of 1972, is amended as follows:

23-15-195. All elections by the people shall be by ballot *** * ***.

SECTION 14. Section 23-15-353, Mississippi Code of 1972, is amended as follows:

23-15-353. (1) 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.

(2) The officer charged with printing and distributing the official ballot shall ascertain from the registrar or the county board of election commissioners, at least ten (10) days before the beginning of early voting, the number of ballots that the registrar or county board of election commissioners desires for early voting and such person shall have printed and distributed a sufficient number of ballots for use in each early voting location.

SECTION 15. Section 23-15-449, Mississippi Code of 1972, is amended as follows:

23-15-449. 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 and early voting ballots shall be voted as now provided by law.

SECTION 16. Section 23-15-463, Mississippi Code of 1972, is amended as follows:

23-15-463. 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 and early voting ballots shall be voted as now provided by law.

SECTION 17. Section 23-15-641, Mississippi Code of 1972, is amended as follows:

23-15-641. (1) If an affidavit or the certificate of the officer before whom the affidavit is taken is required and such affidavit or certificate is found to be insufficient, or if it is found that the signatures do not correspond, or that the applicant is not a duly qualified elector in the precinct, or otherwise qualified to vote, or that the ballot envelope is open or has been opened and resealed, or the voter is not eligible to vote absentee or that the voter is present and has voted within the precinct

where he represents himself to be a qualified elector, or otherwise qualified to vote, on the date of the election at such precinct, or has voted early, the * * * vote cast by absentee shall not be allowed. Without opening the voter's envelope the commissioners of election, designated executive committee members or election managers, as appropriate, shall mark across its face "REJECTED," with the reason therefor.

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

(3) If an affidavit is required and the officials find that the affidavit is insufficient, or if the officials find that the absentee voter is otherwise disqualified to vote, the envelope shall not be opened and a commissioner or executive committee member shall write across the face of the envelope "REJECTED" giving the reason therefor, and the registrar shall promptly notify the voter of such rejection.

(4) The ballots marked "REJECTED" shall be placed in a separate envelope in the secure ballot transfer case and delivered to the officials in charge of conducting the election at the central tabulation point of the county.

SECTION 18. Section 23-15-653, Mississippi Code of 1972, is amended as follows:

23-15-653. Except as otherwise provided in Section 2 of House Bill No. , 2009 Regular Session, all registrars' offices shall remain open until noon on the two (2) Saturdays prior to each election.

SECTION 19. (1) Two (2) of the sample ballots that are required by law to be open for inspection by all electors on election day shall be furnished to each early voting polling site by the officer whose duty it is to provide official ballots. The sample ballots shall be in the form of the official ballot as it will appear during early voting. Sample ballots shall be open to inspection by all electors in any election, and a sufficient number of reduced-size ballots may be furnished to election officials so that one (1) may be given to any elector desiring such sample.

(2) Upon completion of the list of qualified candidates, the officer in charge of furnishing the official ballot for any polling site shall publish a sample ballot in a newspaper of general circulation in the county, before the first day of early voting.

SECTION 20. (1) Except as otherwise provided in this section, 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 an acceptable form of identification, before such person shall be allowed to vote. Any person who was twenty-one (21) years of age before the date that the national Voting Rights Act of 1965 was effective shall be exempt from the requirements of this section.

(2) The identification required by subsection (1) of this section shall include the following:

(a) A Mississippi voter card;

(b) A current and valid Mississippi driver's license;

(c) A current and valid identification card issued by a branch, department, agency or entity of the State of Mississippi;

(d) A current and valid United States passport;

(e) A current and valid employee identification card 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;

(f) A current and valid student identification card of the elector from any public or private college, university, or postgraduate, technical or professional school located within the State of Mississippi;

(g) A current and valid Mississippi license to carry a pistol or revolver;

(h) A current and valid pilot's license issued by the Federal Aviation Administration or other authorized agency of the United States;

(i) A Medicaid identification card;

(j) A Medicare identification card;

(k) A hunting, fishing or hunting and fishing license issued by the Department of Wildlife Conservation;

(l) A utility bill dated within sixty (60) days prior to the date of the election that shows the name and the address of the voter;

(m) A bank statement dated within sixty (60) days prior to the date of the election that shows the name and the address of the voter;

(n) A government check dated within sixty (60) days prior to the date of the election that shows the name and the address of the voter;

(o) A current and valid United States military identification card;

(p) Paycheck;

(q) Court order of adoption;

(r) Court record of name change;

(s) Debit or credit card;

(t) Buyer's club identification card;

(u) Retirement center identification; and

(v) Official voter registration card.

(3) Any citizen present at a polling place who witnesses an election official issuing a ballot without requiring identification as required by this section may bring this fact to the attention of an election manager who shall ask the voter in question for the required identification.

(4) 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. If, upon examination of the affidavit by the commissioners of election, the person is found to be a registered voter, the person's vote shall be counted. The commissioners of election shall conduct a review of the affidavit ballots within seven (7) days after the date of the election.

(5) Any person who utilizes the provisions of this section to intimidate a voter, or to prevent from voting a person who is otherwise qualified to vote, shall, upon conviction, be guilty of a felony and shall be sentenced to pay a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment for not less than one (1) year, or both, for each occurrence. An election official convicted of a violation of this subsection shall be removed from office on the date of the conviction and shall thereafter be prohibited from holding any office related to an election or performing any election duty.

SECTION 21. (1) The registrar of each county shall provide at least one (1) place in the county at which he or she shall accept applications for Mississippi voter cards which shall be forwarded to the Secretary of State. Mississippi voter cards shall be issued by the Secretary of State to registered Mississippi electors and shall be valid only for the purposes provided under Section 19 of this act and available only to registered voters of this state. No fee shall be charged or collected for the application for or issuance of a Mississippi voter card.

(2) No person shall be eligible for a Mississippi voter card if the person has one (1) of the items listed in Section 19 of this act.

(3) (a) The Mississippi voter card shall be captioned "MISSISSIPPI VOTER CARD" and shall contain a prominent statement that under Mississippi law it is valid only for voting purposes. The card shall include the following information regarding the applicant:

(i) Full legal name;

(ii) Residence address;

(iii) Voting precinct;

(iv) Voter registration number;

(v) Date of birth;

(vi) Gender;

(vii) All federal, state, state district, county, county district, school district and municipal office districts in which the voter resides;

(b) The voter card shall also contain the date the voter card was issued and the county in which the voter is registered.

(4) The application shall be signed and sworn to by the applicant and any falsification or fraud in the making of the application shall constitute false swearing under Section 97-7-35.

(5) The registrar shall require presentation and verification of the following information during the application process which shall be certified to the Secretary of State before issuance of a Mississippi voter card to a person:

(a) A photo identity document; however, a nonphoto identity document shall be acceptable if it includes both the applicant's full legal name and date of birth;

(b) Documentation showing the person's date of birth;

(c) Evidence that the person is registered to vote in the county; or

(d) Documentation showing the person's name and address of principal residence.

(6) A Mississippi voter card shall remain valid so long as a person resides at the same address and remains qualified to vote. It shall be the duty of a person who moves his or her residence within this state to surrender his or her voter card to the registrar of the county of his or her new residence and such person may thereafter apply for and receive a new card if such person is eligible under this section. It shall be the duty of a person who moves his or her residence outside this state or who ceases to be qualified to vote to surrender his or her card to the registrar who issued it.

SECTION 22. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States District Court for the District of Columbia in accordance with the provisions of the Voting Rights Act of 1965, as amended and extended.

SECTION 23. This act shall take effect and be in force from and after the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.