MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Senator(s) Hill To: Elections

SENATE BILL NO. 2256

AN ACT TO AMEND SECTION 23-15-531.6, MISSISSIPPI CODE OF 1972, TO REQUIRE THE OFFICIALS IN CHARGE OF THE CONDUCT OF THE ELECTION TO TEST EACH DRE UNIT FOR PRINTING CAPABILITY; TO AMEND SECTION 23-15-531.9, MISSISSIPPI CODE OF 1972, TO REQUIRE A POLL MANAGER TO ENSURE THAT EACH DRE UNIT PRINTS A RECORD OF THE VOTE OF EACH ELECTOR; TO AMEND SECTION 23-15-531.10, MISSISSIPPI CODE OF 1972, TO CONFORM; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 23-15-531.6, Mississippi Code of 1972, is amended as follows:

23-15-531.6. (1) For each primary or general election, the officials in charge of the election shall use at least seventy-five percent (75%) of all DRE units available to the county or municipality, as the case may be. For all other elections in which the officials in charge of the election choose to use DRE units, at least one-third (1/3) of all DRE units available to the county or municipality, as the case may be, shall be used in such elections.

(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 before any election, the officials in charge of the conduct of the election shall cause each DRE unit to be tested for logic and accuracy to ascertain that 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 before any election, the officials in charge of the conduct of the election shall test each DRE unit for printing capability to ascertain that the units will correctly print the votes cast for all offices and on all questions as required by Section 23-15-531.9, in a manner the Secretary of State may further prescribe by rule or regulation.

(* * *c) Public notice of the time and place of the test shall be made at least five (5) days before the date of the test. Candidates, representatives of candidates, political parties, news media and the public shall be permitted to observe the testing of the DRE units.

(4) The officials in charge of the conduct of the election shall test all memory cards and encoders to be used in any election.

(5) The officials in charge of the election shall require that each DRE unit be inspected and sealed before the delivery of

each DRE unit to the polling place. Before opening the polls each day on which the DRE units will be used in an election, the poll 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.

(6) The officials in charge of the election, election commissioners 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, election commissioners 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, election commissioner or poll manager.

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

(a) Provide sufficient lighting to enable electors to read the ballot and to enable poll managers to examine the booth and conduct their responsibilities;

(b) Provide directions for voting on the DRE units that shall be prominently posted within each voting booth and provide at least one (1) sample ballot for each primary or general

election shall be prominently posted outside the enclosed space within the polling place;

(c) Ensure that each DRE unit and its tabulating mechanism is secure throughout the day; and

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

SECTION 2. Section 23-15-531.9, Mississippi Code of 1972, is amended as follows:

23-15-531.9. (1) (a) A duly qualified elector shall cast his or her vote on a DRE unit by touching the screen or pressing the appropriate button on the DRE unit for the candidate or ballot measure of the elector's choice. After pressing the appropriate button on the DRE unit or location on the screen to cast the ballot, the elector's vote shall be final and shall not be subsequently altered.

(* * *b) If an elector leaves the voting booth without having pressed the appropriate button on the DRE 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.

(2) A poll manager shall ensure that each DRE unit prints a record of the vote of each elector, including incomplete ballots, after each elector leaves a voting booth.

SECTION 3. Section 23-15-531.10, Mississippi Code of 1972, is amended as follows:

23-15-531.10. (1) In elections in which DRE units are 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 take the oath provided in Section 268, Mississippi Constitution of 1890 and only those persons shall touch any ballot, container, paper or machine used in the conduct of the count or be permitted in the immediate area where the ballots are counted.

(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 poll 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) The poll manager shall 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 poll 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 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

(vi) The number of unused paper ballots.

(b) The poll manager shall cause to be placed in the ballot box or supply container, should the supply container be capable of being sealed and secured, one (1) copy of the recap form, affidavit ballots, absentee ballots, spoiled ballots, challenged and rejected ballots, the record of each elector's vote and any unused paper ballots.

(5) The poll 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 the memory card transport bag which shall be sealed and initialed by the poll

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 poll manager shall then deliver the sealed ballot box 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, including the record of each elector's vote, 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 that contains the zero tapes, results tapes and memory cards, the officials in charge of the election shall break the seal of the memory card transport bag and remove its contents. The 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.

SECTION 4. This act shall take effect and be in force from and after July 1, 2021.