



U.S. Department of Justice

Civil Rights Division

*Voting Section - NWB
950 Pennsylvania Ave, NW
Washington, DC 20530*

October 15, 2010

VIA EMAIL AND FIRST CLASS MAIL

The Honorable C. Delbert Hosemann, Jr.
Secretary of State
P.O. Box 136
Jackson, Mississippi 39205-0136

Dear Secretary Hosemann:

This letter confirms the steps your office ("the Secretary" or "the Secretary's Office") has indicated it will take to remedy the State of Mississippi's violation of Section 102(a)(8) of the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA"), 42 U.S.C. §§ 1973ff to 1973ff-7. UOCAVA provides that absent uniformed services voters and overseas voters ("UOCAVA voters") shall be permitted "to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal office." 42 U.S.C. § 1973ff-1. Pursuant to amendments by the Military and Overseas Voter Empowerment Act, Pub. L. No. 111-84, Subtitle H, §§ 575-589, 123 Stat. 2190, 2318-2335 (2009) ("MOVE Act"), UOCAVA also provides that UOCAVA voters who request an absentee ballot at least 45 days prior to a federal election are to be sent ballots (by mail or electronically) no later than 45 days before the election. 42 U.S.C. § 1973ff-1(a)(8)(A). For the November 2, 2010 Federal general election the 45 day deadline for sending UOCAVA ballots fell on September 18, 2010.

Following inquiries from the Department of Justice ("the Department") regarding Mississippi's compliance with Section 102(a)(8)(A) of UOCAVA, the Secretary's Office reported that the ballots of 228 UOCAVA voters from 22 Mississippi counties who had requested ballots on or before September 18, 2010 were not sent out at least 45 days before the November 2, 2010 election. After discovering the failure of these 22 counties to timely send absentee ballots to UOCAVA voters, the Secretary ensured that all late UOCAVA ballots were transmitted to the voters by September 22, 2010.

The Secretary has advised that UOCAVA voters in the 22 counties will receive additional time to submit their ballots. Mississippi law requires that ballots of absentee voters be received by election officials by 5:00 p.m. the day prior to the election. Miss. Code Ann. § 23-15-637. A Mississippi Administrative Rule filed May 11, 2007, requires ballots of overseas active-duty military voters to be received by election officials by 7:00 p.m. on the day of the election. However, the Secretary, through the authority granted by Miss. Code Ann. § 23-15-701, S.B. No. 2642 (2010), and Miss. Code Ann. § 25-43-1.101, has promulgated a Temporary Administrative Rule, filed October 7, 2010, which extends the deadline for receipt of UOCAVA ballots in the affected counties to 7:00 p.m. on November 8, 2010 and instructs election officials in the affected counties to count the ballots of all UOCAVA voters if the ballots are received before 7 p.m. on November 8, 2010. The October 7, 2010 Administrative Rule was submitted to the

Attorney General for review pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, and on October 15, 2010 the Attorney General interposed no objection to the change. A copy of the determination letter is enclosed.

The Secretary's Office has agreed to contact the 228 UOCAVA voters by email, telephone, or express mail to advise them that their ballots will be accepted until 7:00 p.m. on November 8, 2010. The Secretary's Office will also provide these voters with the appropriate contact information for election officials who can assist them with any voting-related questions or concerns they may have. The Secretary's Office will also distribute a press release and post a notice on its website that will describe the ballot receipt deadline extension.

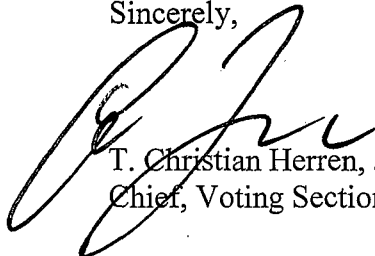
In addition, the Secretary has agreed to keep the Department apprised of its efforts to remedy the aforementioned UOCAVA violations by, no later than December 1, 2010, reporting to the Department the following: the number of the affected UOCAVA ballots returned; the date each ballot was received; and whether the ballots were counted.

Finally, the Secretary will take all necessary actions to assure that UOCAVA voters shall have a fair and reasonable opportunity to participate in future Federal elections, including determining the cause of the late mailed ballots and taking any administrative or other actions to eliminate the potential for future UOCAVA violations arising from Mississippi's or the individual counties' election practices. The Secretary also has agreed to submit a report identifying the causes of the late mailed ballots to UOCAVA voters and detailing the progress of the State's remedial efforts to the Department by May 16, 2011.

These measures have been undertaken by the State to remedy the late transmission of the ballots of UOCAVA voters who submitted absentee ballot requests by September 18, 2010. If each of these measures is fully implemented, they will provide an appropriate remedy for the UOCAVA violation associated with the late transmission of the UOCAVA ballots for the November 2, 2010 general election.

We appreciate your cooperation in our efforts to enforce UOCAVA and the MOVE Act.

Sincerely,



T. Christian Herren, Jr.
Chief, Voting Section

Enclosure

cc: Corey Wilson, Chief of Staff, Office of the Secretary of State
Liz Bolin, Senior Attorney, Office of the Secretary of State, Elections Division
Margarette L. Meeks, Special Assistant Attorney General



U.S. Department of Justice

Civil Rights Division

TCH:RSB:RPL:TAL:tst
DJ 166-012-3
2010-4057

*Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

October 15, 2010

Margarette L. Meeks, Esq.
Special Assistant Attorney General
P.O. Box 220
Jackson, Mississippi 39205-0220

Dear Ms. Meeks:

This refers to the 2007 administrative rule, filed on May 11, 2007, regarding the Secretary of State's exercise of emergency powers concerning absentee voting and registration of military personnel and the Secretary of State's temporary administrative rule, filed on October 7, 2010, for the extension of the deadline to receive UOCAVA absentee ballots for the November 2, 2010, general election in specified counties for the State of Mississippi, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on October 8, 2010.

On October 11, 2006, the Attorney General interposed no objection to the change contained in the 2007 administrative rule. (A copy of our letter is enclosed.) Accordingly, no further determination by the Attorney General is required or appropriate under Section 5. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.35.

The Attorney General does not interpose any objection to the remaining specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. 28 C.F.R. 51.41 and 51.43.

Sincerely,

T. Christian Herren, Jr.
Chief, Voting Section

Enclosure



U.S. Department of Justice
Civil Rights Division

JKT:YR:DP:par
DJ 166-012-3
2006-6371

*Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530*

October 11, 2006

Mr. Reese Partridge
Assistant Attorney General
P.O. Box 220
Jackson, Mississippi 39205-0220

Dear Mr. Partridge:

This refers to Mississippi's amendment to the administrative rule regarding the Secretary of State's exercise of emergency powers concerning absentee voting and registration of military personnel. The amendment, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, was received on October 6, 2006.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Sincerely,

A handwritten signature in black ink, appearing to read "John Tanner".

John Tanner
Chief, Voting Section

SECTION 5 SUBMISSION

NO. 2010-4057

STATE OF MISSISSIPPI



**JIM HOOD
ATTORNEY GENERAL**

**OPINION
DIVISION**

EXPEDITED CONSIDERATION REQUESTED

FACSIMILE TRANSMITTAL

To: Mr. Chris Herren, Chief
Voting Section
Civil Rights Division, U.S. Department of Justice

Fax Number: (202) 616-9514

From: Margarette L. Meeks
Special Assistant Attorney General

Date: October 8, 2010

Fax Number: (601)359-5025

Number of Pages (including cover): 21

Message: Submission under Section 5 of the Voting Right Act of 1965 as amended, 42 U.S.C. Section 1973(c) - Administrative Rule for Extension of Deadline for UOCAVA Absentee Ballots.

**VISIT OUR FREE SEARCHABLE ATTORNEY GENERAL OPINIONS DATABASE AT:
<http://www.ago.state.ms.us>**

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STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINION
DIVISION

October 8, 2010

Expedited Consideration Requested

Mr. Christopher Herren, Acting Chief
Voting Section, Civil Rights Division
Room 7254 - NWB
Department of Justice
1800 G St., NW
Washington, DC 20006

*Re: Submission Pursuant to Section 5 of the Voting Rights Act of 1965
State of Mississippi's Submission of the Secretary of State's Temporary
Administrative Rule for the Extension of the Deadline to Receive UOCAVA
Absentee Ballots for the November 2, 2010 General Election in Specified
Counties*

Dear Mr. Herren:

In accordance with Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. Section 1973(c), the Mississippi Attorney General, of behalf of the State of Mississippi, hereby submits for administrative review the above-referenced rule, enacted pursuant to authority granted to the Secretary of State by Miss. Code Ann. Section 23-15-701.

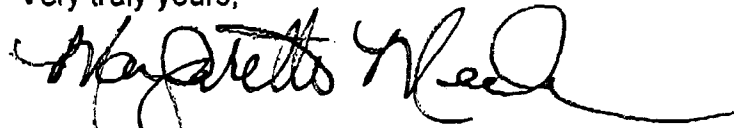
A copy of the rule, as filed on October 7, 2010, is attached (Exhibit A). Also attached are Miss. Code Ann. Section 23-15-637, which establishes the deadline for receipt of all other absentee ballots (Exhibit B); Miss. Code Ann. Section 23-15-647, which addresses the disposition of late absentee ballots (Exhibit C); administrative rule regarding absentee voting and registration of military personnel filed May 11, 2007 (Exhibit D); and amendment to administrative rule regarding absentee voting and registration of military personnel, which received preclearance on October 11, 2006 (Exhibit E). It does not appear that the

Mr. Chris Herren
Page 2
October 8, 2010

administrative rule filed on May 11, 2007 (Exhibit D) was submitted for administrative review in accordance with Section 5 of the Voting Rights Act. To the extent necessary, the Mississippi Attorney General now requests administrative review of the rule (Exhibit D) in accordance with Section 5 of the Voting Rights Act.

Please contact our office if you need additional information.

Very truly yours,



Margarett L. Meeks
Special Assistant Attorney General

Attachment

Mississippi Secretary of State
700 North Street P. O. Box 136, Jackson, MS 39205-0136

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Secretary of State		CONTACT PERSON Elizabeth Bolin	TELEPHONE NUMBER 601-359-5137
ADDRESS 401 Mississippi Street		CITY Jackson	STATE MS
EMAIL Elizabeth.bolin@sos.ms.gov		SUBMIT DATE 10/07/10	Name or number of rule(s): Elections: Extension of Deadline to Receive Uniformed and Overseas Citizens Absentee Ballots for the November 2, 2010 General Election

I. Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: In order to comply with the Uniformed and Overseas Absentee Voting Act (UOCAVA), it is necessary for the Secretary of State to promulgate a rule extending the deadline to receive UOCAVA absentee ballots for the November 2, 2010 General Election in the following counties: Adams, Alcorn, Attala, Clay, Coahoma, Covington, Forrest, Hinds, Jasper, Jones, Lafayette, Lamar, Montgomery, Neshoba, Perry, Pontotoc, Tishomingo, Union, Warren, Washington, Webster, and Yazoo.

Specific legal authority authorizing the promulgation of rule: Miss. Code Ann. § 21-15-701, S.B. No. 2642 (2010), and Miss. Code Ann. § 25-43-1.101 et seq.

List all rules repealed, amended, or suspended by the proposed rule: N/A

ORAL PROCEEDING:

An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____

Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

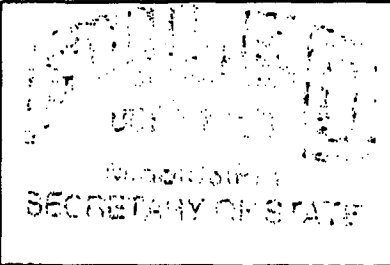
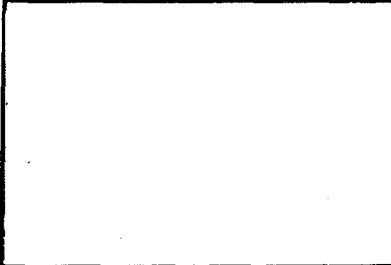

ECONOMIC IMPACT STATEMENT:

Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
<input checked="" type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input checked="" type="checkbox"/> Immediately upon filing <input type="checkbox"/> Other (specify): _____	Action proposed: <input type="checkbox"/> New rule(s) <input type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed final effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____	Date Proposed Rule Filed: _____ Action taken: <input type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____

Printed name and Title of person authorized to file rules: Elizabeth Bolin, Senior Attorney, Elections Division

Signature of person authorized to file rules: *Elizabeth Bolin*

OFFICIAL FILING STAMP	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP	OFFICIAL FILING STAMP
 Accepted for filing by CB 17325	 Accepted for filing by _____	 Accepted for filing by _____

The entire text of the Proposed Rule including the text that has been changed is attached.

EXHIBIT
 A

Administrative Rule Promulgated Pursuant to Miss. Code Ann. § 23-15-701,
S.B. No. 2642 (2010), and Miss. Code Ann. § 25-43-1.101 et seq.

Re: The Secretary of State's Adoption of Necessary and Essential Rules to Comply with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)

- I. Pursuant to the Military and Overseas Voter Empowerment Act (MOVE Act) of 2009, Congress amended UOCAVA to require that absentee ballots must be transmitted at least 45 days before an election to any UOCAVA voter who has submitted a request by that date. The 45 day transmittal deadline for the November 2, 2010 General Election occurred on Saturday, September 18, 2010.
- II. The following Mississippi counties were unable to meet the September 18, 2010 transmittal deadline: Adams, Alcorn, Attala, Clay, Coahoma, Covington, Forrest, Hinds, Jasper, Jones, Lafayette, Lamar, Montgomery, Neshoba, Perry, Pontotoc, Tishomingo, Union, Warren, Washington, Webster, and Yazoo.
- III. Pursuant to Miss. Code Ann. §23-15-701 and S.B. No. 2642 (2010), the Secretary of State has authority to adopt rules necessary and essential to bring the State into compliance with the Uniformed and Overseas Citizens Absentee Voting Act, 42 USCS § 1973ff et seq.
- IV. In order to comply with UOCAVA, it is necessary for the Secretary of State to promulgate a rule extending the deadline to receive UOCAVA absentee ballots for the November 2, 2010 General Election in these several counties. Therefore, the following rule is hereby adopted:
 - A. **The deadline to receive all mailed, faxed, and emailed UOCAVA absentee ballots and Federal Write-in Absentee Ballots for the November 2, 2010 General Election in the counties of Adams, Alcorn, Attala, Clay, Coahoma, Covington, Forrest, Hinds, Jasper, Jones, Lafayette, Lamar, Montgomery, Neshoba, Perry, Pontotoc, Tishomingo, Union, Warren, Washington, Webster, and Yazoo is hereby extended until 7:00 p.m. on Monday, November 8, 2010.**
 - B. **The respective election commission of each county shall have the duty of examining and counting absentee ballots received pursuant to this rule. Any UOCAVA absentee ballots received by the registrar subsequent to the delivery of ballot boxes to election managers on election day and on or before the November 8, 2010 deadline shall be retained by the registrar and shall be delivered, together with the applications of the qualified absentee elector, to the respective election commission of each county. The registrar shall receive**

a receipt from the election commission for all such ballots and applications delivered. The election commission shall, upon the canvassing of the returns, count such ballots as if delivered to the proper precincts and such ballots shall be considered valid for all purposes as if they had been actually deposited in the proper precinct ballot boxes. Except as provided in the Mississippi Armed Services Absentee Voting Law and this rule, absentee ballots received under this rule shall be treated, examined and counted in the same manner as other absentee ballots.

- C. Any UOCAVA ballots received after 7:00 p.m. on Monday, November 8, 2010 shall be handled as provided in § 23-15-647 and shall not be counted.**

Westlaw.

Miss. Code Ann. § 23-15-637

Page 1



West's Annotated Mississippi Code Currentness

Title 23. Elections

Chapter 15. Mississippi Election Code (Refs & Annos)

Part 2. Training on Use of Electronic Voting Equipment

Article 19. Absentee Ballots

Subarticle A. Absentee Balloting Procedures Law (Refs & Annos)

→ § 23-15-637. Deadline for receipt

Absentee ballots received by mail, excluding presidential ballots as provided for in Sections 23-15-731 and 23-15-733, must be received by the registrar by 5:00 p.m. on the date preceding the election; any received after such time shall be handled as provided in Section 23-15-647 and shall not be counted. All ballots cast by the absent elector appearing in person in the office of the registrar shall be cast not later than 12:00 noon on the Saturday immediately preceding elections held on Tuesday, the Thursday immediately preceding elections held on Saturday, or the second day immediately preceding the date of elections held on other days. The registrar shall deposit all absentee ballots which have been timely cast in the ballot boxes upon receipt.

CREDIT(S)

Laws 1986, Ch. 495, § 206, eff. January 1, 1987.

HISTORICAL AND STATUTORY NOTES

Derivation:

Code 1942, § 3203-403; Code 1972, § 23-9-415; Laws 1972, Ch. 490, § 403.

LIBRARY REFERENCES

Elections ↪ 126(6), 216.1.
WESTLAW Topic No. 144.
C.J.S. Elections §§ 114, 118(1).

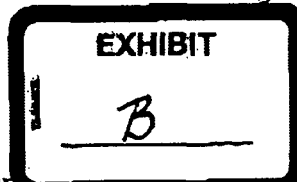
RESEARCH REFERENCES

Encyclopedias

Encyclopedia of Mississippi Law Election Law § 33, When Absentee Ballots May be Cast.

Encyclopedia of Mississippi Law Election Law § 41, Absentee Ballots.

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Miss. Code Ann. § 23-15-637

Page 2

UNITED STATES SUPREME COURT

Elections, selection of Presidential electors, authority of state legislature and courts under U.S.C.A. Const. Article 2, § 1, see *Bush v. Palm Beach County Canvassing Board*, 2000, 121 S.Ct. 471.

Elections, selection of Presidential electors, manual recount of ballots, uniform standards, equal protection, see *Bush v. Gore*, 2000, 121 S.Ct. 525.

JUDICIAL DECISIONS

In general 1

Procedural irregularities 2

1. In general

There is no authority that would allow a county registrar to open the ballot box and retrieve an absentee ballot cast in one party primary election and then allow the voter to cast another ballot in another party primary. Op.Atty.Gen. No. 2003-0363, Dill, July 29, 2003.

2. Procedural irregularities

Where, because of a printing mistake on certain absentee ballots, the election commissioners made a procedural mistake and did not send the affected ballots to the precincts, but retained them for counting following the closing of the polls, under the unusual circumstances presented, the failure to strictly comply with the statutory provisions regarding the examination and counting of absentee ballots by the poll workers should not serve to invalidate lawfully cast ballots and to disenfranchise these voters, and that the absentee ballots in question should be counted. Op.Atty.Gen. No. 2003-0620, Newton County Election Commission, November 7, 2003.

Miss. Code Ann. § 23-15-637, MS ST § 23-15-637

Current through the 2010 Regular and 1st Extraordinary Sessions

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Westlaw.

Miss. Code Ann. § 23-15-647

Page 1

West's Annotated Mississippi Code Currentness
 Title 23. Elections
 Chapter 15. Mississippi Election Code (Refs & Annos)
 Part 2. Training on Use of Electronic Voting Equipment
 Article 19. Absentee Ballots
 Subarticle A. Absentee Balloting Procedures Law (Refs & Annos)
 → § 23-15-647. Disposal of late ballots

The registrar shall keep safely and unopened all official absentee ballots which are received subsequent to the applicable cutoff period establishing its validity. Upon receipt of such ballot, the registrar shall write the day and hour of the receipt of the ballot on its envelope. All such absentee ballots returned to the registrar after the cutoff time shall be safely kept unopened by the registrar for the period of time required for the preservation of ballots used in the election, and shall then, without being opened, be destroyed in like manner as the used ballots of the election.

CREDIT(S)

Laws 1986, Ch. 495, § 211, eff. January 1, 1987.

HISTORICAL AND STATUTORY NOTES

Derivation:

Code 1942, § 3203-404; Code 1972, § 23-9-425; Laws 1972, Ch. 490, § 404.

LIBRARY REFERENCES

Elections 126(6), 216.1, 255.
 WESTLAW Topic No. 144.
 C.J.S. Elections §§ 114, 118(1), 234.

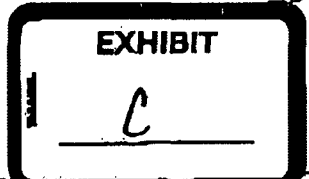
Miss. Code Ann. § 23-15-647, MS ST § 23-15-647

Current through the 2010 Regular and 1st Extraordinary Sessions

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NOTICE OF RULE ADOPTION—FINAL RULE

STATE OF MISSISSIPPI
SECRETARY OF STATE
ELECTIONS DIVISION

FILED
MAY 11 2007
MISSISSIPPI
SECRETARY OF STATE

Secretary of State's Office
c/o Linda Dixon Rigby
401 Mississippi Street
Post Office Box 136
Jackson, Mississippi 39205
(601) 359-6340
lrigby@sos.state.ms.us

Specific Legal Authority Authorizing the promulgation of Rule: Miss. Code Ann. § 23-15-701; Miss. Code Ann. § 25-43-7.

Reference to Rules repealed, amended or suspended by the Proposed Rule

Date Rule Proposed: April 16, 2007

Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule: This rule is being proposed to broaden the scope of military armed services and overseas votes to allow citizens to participate in the Integrated Voting Alternative Site through the Federal Voting Assistance Program. It will allow anyone with access to the Department of Defense computer database who has a Department of Defense identification number, which may include families and civilian contractors, to fill out a Federal Postcard Application for voter registration and absentee ballot request electronically and submit it automatically to participating counties through the mail.

The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.

An oral proceeding was held on this rule:

Date: {Insert Date}
Time: {Insert Time}
Place: {Insert Place}

An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

This rule as adopted is without variance from the proposed rule.

This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

The rule as adopted differs from the proposed rule. The differences however are:
Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and
The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Effective Date of Rule: June 10, 2007

Linda Dixon Rigby 5/11/07
Linda Dixon Rigby
Assistant Secretary of State for Elections

EXHIBIT
0



INTER-OFFICE MEMORANDUM

TO: Bill Thompson
FROM: Linda Dixon Rigsby
DATE: May 11, 2007
SUBJECT: Military Voting - Administration Rule

Attached please find Form 002 for the Military Voting Administrative Rule that needs to be filed today. If you have questions, or need additional information, please do not hesitate to call.

Administrative Rule Promulgated Pursuant to Mississippi Code Ann. §-23-15-701 and §25-43-7 (1972) Re: Secretary of State's Exercise of Emergency Powers Concerning Absentee Voting and Registration of Military Personnel.

- L Pursuant to current law, Mississippi armed services and overseas voters as defined in Miss. Code Ann. §23-15-673 (1972) may:**
- A. Use a duly executed federal postcard application (FPCA) (as provided in the Uniformed and Overseas Citizens Absentee Voting Act, 42 U. S. C. 1973 ff et seq.) to register to vote, to request an absentee ballot or to do both simultaneously (Miss. Code Ann. §23-15-677 (1972));**
 - B. Use electronic facsimile (Fax) devices to transmit FPCA's or receive and/or transmit absentee ballots (Miss. Code Ann. §23-15-699); and**
 - C. Use electronic mail (e-mail) to transmit FPCA's or receive and to transmit absentee ballots (P.L. 107-252 §702 and Miss. Code Ann. §75-12-1 et. seq (1972)).**
 - D. Use the Federal Write-In Absentee Ballot (as provided in 42 U. S. C. 1973 ff 2) in all general, special, primary and run-off elections for local, state and federal offices (Miss. Code Ann. §23-15-692 (1972)); and**
 - E. Be sent absentee ballots by the local voter registrar within 24 hours of receipt by the registrar of a proper application requesting same (Miss. Code Ann. §23-15-687).**

- II For the purpose of the following rule, the term "Mississippi armed services and overseas voters" shall mean:
- A. Armed forces and overseas voters as described in Miss. Code Ann. §23-15-673 (1972) if they have been called into active duty and are serving outside the State of Mississippi;
 - B. Any member of the Army National Guard or Air National Guard who is a citizen of Mississippi and who has been mobilized or called to active duty outside the State of Mississippi, other than annual training or summer camp;
 - C. Any member of the U. S. military reserve or Coast Guard reserve who is a citizen of Mississippi and who has been called to active duty outside the State of Mississippi, other than annual training or summer camp.
 - D. *Any Mississippi Citizen who has a United States Department of Defense identification number or is qualified to participate in the Federal Voting Assistance Program's Integrated Voting Alternative Site.*
- III. Under the Secretary of State's statutory authority to exercise emergency powers concerning both registration and absentee voting by Mississippi armed services and overseas voters, the Secretary of State promulgates the following rule:
- A. All county and municipal election commissions, party executive committees and voter registrars, as applicable to their respective elections

duties, shall fax and accept all faxed voter registration applications, FPCA's and state or national mail-in applications to and from Mississippi armed services and overseas voters.

- B. The statutory voter registration deadline of 30 days in advance of an election is suspended for Mississippi armed forces and overseas voters and the deadline for voter registration for such voters shall be fourteen days in advance of the election in question. If such armed forces and overseas voters have been released from active duty on a date which is less than 30 days before the election, then such application must be accompanied by a copy of the registrant's DD214 or official orders indicating a release from active duty date which is less than 30 days before the election in which the voter desires to vote.
- C. All county and municipal election commissions, party executive committees and voter registrars, as applicable to their respective elections duties, shall receive and count, if otherwise valid, all mailed, faxed or electronically mailed absentee ballots and federal write-in ballots of Mississippi armed services and overseas voters which ballots are received after the statutory absentee ballot deadline but no later than 7:00 p.m. on election day.

- IV. This rule and exercise of emergency powers by the Secretary of State are effective in the following situations:

- A. When the President of the United States shall declare war or issue a declaration of war; or
- B. When the President of the United States shall declare a national emergency; or
- C. When the President of the United States shall call to active duty U. S. military reservists, and the Secretary of State shall determine that a substantial number of the activated military reservists are citizens of Mississippi; or
- D. When the Governor of the State of Mississippi shall declare a state of emergency; or
- E. When the Governor of the State of Mississippi or President of the United States shall mobilize or call to active duty members of the National Guard, and the Secretary of State shall determine that a substantial number of National Guard members who are citizens of Mississippi have been affected.



U.S. Department of Justice
Civil Rights Division

JKT:YR:DP:par
DJ 166-012-3
2006-6371

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

October 11, 2006

Mr. Reese Partridge
Assistant Attorney General
P.O. Box 220
Jackson, Mississippi 39205-0220

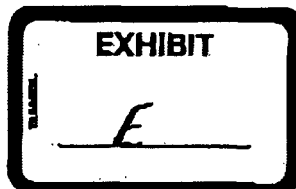
Dear Mr. Partridge:

This refers to Mississippi's amendment to the administrative rule regarding the Secretary of State's exercise of emergency powers concerning absentee voting and registration of military personnel. The amendment, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c, was received on October 6, 2006.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Sincerely,

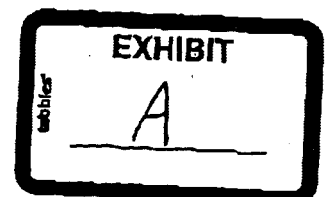
John Tanner
Chief, Voting Section



Received Time Oct. 11. 3:08PM

Administrative Rule Promulgated Pursuant to Mississippi Code Ann. §-23-15-701 and §25-43-7 (1972) Re: Secretary of State's Exercise of Emergency Powers Concerning Absentee Voting and Registration of Military Personnel.

- I. Pursuant to current law, Mississippi armed services and overseas voters as defined in Miss. Code Ann. §23-15-673 (1972) may:
- A. Use a duly executed federal postcard application (FPCA) (as provided in the Uniformed and Overseas Citizens Absentee Voting Act, 42 U. S. C. 1973 ff et seq.) to register to vote, to request an absentee ballot or to do both simultaneously (Miss. Code Ann. §23-15-677 (1972));
 - B. Use electronic facsimile (Fax) devices to transmit FPCA's or receive and/or transmit absentee ballots (Miss. Code Ann. §23-15-699); and
 - C. Use electronic mail (e-mail) to transmit FPCA's or receive and to transmit absentee ballots (P.L. 107-252 §702 and Miss. Code Ann. §75-12-1 et. seq (1972)).
 - D. Use the Federal Write-In Absentee Ballot (as provided in 42 U. S. C. 1973 ff 2) in all general, special, primary and run-off elections for local, state and federal offices (Miss. Code Ann. §23-15-692 (1972)); and
 - E. Be sent absentee ballots by the local voter registrar within 24 hours of receipt by the registrar of a proper application requesting same (Miss. Code Ann. §23-15-687).



II For the purpose of the following rule, the term "Mississippi armed services and overseas voters" shall mean:

- A. Armed forces and overseas voters as described in Miss. Code Ann. §23-15-673 (1972) if they have been called into active duty and are serving outside the State of Mississippi;
- B. Any member of the Army National Guard or Air National Guard who is a citizen of Mississippi and who has been mobilized or called to active duty outside the State of Mississippi, other than annual training or summer camp;
- C. Any member of the U. S. military reserve or Coast Guard reserve who is a citizen of Mississippi and who has been called to active duty outside the State of Mississippi, other than annual training or summer camp.
- D. *Any Mississippi Citizen who has a United States Department of Defense identification number or is qualified to participate in the Federal Voting Assistance Program's Integrated Voting Alternative Site.*

III. Under the Secretary of State's statutory authority to exercise emergency powers concerning both registration and absentee voting by Mississippi armed services and overseas voters, the Secretary of State promulgates the following rule:

- A. All county and municipal election commissions, party executive committees and voter registrars, as applicable to their respective elections

duties, shall fax and accept all faxed voter registration applications, FPCA's and state or national mail-in applications to and from Mississippi armed services and overseas voters.

- B. The statutory voter registration deadline of 30 days in advance of an election is suspended for Mississippi armed forces and overseas voters and the deadline for voter registration for such voters shall be fourteen days in advance of the election in question. If such armed forces and overseas voters have been released from active duty on a date which is less than 30 days before the election, then such application must be accompanied by a copy of the registrant's DD214 or official orders indicating a release from active duty date which is less than 30 days before the election in which the voter desires to vote.
- C. All county and municipal election commissions, party executive committees and voter registrars, as applicable to their respective elections duties, shall receive and count, if otherwise valid, all mailed, faxed or electronically mailed absentee ballots and federal write-in ballots of Mississippi armed services and overseas voters which ballots are received after the statutory absentee ballot deadline but no later than 7:00 p.m. on election day.

- IV. This rule and exercise of emergency powers by the Secretary of State are effective in the following situations:

- A. When the President of the United States shall declare war or issue a declaration of war; or
- B. When the President of the United States shall declare a national emergency; or
- C. When the President of the United States shall call to active duty U. S. military reservists, and the Secretary of State shall determine that a substantial number of the activated military reservists are citizens of Mississippi; or
- D. When the Governor of the State of Mississippi shall declare a state of emergency; or
- E. When the Governor of the State of Mississippi or President of the United States shall mobilize or call to active duty members of the National Guard, and the Secretary of State shall determine that a substantial number of National Guard members who are citizens of Mississippi have been affected.

Administrative Rule Promulgated Pursuant to Mississippi Code Ann. § 23-15-701 and § 23-43-7 (1972) Re: Secretary of State's Exercise of Emergency Powers Concerning Absentee Voting and Registration of Military Personnel

- L Pursuant to current laws Mississippi armed services and overseas voters as defined in Miss. Code Ann. § 23-43-673 (1972) may:
 - A. Use a duly executed Federal postal application (FPCA) as provided in the Uniformed and Overseas Citizens Absentee Voting Act (U.S.C. 1975 if a soldier to register to vote, to request an absentee ballot or to do both simultaneously (Miss. Code Ann. § 23-15-677 (1972));
 - B. Use electronic facsimile (fax) devices to transmit FPCA's or receive and/or transmit absentee ballots (Miss. Code Ann. § 23-15-699); and
 - C. Use electronic mail (e-mail) to transmit FPCA's or receive and to transmit absentee ballots (H.R. 107-252 § 702 and Miss. Code Ann. § 75-12-1 et seq. (1972)).
 - D. Use the Federal Write-In Absentee Ballot (as provided in 42 U.S.C. 1975 if 2) in all general, special, primary and run-off elections for local, state and federal offices (Miss. Code Ann. § 23-15-692 (1972)); and
 - E. Receive absentee ballots by the local voter registrar within 24 hours of receiving the registrar of a proper application requesting same (Miss. Code Ann. § 23-15-687).

- II For the purpose of the following rule, the term "Mississippi armed services and overseas voters" shall mean:
 - A. Armed forces and overseas voters as described in Miss. Code Ann. § 23-673 (1972) if they have been called to active duty and are serving outside the state of Mississippi;
 - B. Any member of the Army National Guard or Air National Guard who is a citizen of Mississippi and who has been mobilized or called to active duty outside the state of Mississippi for an annual training or summer camp;
 - C. Any member of the U.S. military reserve or Coast Guard reserve who is a citizen of Mississippi and who has been called to active duty outside the state of Mississippi for an annual training or summer camp.

- III Under the Secretary of State's authority to exercise emergency powers under any both constitutional and state laws by Miss. Code Ann. § 23-43-7 (1972) and § 23-43-7 (1972) the Secretary of State promulgates the following rule:
 - A. All county and municipal election commissions, party caucuses, caucuses and voter caucuses as applicable to their respective elections and rules shall fix and accept all fixed voter registration applications.

EXHIBIT
B

FPCA's and state or national mail-in applications to and from Mississippi armed services and overseas voters.

B. The statutory voter registration deadline of 30 days in advance of an election is suspended for Mississippi armed forces and overseas voters and the deadline for voter registration for such voters shall be fourteen days in advance of the election in question. If such armed forces and overseas voters have been released from active duty on a date which is less than 30 days before the election, then such application must be accompanied by a copy of the registrant's DD 214 or official orders indicating a release from active duty date which is less than 30 days before the election in which the voter desires to vote.

C. All county and municipal election commissions, party executive committees and voter registrars, as applicable to their respective elections, shall receive and count, if otherwise valid, all mailed, faxed or electronically mailed absentee ballots and federal write-in ballots of Mississippi armed services and overseas voters which ballots are received after the statutory absentee ballot deadline but no later than 7:00 p.m. on election day.

IV. This act and exercise of emergency powers by the Secretary of State are effective in the following situations:

A. When the President of the United States shall declare war or issue a declaration of war or

B. When the President of the United States shall declare a national emergency, or

C. When the President of the United States shall call to active duty U. S. military reservists and the Secretary of State shall determine that a substantial number of the activated military reservists are citizens of Mississippi, or

D. When the Governor of the State of Mississippi shall declare a state of emergency, or

E. When the Governor of the State of Mississippi or President of the United States shall authorize or call to active duty members of the National Guard and the Secretary of State shall determine that a substantial number of National Guard members who are citizens of Mississippi have been affected.