

Honorable Ronald G. Peresich

No. 19870520

Mississippi Attorney General Opinions

May 20, 1987

Honorable Ronald G. Peresich
Attorney
City of Biloxi
P.O. Box 289
Biloxi, MS 39533

Dear Mr. Peresich:

Attorney General Edwin Lloyd Pittman has received your letter of request and has assigned it to me for research and reply.

In your letter you ask:

In § 23-15-13, Miss.Code Ann. (Supp.1986), it is stated that an elector who moves from one ward or precinct to another within the municipality is entitled to have his registration transferred to his new ward or precinct upon making written request up to thirty days prior to the election. If “removal” occurs within thirty days of the election, the elector is entitled to vote in the new ward or voting precinct by affidavit ballot. The statute does not address the question of whether or not a voter who has moved from one ward or voting precinct to another more than thirty days prior to the election may nevertheless vote, and if so, in which ward.

Please examine this question carefully and render your opinion as to the qualifications of such electors, and their ability to vote by affidavit ballot in their new ward.

In response to your request, please consider Miss.Code Ann. § 23-15-11 (Supp.1986; Special Pamphlet) which reads as follows:

Every inhabitant of this state, except idiots and insane persons, who is a citizen of the United States of America, eighteen (18) years old and upwards, who has resided in this state for thirty (30) days and for thirty (30) days in the county in which he offers to vote, and for thirty (30) days in the supervisor's district or in the incorporated city or town in which he offers to vote, and who shall have been duly registered as an elector by an officer of this state under the laws thereof, and who has never been convicted of any crime listed in Section 241, Mississippi Constitution of 1890 shall be a qualified elector in and for the county, municipality and voting precinct of his residence, and shall be entitled to vote at any election. No others than those above included shall be entitled, or shall be allowed to vote an any election. (emphasis added)

Also, Miss.Code Ann. § 23-15-13 (Supp.1986; Special Pamphlet) which reads as follows:
An elector who moves from one ward or voting precinct to another ward within the same municipality or voting precinct within the same supervisor's district shall not be disqualified to vote, but he shall be entitled to have his registration transferred to his new ward or voting precinct upon making written request therefor at any time up to thirty (30) days prior to the election at which he offers to vote, and if the removal occurs within thirty (30) days of such election he shall be entitled

to vote in his new ward or voting precinct by affidavit ballot as provided in Section 23-15-573.
(emphasis added)

Pursuant to these sections, any person, who has been duly registered as an elector by an officer of this State under the laws thereof, and who has been a resident of Biloxi for thirty (30) days immediately preceding the election in which he offers to vote, is entitled to vote in said election. Pursuant to the above sections, he is a qualified elector in and for the county, municipality and voting precinct (ward) of his residence.

Pursuant to § 23-15-13, a qualified elector who moves (changes his residence) from one ward to another within the same municipality is entitled to have his registration transferred to his “new” ward upon making a written request therefor at any time up to thirty (30) days prior to the election in which he offers to vote. Thus, if his registration is properly transferred, he will cast his ballot as any other elector.

Your question is what would occur if the change of residence occurs more than thirty (30) days prior to the election, but the elector does not request that his registration be transferred. Since pursuant to § 23-15-11 the person is a qualified elector and is entitled to vote at any election, it is the opinion of this office that he would be entitled to vote by affidavit ballot in his “new” ward pursuant to Miss.Code Ann. § 23-15-573 (Supp.1986; Special Pamphlet).

Should you have any questions or if we may be of further assistance, please do not hesitate to contact this office.

Sincerely,

Edwin Lloyd Pittman Attorney General.

John H. Emfinger Special Assistant Attorney General.