

1 HB678
2 131940-1
3 By Representative Hill
4 RFD: Constitution, Campaigns and Elections
5 First Read: 25-MAY-11

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a person qualified to
9 vote absentee pursuant to the federal Uniformed and
10 Overseas Citizens Absentee Voting Act may make
11 application for an absentee ballot by filling out
12 the federal postcard application form.

13 Under existing law, the list of qualified
14 voters is required to be provided by the Secretary
15 of State 45 days before an election and absentee
16 ballots are required for elections that are more
17 than 30 days apart.

18 Under existing law, a military or overseas
19 voter's application for absentee ballot is valid
20 for two scheduled general election cycles for
21 federal office.

22 Under existing law, absentee ballots are
23 mailed or hand delivered to the absentee election
24 manager.

25 This bill would authorize a qualified
26 uniform or overseas voter to request the absentee

1 election manager deliver an absentee ballot by
2 electronic transmission.

3 This bill would require applications for
4 absentee ballots for elections that are more than
5 42 days apart, excluding qualified uniform or
6 overseas voters.

7 This bill would provide that an absentee
8 ballot application for a military or overseas voter
9 would remain valid through the end of the calendar
10 year in which it was submitted.

11 This bill would require the absentee
12 election manager provide the affidavit
13 electronically with the ballot for uniformed and
14 overseas voters.

15 This bill would delete the option of having
16 the affidavit witnessed by a notary or an officer.

17 This bill would allow absentee ballots to be
18 sent by commercial ground or air carrier to the
19 absentee election manager.

20 This bill would require delivery of ballots
21 and supplies to the absentee election manager not
22 less than 47 days before an election, excluding
23 municipal elections.

24 This bill would authorize, by the 2012
25 presidential preference primary, the Secretary of
26 State and others to develop an electronic ballot

1 transmission system for qualified uniform and
2 overseas voters.

3 This bill would authorize the Secretary of
4 State to develop systems for a voter to determine
5 if his or her absentee ballot was received, to
6 adopt additional requirements relating to absentee
7 voting, and to extend the deadline for receiving
8 and processing absentee ballots.

9
10 A BILL
11 TO BE ENTITLED
12 AN ACT

13
14 To amend Sections 17-11-3, 17-11-4, 17-11-5,
15 17-11-7, 17-11-9, and 17-11-12, Code of Alabama 1975, relating
16 to absentee voting; to provide absentee voting by electronic
17 transmission, to further provide for absentee voting; and to
18 authorize the Secretary of State to develop an electronic
19 ballot transmission system for qualified uniform and overseas
20 voters, to extend the deadline for receiving and processing
21 absentee ballots, and to adopt additional requirements
22 relating to absentee voting.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 17-11-3, 17-11-4, 17-11-5,
25 17-11-7, 17-11-9, and 17-11-12, Code of Alabama 1975, are
26 amended to read as follows:

27 "§17-11-3.

1 "(a) Any qualified elector of this state may apply
2 for and vote an absentee ballot by mail or by hand delivery,
3 as provided in Sections 17-11-5 and 17-11-9, in any primary,
4 general, special, or municipal election, if he or she makes
5 application in writing therefor not less than five days prior
6 to the election in which he or she desires to vote and meets
7 one of the following requirements:

8 "(1) The person will be out of the county or the
9 state, or the municipality for municipal elections, on
10 election day.

11 "(2) The person has any physical illness or
12 infirmity which prevents his or her attendance at the polls,
13 whether he or she is within or without the county on the day
14 of the election.

15 "(3) The person works on a shift which has at least
16 10 hours which coincide with the hours the polls are open at
17 his or her regular polling place.

18 "(4) The person is enrolled as a student at an
19 educational institution located outside the county of his or
20 her personal residence attendance at which prevents his or her
21 attendance at the polls.

22 "(5) The person is a member of, or spouse or
23 dependent of a member of, the Armed Forces of the United
24 States or is similarly qualified to vote absentee pursuant to
25 the federal Uniformed and Overseas Citizens Absentee Voting
26 Act, 42 U.S.C. 1973ff.

1 "(6) The person has been appointed as an election
2 officer or named as a poll watcher at a polling place other
3 than his or her regular polling place.

4 "(b) An applicant for an absentee ballot who is a
5 member of the Armed Forces of the United States, including the
6 Alabama National Guard, the United States Naval Reserves, the
7 United States Air Force Reserves, and the United States Army
8 Reserve on active duty or active duty for training or an
9 applicant who is the spouse of any member of the armed forces
10 or any other applicant qualified to vote absentee pursuant to
11 the federal Uniformed and Overseas Citizens Absentee Voting
12 Act, 42 U.S.C. 1973ff, may make application for an absentee
13 ballot by filling out the federal postcard application form,
14 authorized and provided for under the provisions of "The
15 Federal Voting Assistance Act of 1955," Public Law 296,
16 Chapter 656, H.R. 4048, approved August 9, 1955, 84th Congress
17 1st Session. Except in municipal elections, applicants
18 qualified to vote absentee pursuant to the Uniformed and
19 Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff, may
20 request that the absentee election manager deliver the
21 absentee ballot to the applicant by electronic transmission.

22 "(c) Any registered elector who requires emergency
23 treatment of a licensed physician within five days of an
24 election may apply for an emergency absentee ballot for the
25 election and may vote by returning the absentee ballot no
26 later than noon on the day the election is held. The attendant
27 physician shall describe and certify the circumstances as

1 constituting an emergency on a special form designed by the
2 Secretary of State and provided by his or her office to local
3 absentee election managers. The special form shall be attached
4 to the application.

5 "(d) Any registered elector whose name appears on
6 the poll list of qualified voters may vote by an emergency
7 absentee ballot if he or she is required by his or her
8 employer under unforeseen circumstances to be out of the
9 county on an emergency business trip on election day. Under
10 such circumstances, the applicant shall apply for an emergency
11 absentee ballot at the office of the absentee election manager
12 no later than the close of the business day one day prior to
13 the election. The applicant shall complete and file an
14 application form designed by the Secretary of State for
15 emergency absentee voters. The form shall contain an affidavit
16 which the applicant shall sign or swear acknowledging that he
17 or she was not aware of the out-of-county business requirement
18 prior to five days before the election. An applicant who meets
19 the requirements of this subsection may vote by an emergency
20 absentee ballot. After voting the ballot, the voter shall hand
21 the ballot to the absentee election manager.

22 "(e) Notwithstanding any other provision of
23 otherwise applicable law, in the event more than one absentee
24 ballot is cast in the name of the single voter, whether any
25 such multiple ballot is cast by mail or otherwise, none of the
26 affidavit envelopes containing the multiple ballots shall be
27 opened, and none of the multiple ballots shall be counted,

1 except in the event of an election contest, upon the order of
2 the election contest tribunal. Upon the conclusion of an
3 election contest or, in the event no such contest is filed,
4 upon the expiration of time for filing such a contest, the
5 multiple ballots shall be provided to the district attorney,
6 with photocopies provided to the state Attorney General, for
7 such investigation, prosecution, or other action as may be
8 appropriate under applicable law.

9 "§17-11-4.

10 "The application required in Section 17-11-3 shall
11 be filed with the person designated to serve as the absentee
12 election manager. The application shall be in a form
13 prescribed and designed by the Secretary of State and shall be
14 used throughout the state. Notwithstanding the foregoing,
15 handwritten applications can also be accepted at any time
16 prior to the five-day deadline to receive absentee ballot
17 applications as provided in Section 17-11-3. The application
18 shall contain sufficient information to identify the applicant
19 and shall include the applicant's name, residence address, or
20 such other information necessary to verify that the applicant
21 is a registered voter. The application shall contain a section
22 in which an applicant qualified to vote absentee pursuant to
23 the Uniformed and Overseas Citizens Absentee Voting Act, 42
24 U.S.C. 1973ff, may request that the absentee election manager
25 deliver the absentee ballot by electronic transmission. Any
26 applicant may receive assistance in filling out the
27 application as he or she desires, but each application shall

1 be manually signed by the applicant and, if he or she signs by
2 mark, the name of the witness to his or her signature shall be
3 signed thereon. The application may be handed by the applicant
4 to the absentee election manager or forwarded to him or her by
5 United States mail. An application for an emergency absentee
6 ballot pursuant to Section 17-11-3 may be forwarded to the
7 absentee election manager by the applicant or his or her
8 designee. Application forms which are printed and made
9 available to any applicant by the absentee election manager
10 shall have printed thereon all penalties provided for any
11 violation of this chapter. The Secretary of State shall
12 provide applications for absentee voting to military and
13 overseas voters in accordance with Section 17-4-35.

14 "§17-11-5.

15 "(a) Upon receipt of an application for an absentee
16 ballot as provided in Section 17-11-3, if the applicant's name
17 appears on the list of qualified voters produced from the
18 state voter registration list in the election to be held, or
19 if the voter makes an affidavit for a challenged vote or
20 provisional ballot, the absentee election manager shall
21 furnish the absentee ballot to the applicant by: (1)
22 Forwarding it by United States mail to the applicant's or
23 voter's residence address, or upon written request of the
24 voter, to the address where the voter regularly receives mail,
25 ~~or~~ (2) by handing the absentee ballot to the voter in person
26 or, in the case of emergency voting, his or her designee in
27 person, or (3) by electronic transmission, for an applicant

1 voting by absentee ballot pursuant to the Uniformed and
2 Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff, and
3 who has requested electronic delivery of the ballot. If the
4 absentee election manager has reasonable cause to believe that
5 the applicant has given a fraudulent address on the
6 application for the absentee ballot, the absentee election
7 manager shall turn over the ballot application to the district
8 attorney for any action which may be necessary under this
9 chapter. The absentee election manager may require additional
10 proof of a voter's eligibility to vote absentee when there is
11 evidence of continuous absentee voting. The absentee election
12 manager shall mail or transmit electronically any absentee
13 ballot requested to be mailed or transmitted electronically as
14 provided in Section 17-11-3 no later than the next business
15 day after an application has been received unless the absentee
16 ballots have not been delivered to the absentee election
17 manager. The absentee election manager shall include with the
18 absentee ballot appropriate informational and instructional
19 materials to assist the absentee voter in marking and
20 returning the absentee ballot. If the absentee ballots have
21 not been so delivered, the absentee election manager shall
22 hold all requests until the ballots are delivered and shall
23 then respond by placing ballots in the mail no later than the
24 next business day.

25 " (b) The official list of qualified voters shall be
26 furnished to the absentee election manager by the judge of
27 probate using a printout from the state voter registration

1 list of registered voters for that county containing vote
2 registration information useful in the identification of
3 absentee voters. The information provided in this report shall
4 be established by rules adopted by the Secretary of State with
5 the advice of the Alabama Circuit Court Clerks Association or
6 its members and shall indicate whether the individual is
7 obligated to produce identification in accordance with
8 Sections 17-9-30 and 17-10-1. The Secretary of State may
9 further provide by administrative rule for electronic access
10 to this list for optional use by the absentee election
11 manager. This list shall be made available ~~beginning~~ at least
12 ~~45~~ 47 days before the election. In municipal elections, the
13 official list of qualified voters shall be furnished to the
14 absentee election manager at least 35 days before the
15 election. Any supplemental list of qualified electors shall
16 also be provided to the absentee election manager as soon as
17 the list becomes available. The absentee election manager
18 shall underscore on the list the name of each voter who has
19 applied for an absentee ballot and shall write immediately
20 beside his or her name the word "absentee." The Secretary of
21 State by rule may provide for electronic access to the
22 absentee election manager's county list of registered voters
23 and for the method of identifying applicants for absentee
24 ballots in conjunction with the state voter registration list.

25 "(c) The absentee election manager shall enroll the
26 name, residence, and voting place of the applicant, and the
27 date the application was received on a list of absentee

1 voters. Each day the absentee election manager shall enter on
2 the list the names, addresses, and voting places of each voter
3 who has that day applied for an absentee ballot and shall, for
4 all elections other than municipal elections, post a copy of
5 the list of applications received each day on the regular
6 bulletin board or other public place in the county courthouse.
7 In municipal elections, the absentee election manager shall
8 post a copy of the list of applications received each day on
9 the regular bulletin board or other public place in the city
10 hall. The absentee election manager in all elections shall
11 deliver to the board of registrars the day following the
12 election, a copy of the list of all absentee voters. The list
13 shall be maintained in the office of the circuit clerk for 60
14 days after the election, at which time it shall be delivered
15 to the judge of probate. Before the polls open at any election
16 on election day, the absentee election manager shall
17 effectuate the delivery to the election officers of each
18 voting place a list showing the name and address of every
19 person whose name appears on the official list of qualified
20 electors for the voting place who applied for an absentee
21 ballot in the election. The name of the person who applied for
22 an absentee ballot shall be identified as an absentee voter on
23 the list of qualified electors kept at the voting place, and
24 the person shall not vote again, except that in county, state,
25 and federal elections the person may vote a provisional
26 ballot. Applications for absentee ballots are required for
27 elections which are more than ~~30~~ 42 days apart, except as to

1 individuals voting pursuant to the federal Uniformed and
2 Overseas Absentee Voting Act, 42 U.S.C. 1973ff.

3 "(d) For individuals voting pursuant to the federal
4 Uniformed and Overseas Absentee Voting Act, 42 U.S.C. 1973ff,
5 the Secretary of State shall by rule prescribe use of
6 standardized military and overseas voter registration
7 applications and applications for absentee ballots adopted by
8 the United States government for such use. The Secretary of
9 State shall also prescribe by rule provisions within the
10 standard state application form for absentee voting which
11 permit the voter to identify himself or herself as a military
12 or overseas voter. Unless otherwise indicated by the military
13 or overseas voter, an application for an absentee ballot by
14 such a voter shall remain valid through the ~~next two regularly~~
15 ~~scheduled general election cycles for federal office. The~~
16 ~~circuit clerk shall confirm by January 1 of each election year~~
17 ~~the address of the military and overseas voters prior to~~
18 ~~mailing the ballots during each election cycle, and the end of~~
19 ~~the calendar year in which it is submitted and the absentee~~
20 election manager shall provide an absentee ballot to the
21 military and overseas voters for each such subsequent
22 election. The absentee election manager, within seven days
23 after each regularly scheduled general election for federal
24 office, shall report the number of military and overseas
25 ballots mailed out and the number of ballots received to the
26 Secretary of State who shall report this information to the

1 Federal Election Assistance Commission within 90 days of each
2 regularly scheduled general election for federal office.

3 "§17-11-7.

4 "(a) Each absentee ballot shall be accompanied by an
5 envelope upon which shall be printed an affidavit. For
6 applicants qualified to vote absentee pursuant to the
7 Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C.
8 1973ff, and who request electronic transmission of the
9 absentee ballot, the absentee election manager shall provide
10 the affidavit by electronic transmission with the ballot.

11 "(b) With respect to an absentee ballot cast
12 pursuant to Section 17-11-3, the affidavit shall read as
13 follows:

14 "State of Alabama

15 County of _____

16 I, the undersigned, do swear (or affirm) that:

17 (1) I am a resident of _____ County in the
18 State of Alabama.

19 (2) My place of residence in Alabama is: _____

20 (street)

21 _____, Alabama _____

22 (city or town)

(zip code)

23 (3) My voting precinct (or place where I vote)
24 is: _____

1 _____
2 _____

3 (4) My date of birth is: _____
4 month day year

5
6 (5) I am entitled to vote an absentee ballot
7 because:

8 Check only one:

9 ___ I will be out of the county or the state on
10 election day.

11 ___ I am physically incapacitated and will not be
12 able to vote in person on election day.

13 ___ I work a required workplace shift which has at
14 least 10 hours which coincide with the polling hours at my
15 regular polling place.

16 ___ I am a student at an educational institution
17 located outside the county of my permanent residence and am
18 therefore unable to vote at my usual polling place on election
19 day.

20 ___ I am a member of or a spouse or dependent of a
21 member of the Armed Forces of the United States or am
22 otherwise entitled to vote pursuant to the federal Uniformed
23 and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.

1 ~~ACKNOWLEDGE OATHS,~~ PRIOR TO BEING DELIVERED OR MAILED TO THE
2 ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.

3 ~~Sworn to and subscribed before me this _____ day of~~
4 ~~_____, 2__.~~

5 ~~I certify that the affiant is known (or made known)~~
6 ~~to me to be the identical party he or she claims to be.~~

7 _____ ~~(Signature of official)~~

8 ~~(Title of official)~~

9 _____

10 ~~(Address of official)~~

11 OR

12 1st Witness _____

Signature

Print name

Address

City Zip Code

20 2nd Witness _____

1 Signature
2 _____
3 Print name
4 _____
5 Address
6 _____"
7 City Zip Code

8 "§17-11-9.

9 "Each prospective absentee voter who meets the
10 requirements of this chapter shall be furnished with the
11 absentee ballot herein provided for, together with two
12 envelopes for returning his or her marked ballot and
13 instructions for completing and returning the absentee ballot
14 as well as instructions for correcting mistakes in completing
15 ballots or obtaining a replacement ballot. One envelope shall
16 be a plain envelope in which the ballot shall be sealed by the
17 voter after he or she has marked it.

18 "The second envelope shall have the voter's
19 affidavit printed on the back and shall be large enough to
20 seal the plain ballot envelope inside. The second envelope
21 shall also be a return mail envelope.

22 "Such return mail envelope shall be addressed on the
23 front to the absentee election manager and shall be endorsed
24 on the left-hand upper corner thereof as follows:

1 "Absent Voter's Ballot. State, County, Municipal,
2 General, Primary, or Special Election (as the case may be) to
3 be held on the ___ day of ____, 2__ From _____ (name of
4 voter), precinct or districts _____, County of _____,
5 Alabama."

6 "After marking the ballot and subscribing the oath
7 herein required, the voter shall seal his or her ballot in the
8 plain envelope, place that plain envelope inside the affidavit
9 envelope, complete the affidavit, have ~~a notary public (or~~
10 ~~other officer authorized to acknowledge oaths)~~ or two
11 witnesses witness his or her signature to the affidavit, and
12 forward it by United States mail or commercial ground or air
13 carrier to the absentee election manager or hand it to him or
14 her in person.

15 "Notwithstanding the other provisions of this
16 section, the absentee election manager shall determine whether
17 an applicant for an absentee ballot is obligated to produce
18 identification in accordance with Sections 17-9-30 and 17-10-1
19 or reidentify in accordance with Chapter 4. For absentee
20 applicants required to produce identification, a third
21 envelope of different color and sufficient size to enclose the
22 first and second envelopes shall be provided to the applicant
23 along with instructions for including a proper form of
24 identification in accordance with Sections 17-9-30 and
25 17-10-1.

26 "For absentee applicants required to reidentify
27 because they do not appear in the voting place for which they

1 seek to vote but do appear in another voting place within the
2 state voter registration list, the absentee election manager
3 shall provide to the voter a third envelope of different color
4 and sufficient size to enclose the first and second envelopes
5 along with a voter reidentification form, a provisional voter
6 affirmation, and instructions in accordance with Section
7 17-10-2. Such ballot shall be treated as a provisional ballot
8 and the term "Provisional" shall be marked on the second or
9 affidavit envelope prior to transmitting the ballot to the
10 voter. Applicants for an absentee ballot who do not appear on
11 the state voter registration list shall not be entitled to an
12 absentee ballot.

13 "§17-11-12.

14 "Not less than ~~40~~ 47 days prior to the holding of
15 any election, except a municipal election, to which this
16 chapter pertains, or in the case of a runoff primary election,
17 not more than seven days after the state executive committee,
18 or subcommittee thereof as may have been appointed by the
19 chair thereof for such purpose, declares and certifies to the
20 Secretary of State the results from the first primary
21 election, the officer charged with the printing and
22 distribution of the official ballots and election supplies
23 shall deliver to the absentee election manager of each county
24 in which the election is held or to the person designated to
25 serve in his or her place a sufficient number of absentee
26 ballots, envelopes, and other necessary supplies. Not more
27 than seven days after the last day to qualify as a candidate

1 in a municipal election, or in the case of a runoff municipal
2 election, not more than 14 days after the first election, or
3 in the case of a municipal election held for a purpose other
4 than the election of municipal officers, not more than seven
5 days after the giving of notice of the election, the officer
6 charged with the printing and distribution of the official
7 ballots and election supplies shall deliver to the absentee
8 election manager of the municipality in which the election is
9 held, or to the person designated to serve in his or her
10 place, a sufficient number of absentee ballots, envelopes, and
11 other necessary supplies. If the absentee election manager is
12 a candidate with opposition in the election, he or she shall
13 immediately, upon receipt of the ballots, envelopes, and
14 supplies, deliver them to the person authorized to act in his
15 or her place, as provided in Section 17-11-13."

16 Section 2. The Secretary of State, in coordination
17 with the Alabama Circuit Court Clerks Association or its
18 members and the Alabama Probate Judges Association or its
19 members, shall develop and implement an electronic ballot
20 transmission system for use in delivering blank absentee
21 ballots and other absentee balloting materials to electors
22 qualified to vote absentee pursuant to the Uniformed and
23 Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff. The
24 electronic ballot transmission system shall ensure the
25 integrity and security of the transmitted ballots and shall be
26 operational for absentee voting in the 2012 presidential

1 preference primary and each succeeding election for county,
2 state, or federal offices.

3 Section 3. The Secretary of State, in coordination
4 with the Alabama Circuit Court Clerks Association or its
5 members, shall develop a free access system by which an
6 absentee voter may determine whether his or her voted absentee
7 ballot has been received by the appropriate absentee election
8 manager.

9 Section 4. The Secretary of State is granted
10 authority to adopt requirements related to witnessing or
11 notarization of absentee ballots, voter identification,
12 candidate qualifying, and ballot access procedures, ballot
13 printing, and the application process for absentee balloting
14 in elections for federal, state, county, and municipal offices
15 and constitutional amendments and other referenda to comply
16 with federal law.

17 Section 5. The Secretary of State is authorized to
18 extend the deadline for receiving, processing, and counting
19 absentee ballots if absentee ballots are transmitted to
20 qualified absentee voters less than the minimum number of days
21 prior to an election as required by federal law. Absentee
22 election officials utilized for the processing and counting of
23 absentee ballots pursuant to this section shall be appointed
24 in the manner prescribed in Section 17-11-11 of the Code of
25 Alabama 1975, and compensated as provided in Section 17-8-12
26 of the Code of Alabama 1975.

1 Section 6. The Secretary of State is granted rule
2 making authority for the implementation of this act under the
3 Alabama Administrative Procedure Act.

4 Section 7. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.