

1 HB367
2 136956-1
3 By Representative Beckman
4 RFD: Constitution, Campaigns and Elections
5 First Read: 21-FEB-12

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8 SYNOPSIS: Under current law, a person voting by
9 absentee ballot is required to submit a copy of
10 personal identification with the voted ballot.

11 This bill would require a voter voting an
12 absentee ballot to submit personal identification
13 when making the application to vote by absentee
14 ballot.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 To amend Sections 17-10-1 and 17-10-2, Code of
21 Alabama 1975, to require a voter voting by absentee ballot to
22 submit a copy of personal identification when making
23 application to vote by absentee ballot.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 17-10-1 and 17-10-2, Code of
26 Alabama 1975, are amended to read as follows:

27 "§17-10-1.

1 "(a) Each person who registers to vote by mail shall
2 provide identification prior to the first time they vote in an
3 election containing a federal office on the ballot and as
4 otherwise required by Section 17-9-30.

5 "(b) ~~Voters who are voting by~~ Except for those
6 voters identified in Section 17-9-30(c), individuals making
7 application to vote by absentee ballot shall submit with the
8 absentee ballot application a copy of one of the forms of
9 identification listed in Section 17-9-30.

10 "(c) If an individual required to present
11 identification in accordance with this section is unable to
12 meet the identification requirements of this section, the
13 ballot cast is a provisional ballot.

14 "§17-10-2.

15 "(a) A voter shall be required to cast a provisional
16 ballot when:

17 "(1) The name of the individual does not appear on
18 the official list of eligible voters for the precinct or
19 polling place in which the individual seeks to vote, and the
20 individual's registration cannot be verified while at the
21 polling place by the registrar or the judge of probate.

22 "(2) An inspector has knowledge that the individual
23 is not entitled to vote at that precinct and challenges the
24 individual.

25 "(3) The individual is required to comply with the
26 voter identification provisions of Section 17-10-1 but is
27 unable to do so. If the voter's ballot becomes a provisional

1 ballot due to lack of identification, the identification,
2 including the address and telephone number of the voter, must
3 be provided to the board of registrars no later than 5:00 P.M.
4 on the Friday following the election. If the voter fails to
5 provide identification to the board of registrars by 5:00 P.M.
6 on the Friday following the election, the voter's ballot shall
7 not be counted.

8 "(4) A federal or state court order extends the time
9 for closing the polls beyond that established by state law and
10 the individual votes during the extended period of time.
11 Notwithstanding any other provision of state law, where
12 provisional ballots are cast pursuant to a federal or state
13 court order extending the time for closing the polls beyond
14 that established by state law, the provisional ballots shall
15 be segregated from other provisional ballots into a separate
16 sealed container for such purpose and shall be counted,
17 tabulated, and canvassed only pursuant to the order of a court
18 having proper jurisdiction.

19 "(5) The person has requested, but not voted, an
20 absentee ballot.

21 "(b) The procedure for casting a provisional ballot
22 at the polling place shall be as follows:

23 "(1) An inspector at the polling place shall notify
24 the individual that the individual may cast a provisional
25 ballot in that election and shall give the individual written
26 information that states that any individual who casts a
27 provisional ballot will be able to ascertain under the system

1 described in subsection (g) whether the vote was counted, and,
2 if the vote was not counted, the reason that the vote was not
3 counted.

4 "(2) The individual shall execute a written
5 affirmation by the individual before the inspector or clerk
6 stating the following:

7 ""State of Alabama, County of _____ I do
8 solemnly swear (or affirm) that I am a registered voter in the
9 precinct in which I am seeking to vote and that I am eligible
10 to vote in this election.

11 _____

12 Signature or Mark

13 _____

14 Printed Name of Voter

15 _____

16 Printed Residence Address of Voter

17 _____

18 City State Zip Code

19 _____

20 Date of Birth"

21 "(3) The individual shall complete a voter
22 reidentification form prescribed by the Secretary of State for

1 use in updating the state voter registration list. This form
2 shall indicate whether it is associated with a provisional
3 ballot.

4 "(4) Where a provisional ballot is required on the
5 basis of an inspector's knowledge that a voter is not
6 qualified to vote in the precinct in which the individual is
7 seeking to vote, the inspector shall sign a statement under
8 penalty of perjury setting forth facts which the inspector
9 believes to support his or her belief that the individual is
10 not qualified to vote in the precinct in which the voter is
11 seeking to vote. The challenge statement of the inspector
12 shall be written on a multi-part form prescribed for such
13 purpose by the Secretary of State and the inspector shall give
14 one copy to the provisional voter, provide one copy to be
15 sealed with the provisional ballots, and provide one copy to
16 be returned to the board of registrars in a sealed envelope.

17 "(5) The voter shall cast the provisional ballot and
18 place it into a sealed ballot box separately identified and
19 utilized for containing provisional ballots.

20 "(c) The procedure for voting a provisional ballot
21 by absentee voting shall be as follows:

22 ~~"(1) Upon receipt of an absentee ballot, the~~
23 ~~absentee election manager shall determine whether~~
24 ~~identification has been properly provided. If the~~
25 ~~identification has not been properly provided, the absentee~~
26 ~~election manager shall notify the voter in writing of the~~
27 ~~following:~~

1 ~~"a. That unless such identification is provided to~~
2 ~~the absentee election manager by 5:00 P.M. on the Friday~~
3 ~~before the election, the voter's absentee ballot will become a~~
4 ~~provisional ballot.~~

5 ~~"b. That in the event the voter's ballot becomes a~~
6 ~~provisional ballot due to lack of identification, such~~
7 ~~identification must be provided to the board of registrars no~~
8 ~~later than 5:00 P.M. on the Friday following the election and~~
9 ~~shall include the address and telephone information for the~~
10 ~~board of registrars.~~

11 ~~"c. That in the event the voter fails to provide~~
12 ~~identification to the board of registrars by 5:00 P.M. on the~~
13 ~~Friday following the election, the voter's ballot will not be~~
14 ~~counted.~~

15 ~~"d. That any individual who casts a provisional~~
16 ~~ballot will be able to ascertain under the system described in~~
17 ~~subsection (g) whether the vote was counted and, if the vote~~
18 ~~was not counted, the reason that the vote was not counted.~~

19 ~~"(2)(1)~~ Upon receipt of an application for an
20 absentee ballot where the voter is not identified as appearing
21 in the precinct for which the voter seeks a ballot, the
22 absentee election manager shall:

23 "a. Mark the word "Provisional" on the second or
24 affidavit envelope prior to transmittal of the absentee
25 ballot.

26 "b. Enclose the following information with the
27 transmittal of the absentee ballot:

1 "1. A written explanation as to why the ballot is a
2 provisional ballot; how to complete the voter reidentification
3 form and affirmation of provisional voter form; and the
4 procedure followed by the board of registrars in verifying and
5 certifying provisional votes.

6 "2. A voter reidentification form and an affirmation
7 of provisional voter form.

8 "3. A written explanation that any individual who
9 casts a provisional ballot will be able to ascertain under the
10 system described in subsection (g) whether the vote was
11 counted and, if the vote was not counted, the reason that the
12 vote was not counted.

13 "~~(3)~~(2) When an absentee ballot becomes a
14 provisional ballot as a result of an absentee precinct
15 inspector having knowledge that the individual is not entitled
16 to vote at the voting place applicable to the voter's ballot
17 and challenges the voter's right to vote a particular ballot,
18 the absentee precinct inspector shall follow the same
19 procedure identified in subdivision (4) of subsection (b)
20 except as follows:

21 "a. In lieu of providing the provisional voter with
22 a copy of the poll worker challenge statement, the inspector
23 shall provide two copies to the absentee election manager once
24 the results from the absentee precinct have been tabulated and
25 certified.

26 "b. The absentee election manager shall mail one
27 copy of the challenge statement of the inspector by first

1 class mail by the day after the election to the mailing
2 address provided on the provisional voter's application for an
3 absentee ballot and shall enclose with it a written
4 explanation of the procedure used by the board of registrars
5 in verifying and certifying provisional ballots; an address
6 and telephone number by which the provisional voter may
7 respond; and a written explanation that any individual who
8 casts a provisional ballot will be able to ascertain under the
9 system described in subsection (g) whether the vote was
10 counted and, if the vote was not counted, the reason that the
11 vote was not counted.

12 "(d) Upon the closing of the polls, the sealed
13 ballot box containing the provisional ballots shall be
14 returned unopened to the sheriff, or in municipal elections to
15 the municipal clerk, who shall keep it securely until such
16 time as the provisional ballots are counted in accordance with
17 subsection (f). The written affirmations of the provisional
18 voters, inspector challenge statements, and all voter
19 reidentification forms shall be placed in a sealed envelope
20 addressed to the board of registrars and delivered by the
21 sheriff, or in municipal elections by the municipal clerk, to
22 the board of registrars no later than noon on the day
23 following the election.

24 "(e) Upon receipt of materials returned from the
25 polling places, the board of registrars shall forthwith update
26 the state voter registration list utilizing the voter
27 reidentification forms of provisional voters and shall verify

1 by a certification attached to each provisional voter
2 affirmation whether the provisional vote is entitled to be
3 counted and the reason for or against counting the provisional
4 ballot. For the purposes of a municipal election, when
5 verifying a provisional ballot based upon the fact that the
6 individual's name does not appear on the official list of
7 eligible voters for the polling place in which the individual
8 seeks to vote, the board of registrars shall verify that the
9 voter is registered to vote at an address located within the
10 municipal corporate limits or district within which he or she
11 seeks to vote. When verifying a provisional ballot based upon
12 the challenge of an inspector, the board of registrars shall
13 promptly contact the voter by first class mail and provide an
14 explanation of how the provisional voter may respond to the
15 challenge. After determining that the provisional voter has
16 had notice and an opportunity to be heard, the board of
17 registrars shall verify by a certification attached to the
18 challenge statement whether the provisional ballot is due to
19 be counted and, if not, why it should not be counted. The
20 board of registrars shall deliver the provisional voter
21 affirmations and inspector challenge statements, with the
22 certified findings of the board of registrars attached, to the
23 judge of probate, or in municipal elections to the municipal
24 clerk, no later than noon seven days after the election until
25 which time such findings shall remain confidential. Upon
26 delivery of such materials, the board of registrars shall
27 enter into the state voter registration list a voter history

1 providing identification of voters who cast provisional
2 ballots, whether their ballot was counted, and the reason the
3 ballot either was or was not counted.

4 "(f) Commencing at noon, Tuesday, seven days after
5 the election, the canvassing board, or in municipal elections
6 the municipal governing body, in the presence of watchers,
7 shall tabulate provisional ballots which have been certified
8 by the board of registrars as cast by registered and qualified
9 voters of the voting places in which such ballots were cast.
10 For the purpose of making election returns of provisional
11 ballots, provisional balloting results shall be returned and
12 canvassed as a separate precinct while disclosing all votes
13 for candidates and ballot measures cast in such ballots. The
14 canvassing board shall certify on a form to be prescribed by
15 the Secretary of State the results of the provisional votes
16 cast and shall post one copy in a public location within the
17 courthouse, or in the city hall in municipal elections, and
18 shall seal one copy with the provisional ballots, provisional
19 voter affirmations, inspector or clerk challenge statements,
20 and certifications of the board of registrars into a sealed
21 container or, in the case of primary elections, containers
22 designated for each political party for such purpose. Such
23 containers shall be delivered and remain secured with the
24 other records of the election in accordance with state law.

25 "(g) The board of registrars, after verifying the
26 identity of a provisional voter, shall make available at the
27 request of such voter, the findings of the board of registrars

1 as to whether the individual's provisional ballot was counted
2 and, if not, the reason why. This may be accomplished by
3 telephone, by letter, or by secured electronic means. The
4 Secretary of State shall provide a secure means for
5 provisional voters to verify by electronic means whether the
6 individual's vote was counted and, if not, the reason why.
7 There shall be no charge to the provisional voters for
8 obtaining this information.

9 "(h) The Secretary of State may by rule address the
10 means of identifying ballots cast by particular provisional
11 voters by the appointing board and the method of providing
12 confidentiality and security to communications with
13 provisional voters seeking information about the status of
14 their ballot. Notice of any proposed rule or amendment to an
15 existing rule relating to provisional balloting shall be sent
16 by certified mail to every judge of probate at least 30 days
17 prior to certification of the proposed rule or amendment under
18 the Administrative Procedure Act."

19 Section 2. The provisions of this act are severable.
20 If any part of this act is declared invalid or
21 unconstitutional, that declaration shall not affect the part
22 which remains.

23 Section 3. This act shall become effective on the
24 first day of the third month following its passage and
25 approval by the Governor, or its otherwise becoming law.