

1 SB190
2 180464-1
3 By Senators Figures, Dunn, Smitherman, Singleton, Ross,
4 Coleman-Madison, Sanders, Beasley, Whatley, Allen, Marsh and
5 Pittman
6 RFD: Constitution, Ethics and Elections
7 First Read: 14-FEB-17

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8 SYNOPSIS: Under existing law, if a voter's affidavit
9 signature or mark on the affidavit envelope
10 containing an absentee ballot is not properly
11 witnessed, the ballot is not removed or counted.

12 This bill would require the absentee
13 election manager to notify voters by mail after an
14 election of the reason why his or her absentee
15 ballot was not counted.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Section 17-11-10, Code of Alabama 1975,
22 relating to absentee ballots; to require the absentee election
23 manager to notify voters by mail after each election of the
24 reason why his or her absentee ballot was not counted.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 17-11-10 of the Code of Alabama
27 1975, is amended to read as follows:

1 "§17-11-10.

2 "(a) Upon receipt of the absentee ballot, the
3 absentee election manager shall record its receipt thereof on
4 the absentee list as provided in Section 17-11-5 and shall
5 safely keep the ballot without breaking the seal of the
6 affidavit envelope.

7 "(b) For absentee ballots received by noon on the
8 day of the election, the absentee election manager shall,
9 beginning at noon, deliver the sealed affidavit envelopes
10 containing absentee ballots to the election officials provided
11 for in Section 17-11-11. The election officials shall then
12 call the name of each voter casting an absentee ballot with
13 poll watchers present as may be provided under the laws of
14 Alabama and shall examine each affidavit envelope to determine
15 if the signature of the voter has been appropriately
16 witnessed. If the witnessing of the signature and the
17 information in the affidavit establish that the voter is
18 entitled to vote by absentee ballot, then the election
19 officials shall certify the findings, open each affidavit
20 envelope, and deposit the plain envelope containing the
21 absentee ballot into a sealed ballot box.

22 "No poll worker or other election official shall
23 open an affidavit envelope if the envelope indicates the
24 ballot is an unverified provisional ballot or the affidavit
25 printed thereon is unsigned by the voter or unmarked, and no
26 ballot envelope or ballot therein may be removed or counted.
27 No poll worker or other election official shall open an

1 affidavit envelope if the voter's affidavit signature or mark
2 is not witnessed by the signatures of two witnesses or a
3 notary public, or other officer, including a military
4 commissioned officer, authorized to acknowledge oaths, and no
5 ballot envelope or ballot therein may be removed or counted.
6 The provision for witnessing of the voter's affidavit
7 signature or mark in Section 17-11-7 goes to the integrity and
8 sanctity of the ballot and election. No court or other
9 election tribunal shall allow the counting of an absentee
10 ballot with respect to which the voter's affidavit signature
11 or mark is not witnessed by the signatures of two witnesses 18
12 years of age or older or a notary public, or other officer,
13 including a military commissioned officer, authorized to
14 acknowledge oaths, prior to being delivered or mailed to the
15 absentee election manager.

16 "Upon closing of the polls, the absentee ballots
17 shall be counted and otherwise handled in all respects as if
18 the absentee voter were present and voting in person.

19 "Precinct ballot counters may be used to count
20 absentee ballots. Absentee election officials are to be
21 appointed and trained in the same manner as prescribed for
22 regular election officials. The number of absentee election
23 officials shall be determined by the number of precinct
24 counters provided. The county commission may provide more than
25 one precinct ballot counter based upon the recommendation of
26 the absentee election manager. Beginning not earlier than noon

1 on election day, the absentee election officials shall perform
2 the duties prescribed in Section 17-11-11.

3 "As regards municipalities with populations of less
4 than 10,000, in the case of municipal elections held at a time
5 different from a primary or general election, the return mail
6 envelopes containing the ballots shall be delivered to the
7 election official of the precinct of the respective voters,
8 unless the city or town having a population of less than
9 10,000 inhabitants has, by permanent ordinance adopted six
10 months prior to the municipal election, established a
11 procedure for the appointment of absentee election officials
12 pursuant to subsection (c) of Section 11-46-27.

13 "(c) Absentee ballots cast in a second primary
14 election for federal, state, or county office by individuals
15 voting pursuant to the federal Uniformed and Overseas Citizens
16 Absentee Voting Act, 42 U.S.C. 1973ff et seq., and received
17 after noon on the day of the second primary election, shall be
18 opened and counted at the same time as the verified
19 provisional ballots. At noon seven days after the second
20 primary election, the absentee election manager shall deliver
21 the sealed affidavit envelopes containing absentee ballots to
22 the officials provided for in subsection (f) of Section
23 17-10-2. The officials shall call the name of each voter
24 casting an absentee ballot in the presence of watchers
25 designated by any interested candidates and shall examine each
26 affidavit envelope to determine if the signature of the voter
27 has been appropriately witnessed. If the witnessing of the

1 signature and the information in the affidavit establish that
2 the voter is entitled to vote by absentee ballot, then the
3 election officials shall certify the findings, open each
4 affidavit envelope, and deposit the plain envelope containing
5 the absentee ballot into a sealed ballot box.

6 "No election official shall open an affidavit
7 envelope if the affidavit printed thereon is unsigned by the
8 voter or unmarked, and no ballot envelope or ballot therein
9 may be removed or counted. No election official shall open an
10 affidavit envelope if the voter's affidavit signature or mark
11 is not witnessed by the signatures of two witnesses or a
12 notary public, or other officer, including a military
13 commissioned officer, authorized to acknowledge oaths, and no
14 ballot envelope or ballot therein may be removed or counted.
15 The provision for witnessing of the voter's affidavit
16 signature or mark in Section 17-11-7 goes to the integrity and
17 sanctity of the ballot and election. No court or other
18 election tribunal shall allow the counting of an absentee
19 ballot with respect to which the voter's affidavit signature
20 or mark is not witnessed by the signatures of two witnesses 18
21 years of age or older or a notary public, or other officer,
22 including a military commissioned officer, authorized to
23 acknowledge oaths, prior to being delivered or mailed to the
24 absentee election manager.

25 "The absentee ballots described in this subsection
26 shall be opened, counted, and tabulated. The results of the
27 absentee ballots counted and tabulated on election day shall

1 be amended to include the results of the absentee ballots
2 described in this subsection.

3 "In all other respects, unless otherwise
4 specifically provided by law, the absentee ballots described
5 in this subsection shall be treated as other absentee ballots.

6 "(d) In the event the voter's affidavit signature or
7 mark on the affidavit envelope is not witnessed by the
8 signatures of two witnesses 18 years of age or older or a
9 notary public, or other officer, including a military
10 commissioned officer, authorized to acknowledge oaths, or the
11 ballot is rejected for any other legal reason, and the ballot
12 envelope or ballot therein is not removed and counted, the
13 unopened affidavit envelope and notice in writing signed by
14 the election officials who rejected the ballot stating the
15 cause of the rejection and the reason why the voter's absentee
16 ballot was not counted, shall be sent by first class mail to
17 the voter within 10 calendar days after the election. A copy
18 of the notice of rejection shall be retained by the office of
19 the local judge of probate for a minimum of one year and shall
20 be made available as provided in Section 36-12-40. The
21 Secretary of State shall promulgate any rules as necessary to
22 provide for the implementation of this subsection."

23 Section 2. 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.