

1 HB354  
2 217407-1  
3 By Representative Mooney  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 15-FEB-22

8 SYNOPSIS: Under existing law, voters requesting an  
9 absentee ballot must submit photo identification  
10 with the absentee ballot application.

11 Under existing law, the absentee election  
12 manager is required to be open on the days and  
13 during the hours as that of the circuit clerk.

14 Under existing law, the list of electors  
15 voting by absentee ballot is confidential until the  
16 day following an election.

17 Under existing law, a person or organization  
18 authorized by law may appoint one poll watcher to  
19 be present for the counting of absentee ballots.

20 Under existing law, an absentee ballot,  
21 except one cast pursuant to the Uniformed and  
22 Overseas Citizens Absentee Voting Act (UOCAVA),  
23 cannot be counted unless received by mail or hand  
24 delivery no later than noon on election day.

25 This bill would require that the photo  
26 identification be submitted with the absentee  
27 ballot rather than the absentee ballot application.

1                   This bill would prohibit the absentee  
2 election manager and circuit clerk from extending  
3 its hours of operation outside of its normal  
4 business hours during an election year.

5                   This bill would require the absentee  
6 election manager to report to the Secretary of  
7 State and Attorney General listing the names of any  
8 voters who requested that an absentee ballot be  
9 mailed to an address where a number of absentee  
10 ballots were requested, and that names of any  
11 voters who requested an absentee ballot in a county  
12 other than the county in which the voter is  
13 registered to vote.

14                   This bill would require the absentee  
15 election manager to record the name, voting place  
16 of the applicant, date the application was  
17 received, date the ballot was sent, and date the  
18 ballot was returned on a list of absentee voters  
19 and to post a copy of the list of voters who have  
20 requested an absentee ballot each day on the  
21 regular bulletin board or other public place in the  
22 county courthouse.

23                   This bill would require that each absentee  
24 ballot have an identifying tracking number.

25                   This bill would increase the number of poll  
26 watchers when a certain amount of absentee ballots  
27 have been received.

1                   This bill would also provide that any  
2                   absentee ballot received by mail a certain number  
3                   of calendar days after the election shall be deemed  
4                   a provisional ballot.

5  
6                   A BILL  
7                   TO BE ENTITLED  
8                   AN ACT

9  
10                   Relating to absentee voting; to amend Sections  
11                   17-9-30, 17-11-2, 17-11-4, 17-11-5, and 17-11-11, Code of  
12                   Alabama 1975, and Section 17-11-18, Code of Alabama 1975, as  
13                   last amended by Act 2021-364 of the 2021 Regular Session; to  
14                   require photo identification to be submitted with the absentee  
15                   ballot rather than the absentee ballot application; to  
16                   prohibit the absentee election manager and circuit clerk from  
17                   extending its hours of operation outside of its normal  
18                   business hours during an election year; to require the  
19                   absentee election manager to submit a report to the Secretary  
20                   of State and Attorney General relating to certain absentee  
21                   ballot requests; to require the absentee election manager to  
22                   record certain activities relating to each absentee ballot and  
23                   to post a copy of the list of voters who have requested an  
24                   absentee ballot each day on the regular bulletin board or  
25                   other public place in the county courthouse; to require that  
26                   each absentee ballot have an identifying tracking number; to  
27                   increase the number of poll watchers; to observe counting of

1 absentee ballots in certain circumstances; and to provide that  
2 any absentee ballot received by mail a certain number of  
3 calendar days after the election shall be deemed a provisional  
4 ballot.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 17-9-30, 17-11-2, 17-11-4,  
7 17-11-5, and 17-11-11, Code of Alabama 1975, and Section  
8 17-11-18, Code of Alabama 1975, as last amended by Act  
9 2021-364 of the 2021 Regular Session, are amended to read as  
10 follows:

11 "§17-9-30.

12 "(a) Each elector shall provide valid photo  
13 identification to an appropriate election official prior to  
14 voting. A voter required to show valid photo identification  
15 when voting in person shall present to the appropriate  
16 election official one of the following forms of valid photo  
17 identification:

18 "(1) A valid Alabama driver's license or nondriver  
19 identification card which was properly issued by the  
20 appropriate state or county department or agency.

21 "(2) A valid Alabama photo voter identification card  
22 issued under subsection (g) or other valid identification card  
23 issued by a branch, department, agency, or entity of the State  
24 of Alabama, any other state, or the United States authorized  
25 by law to issue personal identification, provided that ~~such~~  
26 the identification card contains a photograph of the elector.

27 "(3) A valid United States passport.

1           "(4) A valid employee identification card containing  
2 the photograph of the elector and issued by any branch,  
3 department, agency, or entity of the United States government,  
4 this state, or any county, municipality, board, authority, or  
5 other entity of this state.

6           "(5) A valid student or employee identification card  
7 issued by a public or private college, university, or  
8 postgraduate technical or professional school located within  
9 the state, provided that ~~such~~ the identification card contains  
10 a photograph of the elector.

11           "(6) A valid United States military identification  
12 card, provided that ~~such~~ the identification card contains a  
13 photograph of the elector.

14           "(7) A valid tribal identification card containing a  
15 photograph of the elector.

16           "~~(b) Voters requesting an~~ An elector voting by  
17 absentee ballot shall submit with the absentee ballot  
18 ~~application~~ a copy of one of the forms of identification  
19 listed in subsection (a). Notwithstanding subsection (e), an  
20 absentee ballot shall not be ~~issued~~ counted unless the  
21 required identification is submitted with the absentee ballot  
22 ~~application~~ except as provided in subsection (c).

23           "~~(c) Notwithstanding subsection (b), if an absentee~~  
24 ~~election manager receives an absentee ballot application on or~~  
25 ~~after the eighth day prior to the election without a copy of~~  
26 ~~one of the forms of identification listed in subsection (a),~~  
27 ~~the absentee election manager, if the applicant is otherwise~~

1 ~~qualified to vote, shall issue the absentee ballot as a~~  
2 ~~provisional ballot pursuant to subdivision (1) of subsection~~  
3 ~~(c) of Section 17-10-2.~~

4           "~~(d)~~ (c) Notwithstanding subsection (b), a voter who  
5 is entitled to vote by absentee ballot pursuant to the  
6 Uniformed and Overseas Citizens Absentee Voting Act  
7 (subchapter I-G of Chapter 20 of Title 42 U.S.C.); Section  
8 3(b) (2) (B) (ii) of the Voting Accessibility for the Elderly and  
9 Handicapped Act (subchapter I-F of Chapter 20 of Title 42  
10 U.S.C.); or any other federal law, shall not be required to  
11 produce identification prior to voting.

12           "~~(e)~~ (d) An individual required to present valid  
13 photo identification in accordance with this section who is  
14 unable to meet the identification requirements of this section  
15 shall be permitted to vote by a provisional ballot, as  
16 provided for by law.

17           "~~(f)~~ (e) In addition, an individual who does not  
18 have valid photo identification in his or her possession at  
19 the polls shall be permitted to vote if the individual is  
20 positively identified by two election officials as a voter on  
21 the poll list who is eligible to vote and the election  
22 officials sign a sworn affidavit so stating.

23           "~~(g)~~ (f) The Secretary of State shall issue, upon  
24 application, an Alabama photo voter identification card to  
25 registered Alabama electors which shall under state law be  
26 valid only for the purposes of voter identification under  
27 subsection (a) and available only to registered electors of

1 this state. No fee shall be charged or collected for the  
2 application for or issuance of an Alabama photo voter  
3 identification card.

4 ~~"(h)~~ (g) No person shall be eligible for an Alabama  
5 photo voter identification card if ~~such~~ the person has a valid  
6 unexpired driver's license, nondriver identification card, or  
7 any other photo identification described in subsection (a).

8 ~~"(i)~~ (h) The Alabama photo voter identification card  
9 shall be captioned ALABAMA PHOTO VOTER IDENTIFICATION CARD and  
10 shall contain a prominent statement that under Alabama law the  
11 card is valid only as identification for voting purposes. The  
12 Alabama photo voter identification card shall be laminated,  
13 shall contain a digital color photograph of the applicant,  
14 shall have the signature of the Secretary of State, and shall  
15 include the following information:

16 "(1) Full legal name.

17 "(2) Address as reflected in the person's voter  
18 registration record.

19 "(3) Date of birth.

20 "(4) Eye color.

21 "(5) Gender.

22 "(6) Height.

23 "(7) Weight.

24 "(8) Date identification card was issued.

25 "(9) Other information as required by rule of the  
26 Secretary of State.



1           "~~(j)~~ (i) The application for an Alabama photo voter  
2 identification card shall elicit the information required  
3 under subdivisions (1) to (7), inclusive, of subsection ~~(i)~~  
4 (h). The application shall be signed and sworn to by the  
5 applicant, and any falsification or fraud in the making of the  
6 application shall constitute a Class C felony.

7           "~~(k)~~ (j) The Secretary of State shall require  
8 presentation and verification of the following information  
9 before issuing an Alabama photo voter identification card to a  
10 person:

11           "(1) A photo identity document, except that a  
12 non-photo identity document is acceptable if the document  
13 includes both the person's full legal name and date of birth.

14           "(2) Documentation showing the person's date of  
15 birth.

16           "(3) Documentation showing the person is registered  
17 to vote in this state.

18           "(4) Documentation showing the person's name and  
19 address as reflected in the voter registration record.

20           "~~(i)~~ (k) An Alabama photo voter identification card  
21 shall remain valid so long as the person resides at that same  
22 address and remains qualified to vote. It shall be the duty of  
23 a person who moves his or her residence within the State of  
24 Alabama to surrender his or her card to the Secretary of  
25 State, and ~~such~~ the person may after ~~such~~ the surrender apply  
26 for and receive a new card if the person is otherwise eligible  
27 under this section. It shall be the duty of a person who moves

1 his or her residence outside the State of Alabama or who  
2 ceases to be qualified to vote to surrender his or her card to  
3 the Secretary of State.

4 "~~(m)~~ (l) The Secretary of State is authorized to  
5 contract with a private provider for the production of the  
6 Alabama photo voter identification card pursuant to any  
7 applicable state bid laws.

8 "~~(n)~~ (m) The expenses for the production of the  
9 Alabama photo voter identification card shall be paid from  
10 funds appropriated in the state General Fund for Registration  
11 of Voters.

12 "~~(o)~~ (n) The Secretary of State is directed to  
13 inform the public regarding the requirements of subsection (a)  
14 through whatever means deemed necessary by the Secretary of  
15 State.

16 "~~(p)~~ (o) The Secretary of State is granted  
17 rulemaking authority for the implementation of this section  
18 under the Alabama Administrative Procedure Act.

19 "§17-11-2.

20 "In each county there shall be an "absentee election  
21 manager," who shall fulfill the duties assigned by this  
22 chapter. The circuit clerk of the county shall, at his or her  
23 option, be the absentee election manager. If the circuit clerk  
24 of the county declines the duties of absentee election  
25 manager, the appointing board shall thereupon appoint an  
26 absentee election manager, who shall be a person qualified by  
27 training and experience, who is a qualified elector of the

1 county and who is not a candidate in the election to perform  
2 the duties assigned by this chapter. The county commission  
3 shall designate the place or office where such duties shall be  
4 performed. ~~Such~~ The place or office shall be open on the days  
5 and during the hours as that of the circuit clerk prior to  
6 each election and the absentee election manager or circuit  
7 clerk shall not expand its hours of operation outside of its  
8 normal business hours during an election year. Any person so  
9 appointed shall have all the powers, duties, and  
10 responsibilities of the circuit clerk for the purposes of this  
11 chapter, including the power to administer oaths. ~~Such~~ These  
12 powers, duties, and responsibilities shall terminate when the  
13 election results are certified. The absentee election manager  
14 or circuit clerk shall be entitled to the same compensation  
15 for the performance of his or her duties as is provided in  
16 Section 17-11-14.

17 "§17-11-4.

18 "(a) The application required in Section 17-11-3  
19 shall be filed with the person designated to serve as the  
20 absentee election manager. The application shall be in a form  
21 prescribed and designed by the Secretary of State and shall be  
22 used throughout the state. Notwithstanding the foregoing,  
23 handwritten applications can also be accepted at any time  
24 prior to the five-day deadline to receive absentee ballot  
25 applications as provided in Section 17-11-3. The application  
26 shall contain sufficient information to identify the applicant  
27 and shall include the applicant's name, residence address, or

1 such other information necessary to verify that the applicant  
2 is a registered voter. The application shall also list all  
3 felonies of moral turpitude, as provided in Section 17-3-30.1.  
4 Any applicant may receive assistance in filling out the  
5 application as he or she desires, but each application shall  
6 be manually signed by the applicant and, if he or she signs by  
7 mark, the name of the witness to his or her signature shall be  
8 signed thereon. The application may be handed by the applicant  
9 to the absentee election manager or forwarded to him or her by  
10 United States mail or by commercial carrier, as determined by  
11 rule by the Secretary of State. An application for a voter who  
12 requires emergency treatment by a licensed physician within  
13 five days before an election pursuant to Section 17-11-3 may  
14 be forwarded to the absentee election manager by the applicant  
15 or his or her designee. Application forms that are printed and  
16 made available to any applicant by the absentee election  
17 manager shall have printed thereon all penalties provided for  
18 any violation of this chapter. The Secretary of State shall  
19 provide applications for absentee voting to military and  
20 overseas voters in accordance with Section 17-4-35.

21 "(b) The absentee election manager, within 10  
22 calendar days of an election, shall submit a report to the  
23 Secretary of State and Attorney General listing the names of  
24 any voter who requested an absentee ballot to be mailed to an  
25 address where more than four absentee ballots were requested  
26 and any voter who requested an absentee ballot in a county

1 other than the county in which the voter is registered to  
2 vote.

3 "§17-11-5.

4 "(a) Upon receipt of an application for an absentee  
5 ballot as provided in Section 17-11-3, if the applicant's name  
6 appears on the list of qualified voters produced from the  
7 state voter registration list in the election to be held, or  
8 if the applicant qualifies for a provisional absentee ballot,  
9 the absentee election manager shall furnish the absentee  
10 ballot to the applicant by: (1) Forwarding it by United States  
11 mail to the applicant's or voter's residence address or, upon  
12 written request of the voter, to the address where the voter  
13 regularly receives mail; or (2) by handing the absentee ballot  
14 to the applicant in person or, in the case of emergency voting  
15 when the applicant requires medical treatment, his or her  
16 designee in person. If the absentee election manager has  
17 reasonable cause to believe that the applicant has given a  
18 fraudulent address on the application for the absentee ballot,  
19 the absentee election manager shall turn over the ballot  
20 application to the district attorney for any action which may  
21 be necessary under this chapter. The absentee election manager  
22 may require additional proof of an applicant's eligibility to  
23 vote absentee when there is evidence of continuous absentee  
24 voting. The absentee election manager shall mail any absentee  
25 ballot requested to be mailed as provided in Section 17-11-3  
26 no later than the next business day after an application has  
27 been received unless the absentee ballots have not been

1 delivered to the absentee election manager. If the absentee  
2 ballots have not been so delivered, the absentee election  
3 manager shall hold all requests until the ballots are  
4 delivered and shall then respond by placing ballots in the  
5 mail no later than the next business day.

6 "(b) The official list of qualified voters shall be  
7 furnished to the absentee election manager by the judge of  
8 probate using a printout from the state voter registration  
9 list of registered voters for that county containing voter  
10 registration information useful in the identification of  
11 absentee voters. The information provided in this report shall  
12 be established by rules adopted by the Secretary of State with  
13 the advice of the Alabama Circuit Court Clerks Association or  
14 its members and shall indicate whether the individual is  
15 obligated to produce identification in accordance with  
16 Sections 17-9-30 and 17-10-1. The Secretary of State may  
17 further provide by administrative rule for electronic access  
18 to this list for optional use by the absentee election  
19 manager. This list shall be made available beginning at least  
20 55 days before the election. In municipal elections, the  
21 official list of qualified voters shall be furnished to the  
22 absentee election manager at least 35 days before the  
23 election. Any supplemental list of qualified electors shall  
24 also be provided to the absentee election manager as soon as  
25 the list becomes available. The absentee election manager  
26 shall underscore on the list the name of each voter who has  
27 applied for an absentee ballot and shall write immediately

1 beside his or her name the word "absentee." The Secretary of  
2 State by rule may provide for electronic access to the  
3 absentee election manager's county list of registered voters  
4 in lieu of the printed list and for the method of identifying  
5 applicants for absentee ballots in conjunction with the state  
6 voter registration list.

7           "(c) (1) ~~The list of electors voting by absentee~~  
8 ~~ballot shall remain confidential until the day following the~~  
9 ~~election.~~ The absentee election manager shall enroll the name,  
10 voting place of the applicant, the date the application was  
11 received, date the ballot was sent, and date that the ballot  
12 was returned on a list of absentee voters. Each day the  
13 absentee election manager shall enter on the list the names,  
14 addresses, and voting places of each voter who has that day  
15 applied for an absentee ballot and shall, for all elections  
16 other than municipal elections, post a copy of the list of  
17 applications received each day on the regular bulletin board  
18 or other public place in the county courthouse. In municipal  
19 elections, the absentee election manager shall post a copy of  
20 the list of applications received each day on the regular  
21 bulletin board or other public place in the city hall. The  
22 absentee election manager in all elections shall deliver to  
23 the board of registrars, the day following the election, a  
24 copy of the list of all absentee voters, ~~at which point the~~  
25 ~~list is deemed a public record.~~ The list shall be maintained  
26 in the office of the circuit clerk for 60 days after the  
27 election, at which time it shall be delivered to the judge of

1 probate. Before the polls open at any election on election  
2 day, the absentee election manager shall effectuate the  
3 delivery to the election officers of each voting place a list  
4 showing the name and address of every person whose name  
5 appears on the official list of qualified electors for the  
6 voting place who applied for an absentee ballot in the  
7 election. The name of the person who applied for an absentee  
8 ballot shall be identified as an absentee voter on the list of  
9 qualified electors kept at the voting place, and the person  
10 shall not vote again, except that in county, state, and  
11 federal elections the person may vote a provisional ballot.  
12 Applications for absentee ballots are required for elections  
13 that are more than 42 days apart, except as to individuals  
14 voting pursuant to the federal Uniformed and Overseas Absentee  
15 Voting Act, ~~42 U.S.C. 1973ff~~ 52 U.S.C. §§ 20301-20311.

16 "(2) The absentee election manager shall redact any  
17 information required to be redacted pursuant to Section  
18 17-4-33 from any copy of an absentee voter list. This  
19 subdivision shall not affect poll lists used at local  
20 precincts.

21 "(d) Each absentee ballot issued under subsection  
22 (a) shall be assigned an individually identifying tracking  
23 number.

24 "~~(d)~~ (e) For individuals voting pursuant to the  
25 federal Uniformed and Overseas Absentee Voting Act, ~~42 U.S.C.~~  
26 ~~1973ff~~ 52 U.S.C. §§ 20301-20311, the Secretary of State, by  
27 rule, shall prescribe use of standardized military and



1 overseas voter registration applications and applications for  
2 absentee ballots adopted by the United States government. The  
3 Secretary of State shall also prescribe by rule provisions  
4 within the standard state application form for absentee voting  
5 which permit the voter to identify himself or herself as a  
6 military or overseas voter. Unless otherwise indicated by the  
7 military or overseas voter, an application for an absentee  
8 ballot by ~~such~~ a voter shall remain valid for any election for  
9 a federal, state, or county office or for any proposed  
10 constitutional amendment or a state or county referendum held  
11 through the end of the calendar year in which the application  
12 is filed, provided that if an election cycle begins one year  
13 and continues into the subsequent year, the application shall  
14 be valid for the whole election cycle. The absentee election  
15 manager shall provide an absentee ballot to the military and  
16 overseas voters for each ~~such~~ subsequent election. The  
17 absentee election manager, within seven days after each  
18 regularly scheduled general election for federal office, shall  
19 report the number of military and overseas ballots mailed out  
20 and the number of ballots received to the Secretary of State,  
21 who shall report this information to the Federal Election  
22 Assistance Commission within 90 days of each regularly  
23 scheduled general election for federal office.

24 "§17-11-11.

25 "(a) For every primary, general, special, or  
26 municipal election, there shall be appointed one inspector and  
27 at least three clerks, named and notified as are other

1 election officials under the general laws of the state, who  
2 shall meet, at the regular time of closing of the election on  
3 that day, in the courthouse, or municipal building for  
4 municipal elections, as designated by the absentee election  
5 manager for the purpose of counting and returning the ballots  
6 cast by absentee voters. The returns from the absentee  
7 precinct shall be made as required by law for all other boxes.  
8 It shall be unlawful for any election official or other person  
9 to publish or make known to anyone the results of the count of  
10 absentee votes before the polls close.

11 "(b) Any person or organization authorized to  
12 appoint poll watchers under Sections 17-8-7 and 17-13-11 may  
13 have ~~a single~~ one poll watcher for every 10,000 absentee  
14 ballots present at the counting of absentee ballots, with the  
15 rights as are conferred by the sections and by any other  
16 provisions of state law.

17 "(c) This section shall not apply to municipal  
18 elections in cities and towns of less than 10,000 inhabitants  
19 which are held at a time different from a primary or general  
20 election. These cities or towns may establish a procedure for  
21 the appointment of absentee election officials pursuant to  
22 subsection (c) of Section 11-46-27 by permanent ordinance  
23 adopted six months prior to the municipal election.

24 "§17-11-18.

25 "(a) No absentee ballot shall be opened or counted  
26 if received by the absentee election manager by mail, unless  
27 received by mail no later than noon on the day of election,

1 or, if received by the absentee election manager by hand  
2 delivery, unless so delivered by the voter or medical  
3 emergency designee to the absentee election manager not later  
4 than the close of the last business day next preceding the  
5 election or, if delivered by the medical emergency designee,  
6 by noon on the day of the election. Any absentee ballot  
7 received by mail after noon on election day up to six calendar  
8 days after the election shall be deemed a provisional ballot  
9 and counted pursuant to Section 17-10-2 if the absentee  
10 election manager determines that the ballot should be counted  
11 pursuant to the provisions of 17-11-10.

12 " (b) The above provision does not apply in the case  
13 of individuals voting absentee pursuant to the federal  
14 Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA),  
15 52 U.S.C. §§ 20301-20311, when those individuals are voting in  
16 a primary, second primary, general, or special election for a  
17 federal, state, or county office or proposed constitutional  
18 amendment or other referenda. In the case of UOCAVA voters  
19 voting absentee in a primary, second primary, general, or  
20 special election for a federal, state, or county office or  
21 proposed constitutional amendment or other referenda, no  
22 absentee ballot shall be opened or counted, if received by the  
23 absentee election manager by mail, unless postmarked as of the  
24 day of the primary, second primary, general, or special  
25 election and received by mail no later than noon seven days  
26 after the primary, second primary, general, or special  
27 election."

1                   Section 2. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.