

HB398 INTRODUCED



1 BC2RQ4-1
2 By Representative Mooney
3 RFD: County and Municipal Government
4 First Read: 27-Apr-23
5
6 2023 Regular Session



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SYNOPSIS:

Under existing law, voters requesting an absentee ballot must submit photo identification with the absentee ballot application.

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

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

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

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

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

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



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29 This bill would require the absentee election
30 manager to submit a report to the Secretary of State
31 and Attorney General listing the names of any voters
32 who requested that an absentee ballot be mailed to an
33 address where a number of absentee ballots were
34 requested and the names of any voters who requested an
35 absentee ballot in a county other than the county in
36 which the voter is registered to vote.

37 This bill would require the absentee election
38 manager to record the name, voting place of the
39 applicant, date the application was received, date the
40 ballot was sent, and date the ballot was returned on a
41 list of absentee voters and to post a copy of the list
42 of voters who have requested an absentee ballot each
43 day on the regular bulletin board or other public place
44 in the county courthouse.

45 This bill would require that each absentee
46 ballot have an identifying tracking number.

47 This bill would increase the number of poll
48 watchers when a certain amount of absentee ballots have
49 been received.

50 This bill would also provide that any absentee
51 ballot received by mail a certain number of calendar
52 days after the election shall be deemed a provisional
53 ballot.

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A BILL



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57 TO BE ENTITLED

58 AN ACT

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60 Relating to absentee voting; to amend Sections 17-9-30,
61 17-11-2, 17-11-4, 17-11-5, 17-11-11, and Section 17-11-18,
62 Code of Alabama 1975; to require photo identification to be
63 submitted with the absentee ballot rather than the absentee
64 ballot application; to prohibit the absentee election manager
65 and circuit clerk from extending hours of operation outside of
66 its normal business hours during an election year; to require
67 the absentee election manager to submit a report to the
68 Secretary of State and Attorney General relating to certain
69 absentee ballot requests; to require the absentee election
70 manager to record certain activities relating to each absentee
71 ballot and to post a copy of the list of voters who have
72 requested an absentee ballot each day on the regular bulletin
73 board or other public place in the county courthouse; to
74 require that each absentee ballot have an identifying tracking
75 number; to increase the number of poll watchers; to observe
76 counting of absentee ballots in certain circumstances; and to
77 provide that any absentee ballot received by mail a certain
78 number of calendar days after the election shall be deemed a
79 provisional ballot.

80 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

81 Section 1. Sections 17-9-30, 17-11-2, 17-11-4, 17-11-5,
82 17-11-11, and Section 17-11-18, Code of Alabama 1975, are
83 amended to read as follows:

84 "§17-9-30



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85 (a) Each elector shall provide valid photo
86 identification to an appropriate election official prior to
87 voting. A voter required to show valid photo identification
88 when voting in person shall present to the appropriate
89 election official one of the following forms of valid photo
90 identification:

91 (1) A valid Alabama ~~driver's~~driver license or
92 nondriver identification card which was properly issued by the
93 appropriate state or county department or agency.

94 (2) A valid Alabama photo voter identification card
95 issued under subsection (g) or other valid identification card
96 issued by a branch, department, agency, or entity of the State
97 of Alabama, any other state, or the United States authorized
98 by law to issue personal identification, provided that ~~such~~the
99 identification card contains a photograph of the elector.

100 (3) A valid United States passport.

101 (4) A valid employee identification card containing the
102 photograph of the elector and issued by any branch,
103 department, agency, or entity of the United States government,
104 this state, or any county, municipality, board, authority, or
105 other entity of this state.

106 (5) A valid student or employee identification card
107 issued by a public or private college, university, or
108 postgraduate technical or professional school located within
109 the state, provided that ~~such~~the identification card contains
110 a photograph of the elector.

111 (6) A valid United States military identification card,
112 provided that ~~such~~the identification card contains a



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113 photograph of the elector.

114 (7) A valid tribal identification card containing a
115 photograph of the elector.

116 (b) ~~Voters requesting an~~ An elector voting by absentee
117 ballot shall submit with the absentee ballot ~~application~~ a
118 copy of one of the forms of identification listed in
119 subsection (a). Notwithstanding subsection (e), an absentee
120 ballot shall not be ~~issued~~ counted unless the required
121 identification is submitted with the absentee ballot
122 ~~application~~ except as provided in subsection (c).

123 ~~(c) Notwithstanding subsection (b), if an absentee~~
124 ~~election manager receives an absentee ballot application on or~~
125 ~~after the eighth day prior to the election without a copy of~~
126 ~~one of the forms of identification listed in subsection (a),~~
127 ~~the absentee election manager, if the applicant is otherwise~~
128 ~~qualified to vote, shall issue the absentee ballot as a~~
129 ~~provisional ballot pursuant to subdivision (1) of subsection~~
130 ~~(c) of Section 17-10-2.~~

131 ~~(d)~~ (c) Notwithstanding subsection (b), a voter who is
132 entitled to vote by absentee ballot pursuant to the Uniformed
133 and Overseas Citizens Absentee Voting Act (subchapter I-G of
134 Chapter 20 of Title 42 U.S.C.); Section 3(b)(2)(B)(ii) of the
135 Voting Accessibility for the Elderly and Handicapped Act
136 (subchapter I-F of Chapter 20 of Title 42 U.S.C.); or any
137 other federal law, shall not be required to produce
138 identification prior to voting.

139 ~~(e)~~ (d) An individual required to present valid photo
140 identification in accordance with this section who is unable



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141 to meet the identification requirements of this section shall
142 be permitted to vote by a provisional ballot, as provided for
143 by law.

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

150 ~~(g)~~ (f) The Secretary of State shall issue, upon
151 application, an Alabama photo voter identification card to
152 registered Alabama electors which shall under state law be
153 valid only for the purposes of voter identification under
154 subsection (a) and available only to registered electors of
155 this state. No fee shall be charged or collected for the
156 application for or issuance of an Alabama photo voter
157 identification card.

158 ~~(h)~~ (g) No ~~person~~ individual shall be eligible for an
159 Alabama photo voter identification card if ~~such person~~ the
160 individual has a valid unexpired ~~driver's~~ driver license,
161 nondriver identification card, or any other photo
162 identification described in subsection (a).

163 ~~(i)~~ (h) The Alabama photo voter identification card
164 shall be captioned ALABAMA PHOTO VOTER IDENTIFICATION CARD and
165 shall contain a prominent statement that under Alabama law the
166 card is valid only as identification for voting purposes. The
167 Alabama photo voter identification card shall be laminated,
168 shall contain a digital color photograph of the applicant,



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169 shall have the signature of the Secretary of State, and shall
170 include the following information:

171 (1) Full legal name.

172 (2) Address as reflected in the person's voter
173 registration record.

174 (3) Date of birth.

175 (4) Eye color.

176 (5) Gender.

177 (6) Height.

178 (7) Weight.

179 (8) Date identification card was issued.

180 (9) Other information as required by rule of the
181 Secretary of State.

182 ~~(j)~~ (i) The application for an Alabama photo voter
183 identification card shall elicit the information required
184 under subdivisions (1) to (7), inclusive, of subsection
185 ~~(i)~~ (h). The application shall be signed and sworn to by the
186 applicant, and any falsification or fraud in the making of the
187 application shall constitute a Class C felony.

188 ~~(k)~~ (j) The Secretary of State shall require
189 presentation and verification of the following information
190 before issuing an Alabama photo voter identification card to a
191 ~~person~~ an individual:

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

195 (2) Documentation showing the ~~person's~~ individual's
196 date of birth.



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197 (3) Documentation showing the ~~person~~ individual is
198 registered to vote in this state.

199 (4) Documentation showing the ~~person's~~ individual's
200 name and address as reflected in the voter registration
201 record.

202 ~~(l)~~ (k) An Alabama photo voter identification card shall
203 remain valid so long as the ~~person~~ individual resides at that
204 same address and remains qualified to vote. It shall be the
205 duty of ~~a person~~ an individual who moves his or her residence
206 within the State of Alabama to surrender his or her card to
207 the Secretary of State, and ~~such person~~ the individual may
208 after ~~such~~ the surrender apply for and receive a new card if
209 the person is otherwise eligible under this section. It shall
210 be the duty of ~~a person~~ an individual who moves his or her
211 residence outside the State of Alabama or who ceases to be
212 qualified to vote to surrender his or her card to the
213 Secretary of State.

214 ~~(m)~~ (l) The Secretary of State is authorized to contract
215 with a private provider for the production of the Alabama
216 photo voter identification card pursuant to any applicable
217 state bid laws.

218 ~~(n)~~ (m) The expenses for the production of the Alabama
219 photo voter identification card shall be paid from funds
220 appropriated in the state General Fund for Registration of
221 Voters.

222 ~~(o)~~ (n) The Secretary of State is directed to inform the
223 public regarding the requirements of subsection (a) through
224 whatever means deemed necessary by the Secretary of State.



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

228 "§17-11-2

229 In each county there shall be an "absentee election
230 manager," who shall fulfill the duties assigned by this
231 article. The circuit clerk of the county shall, at his or her
232 option, be the absentee election manager. If the circuit clerk
233 of the county declines the duties of absentee election
234 manager, the appointing board shall thereupon appoint an
235 absentee election manager, who shall be ~~a person~~ an individual
236 qualified by training and experience, who is a qualified
237 elector of the county and who is not a candidate in the
238 election to perform the duties assigned by this article. The
239 county commission shall designate the place or office where
240 such duties shall be performed. ~~Such~~The place or office shall
241 be open on the days and during the hours as that of the
242 circuit clerk prior to each election and the absentee election
243 manager or circuit clerk shall not expand its hours of
244 operation outside of its normal business hours during an
245 election year. Any ~~person~~ individual so appointed shall have
246 all the powers, duties, and responsibilities of the circuit
247 clerk for the purposes of this article, including the power to
248 administer oaths. ~~Such~~These powers, duties, and
249 responsibilities shall terminate when the election results are
250 certified. The absentee election manager or circuit clerk
251 shall be entitled to the same compensation for the performance
252 of his or her duties as is provided in Section 17-11-14."



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253 "§17-11-4

254 (a) The application required in Section 17-11-3 shall
255 be filed with the ~~person~~individual designated to serve as the
256 absentee election manager. The application shall be in a form
257 prescribed and designed by the Secretary of State and shall be
258 used throughout the state. Notwithstanding the foregoing,
259 handwritten applications can also be accepted at any time
260 prior to the five-day deadline to receive absentee ballot
261 applications as provided in Section 17-11-3. The application
262 shall contain sufficient information to identify the applicant
263 and shall include the applicant's name, residence address, or
264 such other information necessary to verify that the applicant
265 is a registered voter. The application shall also list all
266 felonies of moral turpitude, as provided in Section 17-3-30.1.
267 Any applicant may receive assistance in filling out the
268 application as he or she desires, but each application shall
269 be manually signed by the applicant and, if he or she signs by
270 mark, the name of the witness to his or her signature shall be
271 signed thereon. The application may be handed by the applicant
272 to the absentee election manager or forwarded to him or her by
273 United States mail or by commercial carrier, as determined by
274 rule by the Secretary of State. An application for a voter who
275 requires emergency treatment by a licensed physician within
276 five days before an election pursuant to Section 17-11-3 may
277 be forwarded to the absentee election manager by the applicant
278 or his or her designee. Application forms that are printed and
279 made available to any applicant by the absentee election
280 manager shall have printed thereon all penalties provided for



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281 any violation of this article. The Secretary of State shall
282 provide applications for absentee voting to military and
283 overseas voters in accordance with Section 17-4-35.

284 (b) The absentee election manager, within 10 calendar
285 days of an election, shall submit a report to the Secretary of
286 State and Attorney General listing the names of all voters who
287 requested an absentee ballot to be mailed to an address where
288 more than four absentee ballots were requested and all voters
289 who requested an absentee ballot in a county other than the
290 county in which the voter is registered to vote."

291 "§17-11-5

292 (a) Upon receipt of an application for an absentee
293 ballot as provided in Section 17-11-3, if the applicant's name
294 appears on the list of qualified voters produced from the
295 state voter registration list in the election to be held, or
296 if the applicant qualifies for a provisional absentee ballot,
297 the absentee election manager shall furnish the absentee
298 ballot to the applicant by: (1) Forwarding it by United States
299 mail to the applicant's or voter's residence address or, upon
300 written request of the voter, to the address where the voter
301 regularly receives mail; or (2) by handing the absentee ballot
302 to the applicant in person or, in the case of emergency voting
303 when the applicant requires medical treatment, his or her
304 designee in person. If the absentee election manager has
305 reasonable cause to believe that the applicant has given a
306 fraudulent address on the application for the absentee ballot,
307 the absentee election manager shall turn over the ballot
308 application to the district attorney for any action which may



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309 be necessary under this article. The absentee election manager
310 may require additional proof of an applicant's eligibility to
311 vote absentee when there is evidence of continuous absentee
312 voting. The absentee election manager shall mail any absentee
313 ballot requested to be mailed as provided in Section 17-11-3
314 no later than the next business day after an application has
315 been received unless the absentee ballots have not been
316 delivered to the absentee election manager. If the absentee
317 ballots have not been so delivered, the absentee election
318 manager shall hold all requests until the ballots are
319 delivered and shall then respond by placing ballots in the
320 mail no later than the next business day.

321 (b) The official list of qualified voters shall be
322 furnished to the absentee election manager by the judge of
323 probate using a printout from the state voter registration
324 list of registered voters for that county containing voter
325 registration information useful in the identification of
326 absentee voters. The information provided in this report shall
327 be established by rules adopted by the Secretary of State with
328 the advice of the Alabama Circuit Court Clerks Association or
329 its members and shall indicate whether the individual is
330 obligated to produce identification in accordance with
331 Sections 17-9-30 and 17-10-1. The Secretary of State may
332 further provide by administrative rule for electronic access
333 to this list for optional use by the absentee election
334 manager. This list shall be made available beginning at least
335 55 days before the election. In municipal elections, the
336 official list of qualified voters shall be furnished to the



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337 absentee election manager at least 35 days before the
338 election. Any supplemental list of qualified electors shall
339 also be provided to the absentee election manager as soon as
340 the list becomes available. The absentee election manager
341 shall underscore on the list the name of each voter who has
342 applied for an absentee ballot and shall write immediately
343 beside his or her name the word "absentee." The Secretary of
344 State by rule may provide for electronic access to the
345 absentee election manager's county list of registered voters
346 in lieu of the printed list and for the method of identifying
347 applicants for absentee ballots in conjunction with the state
348 voter registration list.

349 (c) (1) ~~The list of electors voting by absentee ballot~~
350 ~~shall remain confidential until the day following the~~
351 ~~election.~~ The absentee election manager shall enroll the name,
352 voting place of the applicant, the date the application was
353 received, date the ballot was sent, and date that the ballot
354 was returned on a list of absentee voters. Each day the
355 absentee election manager shall enter on the list the names,
356 addresses, and voting places of each voter who has that day
357 applied for an absentee ballot and, for all elections other
358 than municipal elections, shall post a copy of the list of
359 applications received each day on the regular bulletin board
360 or other public place in the county courthouse. In municipal
361 elections, the absentee election manager shall post a copy of
362 the list of applications received each day on the regular
363 bulletin board or other public place in the city hall. The
364 absentee election manager in all elections shall deliver to



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365 the board of registrars, l the day following the election, a
366 copy of the list of all absentee voters, ~~at which point the~~
367 ~~list is deemed a public record~~. The list shall be maintained
368 in the office of the circuit clerk for 60 days after the
369 election, at which time it shall be delivered to the judge of
370 probate. Before the polls open at any election on election
371 day, the absentee election manager shall effectuate the
372 delivery to the election officers of each voting place a list
373 showing the name and address of every person whose name
374 appears on the official list of qualified electors for the
375 voting place who applied for an absentee ballot in the
376 election. The name of the person who applied for an absentee
377 ballot shall be identified as an absentee voter on the list of
378 qualified electors kept at the voting place, and the person
379 shall not vote again, except that in county, state, and
380 federal elections the person may vote a provisional ballot.
381 Applications for absentee ballots are required for elections
382 that are more than 42 days apart, except as to individuals
383 voting pursuant to the federal Uniformed and Overseas Absentee
384 Voting Act, ~~42 U.S.C. 1973ff~~ 52 U.S.C. §§ 20301-20311.

385 (2) The absentee election manager shall redact any
386 information required to be redacted pursuant to Section
387 17-4-33 from any copy of an absentee voter list. This
388 subdivision shall not affect poll lists used at local
389 precincts.

390 (d) Each absentee ballot issued under subsection (a)
391 shall be assigned an individually identifying tracking number.

392 ~~(d)~~ (e) For individuals voting pursuant to the federal



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393 Uniformed and Overseas Absentee Voting Act, ~~42 U.S.C. 1973ff52~~
394 U.S.C. §§ 20301-20311, the Secretary of State, by rule, shall
395 prescribe use of standardized military and overseas voter
396 registration applications and applications for absentee
397 ballots adopted by the United States government. The Secretary
398 of State shall also prescribe by rule provisions within the
399 standard state application form for absentee voting which
400 permit the voter to identify himself or herself as a military
401 or overseas voter. Unless otherwise indicated by the military
402 or overseas voter, an application for an absentee ballot by
403 ~~such~~ a voter shall remain valid for any election for a
404 federal, state, or county office or for any proposed
405 constitutional amendment or a state or county referendum held
406 through the end of the calendar year in which the application
407 is filed, provided that if an election cycle begins one year
408 and continues into the subsequent year, the application shall
409 be valid for the whole election cycle. The absentee election
410 manager shall provide an absentee ballot to the military and
411 overseas voters for each ~~such~~ subsequent election. The
412 absentee election manager, within seven days after each
413 regularly scheduled general election for federal office, shall
414 report the number of military and overseas ballots mailed out
415 and the number of ballots received to the Secretary of State,
416 who shall report this information to the Federal Election
417 Assistance Commission within 90 days of each regularly
418 scheduled general election for federal office."

419 "§17-11-11

420 (a) For every primary, general, special, or municipal



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421 election, there shall be appointed one inspector and at least
422 three clerks, named and notified as are other election
423 officials under the general laws of the state, who shall meet,
424 at the regular time of closing of the election on that day, in
425 the courthouse, or municipal building for municipal elections,
426 as designated by the absentee election manager for the purpose
427 of counting and returning the ballots cast by absentee voters.
428 The returns from the absentee precinct shall be made as
429 required by law for all other boxes. It shall be unlawful for
430 any election official or other person to publish or make known
431 to anyone the results of the count of absentee votes before
432 the polls close.

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

439 (c) This section shall not apply to municipal elections
440 in cities and towns of less than 10,000 inhabitants which are
441 held at a time different from a primary or general election.
442 These cities or towns may establish a procedure for the
443 appointment of absentee election officials pursuant to
444 subsection (c) of Section 11-46-27 by permanent ordinance
445 adopted six months prior to the municipal election. Any
446 absentee ballot received by mail after noon on election day up
447 to six calendar days after the election shall be deemed a
448 provisional ballot and counted pursuant to Section 17-10-2 if



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449 the absentee election manager determines that the ballot
450 should be counted pursuant to the provisions of 17-11-10."

451 "§17-11-18

452 (a) No absentee ballot shall be opened or counted if
453 received by the absentee election manager by mail, unless
454 received by mail no later than noon on the day of election,
455 or, if received by the absentee election manager by hand
456 delivery, unless so delivered by the voter or medical
457 emergency designee to the absentee election manager not later
458 than the close of the last business day next preceding the
459 election or, if delivered by the medical emergency designee,
460 by noon on the day of the election. Any absentee ballot
461 received by mail after noon on election day up to six calendar
462 days after the election shall be deemed a provisional ballot
463 and counted pursuant to Section 17-10-2 if the absentee
464 election manager determines that the ballot should be counted
465 pursuant to the provisions of 17-11-10.

466 (b) The above provision does not apply in the case of
467 individuals voting absentee pursuant to the federal Uniformed
468 and Overseas Citizens Absentee Voting Act (UOCAVA), 52 U.S.C.
469 §§ 20301-20311, when those individuals are voting in a
470 primary, second primary, general, or special election for a
471 federal, state, or county office or proposed constitutional
472 amendment or other referenda. In the case of UOCAVA voters
473 voting absentee in a primary, second primary, general, or
474 special election for a federal, state, or county office or
475 proposed constitutional amendment or other referenda, no
476 absentee ballot shall be opened or counted, if received by the



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477 absentee election manager by mail, unless postmarked as of the
478 day of the primary, second primary, general, or special
479 election and received by mail no later than noon seven days
480 after the primary, second primary, general, or special
481 election."

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