

1 HB320
2 116105-1
3 By Representatives Ward, Hill and Martin
4 RFD: Constitution and Elections
5 First Read: 19-JAN-10

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8 SYNOPSIS: Under existing law, a voter voting by
9 absentee ballot is required to submit valid photo
10 identification when submitting a completed ballot.

11 This bill would require a voter voting by
12 absentee ballot to submit valid photo
13 identification when making application to vote by
14 absentee ballot and by absentee provisional ballot.

15 This bill would also provide for the
16 reidentification of inactive absentee applicants
17 who appear on the state voter registration list in
18 the precinct in which they seek to vote.

19
20 A BILL

21 TO BE ENTITLED

22 AN ACT

23
24 To amend Sections 17-9-30, 17-10-1, 17-10-2, and
25 17-11-9, Code of Alabama 1975, to require a voter voting by
26 absentee ballot to submit valid photo identification when
27 making application to vote by absentee ballot and by absentee

1 provisional ballot in lieu of at the time of submitting a
2 completed absentee ballot; and to provide for the
3 reidentification of inactive absentee applicants who appear on
4 the state voter registration list in the precinct in which
5 they seek to vote.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 17-9-30, 17-10-1, 17-10-2, and
8 17-11-9 of the Code of Alabama 1975, are amended to read as
9 follows:

10 "§17-9-30.

11 "(a) As used in this section, the term "valid photo
12 identification" may include in addition to governmentally
13 produced photo identifications, identification cards
14 containing the photo of the elector produced by employers for
15 employees and identification cards containing the photo of the
16 elector produced by a public or private college, university,
17 or postgraduate technical or professional school located
18 within the state.

19 "(b) Each elector shall provide identification to an
20 appropriate election official prior to voting. A voter
21 required to show identification when voting in person shall
22 present to the appropriate election official either of the
23 following forms of identification:

24 "(1) A current valid photo identification.

25 "(2) A copy of a current utility bill, bank
26 statement, government check, paycheck, or other government
27 document that shows the name and address of the voter. The

1 term "other government document" may include, but is not
2 limited to, any of the following:

3 "a. A valid identification card issued by a branch,
4 department, agency, or entity of the State of Alabama, any
5 other state, or the United States authorized by law to issue
6 personal identification.

7 "b. A valid United States passport.

8 "c. A valid Alabama hunting or fishing license.

9 "d. A valid Alabama permit to carry a pistol or
10 revolver.

11 "e. A valid pilot's license issued by the Federal
12 Aviation Administration or other authorized agency of the
13 United States.

14 "f. A valid United States military identification
15 card.

16 "g. A certified copy of the elector's birth
17 certificate.

18 "h. A valid Social Security card.

19 "i. Certified naturalization documentation.

20 "j. A certified copy of court records showing
21 adoption or name change.

22 "k. A valid Medicaid card, Medicare card, or an
23 Electronic Benefits Transfer Card (formerly referred to as a
24 "food stamp card").

25 "(c) Voters ~~voting an~~ applying to vote by absentee
26 ballot shall submit with the application for an absentee

1 ballot a copy of one of the forms of identification listed in
2 subsection (b).

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

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

17 "(f) In addition, an individual who does not have
18 identification in his or her possession at the polls shall be
19 permitted to vote if the individual is positively identified
20 by two election officials as a voter on the poll list who is
21 eligible to vote and the election official signs the voters
22 list by where the voter signs.

23 "§17-10-1.

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

1 "(b) Voters who are ~~voting~~ applying to vote by
2 absentee ballot shall submit with the application for an
3 absentee ballot a copy of one of the forms of identification
4 listed in Section 17-9-30. If the voter requesting an absentee
5 ballot does not submit the required identification with the
6 absentee ballot application, the absentee election manager
7 shall not issue the voter an absentee ballot.

8 "(c) ~~If~~ Except for an individual applying for an
9 absentee ballot, if an individual required to present
10 identification in accordance with this section is unable to
11 meet the identification requirements of this section, the
12 ballot cast is a provisional ballot.

13 "§17-10-2.

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

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

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

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

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

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

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

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

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

1 if the vote was not counted, the reason that the vote was not
2 counted.

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

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

10 _____

11 Signature or Mark

12 _____

13 Printed Name of Voter

14 _____

15 Printed Residence Address of Voter

16 _____

17 City State Zip Code

18 _____

19 Date of Birth"

20 "(3) The individual shall complete a voter
21 reidentification form prescribed by the Secretary of State for
22 use in updating the state voter registration list. This form
23 shall indicate whether it is associated with a provisional
24 ballot.

25 "(4) Where a provisional ballot is required on the
26 basis of an inspector's knowledge that a voter is not
27 qualified to vote in the precinct in which the individual is

1 seeking to vote, the inspector shall sign a statement under
2 penalty of perjury setting forth facts which the inspector
3 believes to support his or her belief that the individual is
4 not qualified to vote in the precinct in which the voter is
5 seeking to vote. The challenge statement of the inspector
6 shall be written on a multi-part form prescribed for such
7 purpose by the Secretary of State and the inspector shall give
8 one copy to the provisional voter, provide one copy to be
9 sealed with the provisional ballots, and provide one copy to
10 be returned to the board of registrars in a sealed envelope.

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

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

16 ~~"(1) Upon receipt of an absentee ballot, the~~
17 ~~absentee election manager shall determine whether~~
18 ~~identification has been properly provided. If the~~
19 ~~identification has not been properly provided, the absentee~~
20 ~~election manager shall notify the voter in writing of the~~
21 ~~following:~~

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

26 ~~"b. That in the event the voter's ballot becomes a~~
27 ~~provisional ballot due to lack of identification, such~~

1 ~~identification must be provided to the board of registrars no~~
2 ~~later than 5:00 P.M. on the Friday following the election and~~
3 ~~shall include the address and telephone information for the~~
4 ~~board of registrars.~~

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

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

13 ~~"(2)(1)~~ Upon receipt of an application for an
14 absentee ballot where the voter is not identified as appearing
15 in the precinct for which the voter seeks a ballot, the
16 absentee election manager shall:

17 "a. Mark the word "Provisional" on the second or
18 affidavit envelope prior to transmittal of the absentee
19 ballot.

20 "b. Enclose the following information with the
21 transmittal of the absentee ballot:

22 "1. A written explanation as to why the ballot is a
23 provisional ballot; how to complete the voter reidentification
24 form and affirmation of provisional voter form; and the
25 procedure followed by the board of registrars in verifying and
26 certifying provisional votes.

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

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

8 "c. Provide the voter with the correct ballot for
9 the address that appears on the absentee ballot application.

10 "~~(3)~~(2) When an absentee ballot becomes a
11 provisional ballot as a result of an absentee precinct
12 inspector having knowledge that the individual is not entitled
13 to vote at the voting place applicable to the voter's ballot
14 and challenges the voter's right to vote a particular ballot,
15 the absentee precinct inspector shall follow the same
16 procedure identified in subdivision (4) of subsection (b)
17 except as follows:

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

23 "b. The absentee election manager shall mail one
24 copy of the challenge statement of the inspector by first
25 class mail by the day after the election to the mailing
26 address provided on the provisional voter's application for an
27 absentee ballot and shall enclose with it a written

1 explanation of the procedure used by the board of registrars
2 in verifying and certifying provisional ballots; an address
3 and telephone number by which the provisional voter may
4 respond; and a written explanation that any individual who
5 casts a provisional ballot will be able to ascertain under the
6 system described in subsection (g) whether the vote was
7 counted and, if the vote was not counted, the reason that the
8 vote was not counted.

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

21 "(e) Upon receipt of materials returned from the
22 polling places, the board of registrars shall forthwith update
23 the state voter registration list utilizing the voter
24 reidentification forms of provisional voters and shall verify
25 by a certification attached to each provisional voter
26 affirmation whether the provisional vote is entitled to be
27 counted and the reason for or against counting the provisional

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

1 "(f) Commencing at noon, Tuesday, seven days after
2 the election, the canvassing board, or in municipal elections
3 the municipal governing body, in the presence of watchers,
4 shall tabulate provisional ballots which have been certified
5 by the board of registrars as cast by registered and qualified
6 voters of the voting places in which such ballots were cast.
7 In the case of provisional absentee ballots, the canvassing
8 board shall not count a provisional absentee ballot unless it
9 satisfies the requirements of subsection (b) of Section
10 17-11-10. For the purpose of making election returns of
11 provisional ballots, provisional balloting results shall be
12 returned and canvassed as a separate precinct while disclosing
13 all votes for candidates and ballot measures cast in such
14 ballots. The canvassing board shall certify on a form to be
15 prescribed by the Secretary of State the results of the
16 provisional votes cast and shall post one copy in a public
17 location within the courthouse, or in the city hall in
18 municipal elections, and shall seal one copy with the
19 provisional ballots, provisional voter affirmations, inspector
20 or clerk challenge statements, and certifications of the board
21 of registrars into a sealed container or, in the case of
22 primary elections, containers designated for each political
23 party for such purpose. Such containers shall be delivered and
24 remain secured with the other records of the election in
25 accordance with state law.

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

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

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

20 "§17-11-9.

21 "Each prospective absentee voter who meets the
22 requirements of this chapter shall be furnished with the
23 absentee ballot herein provided for, together with two
24 envelopes for returning his or her marked ballot and
25 instructions for completing and returning the absentee ballot
26 as well as instructions for correcting mistakes in completing
27 ballots or obtaining a replacement ballot. One envelope shall

1 be a plain envelope in which the ballot shall be sealed by the
2 voter after he or she has marked it.

3 "The second envelope shall have the voter's
4 affidavit printed on the back and shall be large enough to
5 seal the plain ballot envelope inside. The second envelope
6 shall also be a return mail envelope.

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

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

15 "After marking the ballot and subscribing the oath
16 herein required, the voter shall seal his or her ballot in the
17 plain envelope, place that plain envelope inside the affidavit
18 envelope, complete the affidavit, have a notary public (or
19 other officer authorized to acknowledge oaths) or two
20 witnesses witness his or her signature to the affidavit, and
21 forward it by United States mail to the absentee election
22 manager or hand it to him or her in person.

23 "Notwithstanding the other provisions of this
24 section, the absentee election manager shall determine whether
25 an applicant for an absentee ballot is obligated to ~~produce~~
26 ~~identification in accordance with Sections 17-9-30 and 17-10-1~~
27 ~~or~~ reidentify in accordance with Chapter 4. ~~For absentee~~

1 ~~applicants required to produce identification, a third~~
2 ~~envelope of different color and sufficient size to enclose the~~
3 ~~first and second envelopes shall be provided to the applicant~~
4 ~~along with instructions for including a proper form of~~
5 ~~identification in accordance with Sections 17-9-30 and~~
6 ~~17-10-1.~~

7 "For absentee applicants required to reidentify
8 because they do not appear in the ~~voting place for precinct in~~
9 which they seek to vote but do appear in another ~~voting place~~
10 precinct within the county in which they seek to vote as
11 recorded in the state voter registration list, the absentee
12 election manager shall provide to the voter a third envelope
13 of different color and sufficient size to enclose the first
14 and second envelopes along with a voter reidentification form,
15 a provisional voter affirmation, and instructions in
16 accordance with Section 17-10-2. Such ballot shall be treated
17 as a provisional ballot and the term "Provisional" shall be
18 marked on the second or affidavit envelope prior to
19 transmitting the ballot to the voter. Applicants for an
20 absentee ballot who do not appear on the state voter
21 registration list shall not be entitled to an absentee ballot.

22 "For absentee applicants who are required to
23 reidentify because their status is inactive but who appear on
24 the state voter registration list in the precinct in which
25 they seek to vote, the absentee election manager shall
26 provide, with the other absentee ballot materials, a voter
27 reidentification form and instructions for completing the

1 form. The absentee election manager shall also provide the
2 voter the correct ballot for the address that appears on the
3 absentee ballot application."

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.