

1 SB249
2 216496-2
3 By Senator Givhan
4 RFD: Governmental Affairs
5 First Read: 22-FEB-22

8 SYNOPSIS: Under existing law, there are numerous
9 election offenses with various penalties. The
10 majority of these offenses relate to voter fraud.

11 This bill would revise and consolidate these
12 offenses and provide for penalties.

13 Amendment 621 of the Constitution of Alabama
14 of 1901, as amended by Amendment 890, now appearing
15 as Section 111.05 of the Official ReCompilation of
16 the Constitution of Alabama of 1901, as amended,
17 prohibits a general law whose purpose or effect
18 would be to require a new or increased expenditure
19 of local funds from becoming effective with regard
20 to a local governmental entity without enactment by
21 a 2/3 vote unless: it comes within one of a number
22 of specified exceptions; it is approved by the
23 affected entity; or the Legislature appropriates
24 funds, or provides a local source of revenue, to
25 the entity for the purpose.

26 The purpose or effect of this bill would be
27 to require a new or increased expenditure of local

1 funds within the meaning of the amendment. However,
2 the bill does not require approval of a local
3 governmental entity or enactment by a 2/3 vote to
4 become effective because it comes within one of the
5 specified exceptions contained in the amendment.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to voter fraud and election offenses; to
12 amend Sections 17-1-5 and 17-9-50, Code of Alabama 1975; to
13 add Sections 17-1-6, 17-1-7, 17-1-8, 17-9-50.2, 17-9-52, and
14 Chapter 17A, Code of Alabama 1975; to repeal Chapter 17 of
15 Title 17, commencing with 17-17-1, Code of Alabama 1975, to
16 revise and consolidate election offenses and provide for
17 penalties; and in connection therewith would have as its
18 purpose or effect the requirement of a new or increased
19 expenditure of local funds within the meaning of Amendment 621
20 of the Constitution of Alabama of 1901, as amended by
21 Amendment 890, now appearing as Section 111.05 of the Official
22 Recompilation of the Constitution of Alabama of 1901, as
23 amended.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 17-1-5 and 17-9-50, Code of
26 Alabama 1975, are amended to read as follows:

27 "§17-1-5.

1 "a Each employee in the state shall, upon
2 reasonable notice to his or her employer, be permitted by his
3 or her employer to take necessary time off from his or her
4 employment to vote in any municipal, county, state, or federal
5 political party primary or election for which the employee is
6 qualified and registered to vote on the day on which the
7 primary or election is held. The necessary time off shall not
8 exceed one hour and if the hours of work of the employee
9 commence at least two hours after the opening of the polls or
10 end at least one hour prior to the closing of the polls, then
11 the time off for voting as provided in this section shall not
12 be available. The employer may specify the hours during which
13 the employee may absent himself or herself as provided in this
14 section.

15 "b An employer, supervisor of an employer, or
16 other individual with authority to discharge employees may not
17 coerce, intimidate, threaten to discharge, lessen the
18 remuneration, or attempt to do any of the forgoing to any
19 employee, and may not require or demand an examination or
20 inspection of an employee's ballot. A violation of this
21 subsection is a Class B misdemeanor.

22 "§17-9-50.

23 ~~"Except as electors are admitted to vote and persons~~
24 ~~to assist them as herein provided, and except for the judge of~~
25 ~~probate, the sheriff, or his or her deputy, the precinct~~
26 ~~election officials, and watchers, no person~~ (a) No individual
27 seeking to influence the election shall be permitted within 30

1 feet of the exterior door of the building of the polling place
2 on Election Day. For purposes of this section, Election Day
3 includes the day of the election and the time period permitted
4 for absentee voting.

5 "(b) No individual, for the purpose of discouraging
6 qualified electors from entering the polling place or from
7 voting, may loiter in or around a polling place on Election
8 Day, or having voted, may enter or stand in a line or queue of
9 voters waiting to vote.

10 "(c) A violation of this section is a Class B
11 misdemeanor."

12 Section 2. Sections 17-1-6, 17-1-7, 17-1-8,
13 17-9-50.2, and 17-9-52 are added to the Code of Alabama 1975,
14 to read as follows:

15 §17-1-6.

16 (a) As used in this section, the term "governmental
17 body" means any department, agency, board, commission, or
18 authority of the state or political subdivision, or any public
19 corporation, authority, agency, board, commission, or other
20 governmental body controlled by the state or political
21 subdivision, including a local board of education.

22 (b) (1) No employee of the state or any political
23 subdivision of the state, including employees of local school
24 boards, whether classified or unclassified, may use public
25 funds, property, or time, for any political activity.

26 (2) For purposes of this subsection, political
27 activity shall be limited to all of the following:

1 a. Making contributions to or contracting with any
2 entity which engages in any form of political communication,
3 including communications which mention the name of a political
4 candidate.

5 b. Engaging in or paying for public opinion polling.

6 c. Engaging in or paying for any form of political
7 communication, including communications which mention the name
8 of a political candidate, provided that the state's interest
9 in promoting the efficiency of the public services it performs
10 through its employees outweighs the interests of the employees
11 to speak as residents on matters of public concern.

12 d. Engaging in or paying for any type of political
13 advertising in any medium.

14 e. Phone calling for any political purpose.

15 f. Distributing political literature of any type.

16 g. Providing any type of in-kind help or support to
17 or for a political candidate.

18 (c) In order to engage in political activity, an
19 employee of a governmental body must do so on personal time,
20 before or after work, on holidays, or on approved leave by the
21 appropriate governmental body.

22 (d) It shall be unlawful for any official or
23 employee of a governmental body to solicit any type of
24 political campaign contributions from other employees who work
25 for the official or employee in a subordinate capacity or to
26 coerce or attempt to coerce any subordinate employee to work
27 in any capacity in any political campaign or cause.

1 (e) A violation of this section is a Class A
2 misdemeanor.

3 §17-1-7.

4 (a) As used in this section, the term "governmental
5 body" means any department, agency, board, commission, or
6 authority of the state or political subdivision, or any public
7 corporation, authority, agency, board, commission, or other
8 governmental body controlled by the state or political
9 subdivision, including a local board of education.

10 (b) (1) No employee of the state or any political
11 subdivision of the state, including employees of local school
12 boards, whether classified or unclassified, may do either of
13 the following:

14 a. Arrange by salary deduction or otherwise for any
15 payments to a political action committee.

16 b. Arrange by salary deduction or otherwise for any
17 payments for dues of the employee to a membership organization
18 that uses any portion of the dues for political activity.

19 (2) For purposes of this subsection, political
20 activity shall be limited to all of the following:

21 a. Making contributions to or contracting with any
22 entity which engages in any form of political communication,
23 including communications which mention the name of a political
24 candidate.

25 b. Engaging in or paying for public opinion polling.

1 c. Engaging in or paying for any form of political
2 communication, including communications which mention the name
3 of a political candidate.

4 d. Engaging in or paying for any type of political
5 advertising in any medium.

6 e. Phone calling for any political purpose.

7 f. Distributing political literature of any type.

8 g. Providing any type of in-kind help or support to
9 or for a political candidate.

10 (c) (1) Any membership organization that requests a
11 governmental body to arrange by salary deduction or otherwise
12 for the collection of membership dues from employees of the
13 governmental body shall certify to the appropriate
14 governmental body that none of the membership dues will be
15 used for political activity. Thereafter, at the conclusion of
16 each calendar year, each membership organization that has
17 arranged for the collection of its membership dues from
18 employees shall provide the appropriate governmental body a
19 detailed breakdown of the expenditure of the membership dues
20 collected by the governmental body.

21 (2) Any membership organization that fails to
22 provide the required certifications, that reports any
23 expenditures for political activity, or that files false
24 information about political activity in any of its reports
25 shall be permanently barred from arranging for the collection
26 of its membership dues by any governmental body.

1 (3) The Examiners of Public Accounts shall annually
2 review a sample of at least 10 percent of the certifications
3 filed with each governmental body and report its findings to
4 the appropriate governmental body.

5 (d) A violation of this section is a Class A
6 misdemeanor.

7 §17-1-8.

8 An elected or appointed public official may not use
9 or attempt to use his or her official authority or position
10 for the purpose of influencing the vote or political action of
11 any elector. A violation of this section is a Class C felony.

12 §17-9-50.2.

13 (a) While inside a polling place, an individual may
14 not do any of the following:

15 (1) Interfere with any other elector's ability to
16 vote.

17 (2) Disturb or prevent, or attempt to prevent, an
18 elector from freely casting a ballot.

19 (3) Remove or attempt to remove a ballot from a
20 polling place before the close of the polls.

21 (b) A violation of this section is a Class A
22 misdemeanor.

23 §17-9-52.

24 An elector may not be arrested during attendance at
25 an election or while traveling to an election, except as
26 necessary to protect public safety or to prevent or abate
27 disorderly conduct at a polling place.

1 Section 3. A new Chapter 17A is added to the Code of
2 Alabama 1975, to read as follows:

3 Article 1. General Provisions.

4 §17-17A-1.

5 Nothing in this chapter shall be construed to
6 prohibit a candidate from encouraging electors to lawfully
7 vote or impede or inhibit organized legal efforts to encourage
8 voter participation in the election process.

9 §17-17A-2.

10 (a) Any individual convicted of an offense listed in
11 subsection (b) shall be prohibited from doing any of the
12 following for five years after the date of conviction:

13 (1) Hold public office.

14 (2) Serve as an appointed official for the state or
15 any political subdivision of the state, or on any board or
16 commission of the state or any political subdivision of the
17 state.

18 (3) Serve as a notary public.

19 (4) Serve as a poll worker, poll watcher, or
20 election official.

21 (5) Serve as a witness of an absentee ballot.

22 (b) An individual shall be subject to the provisions
23 of subsection (a) if he or she is convicted of an offense
24 pursuant to any of the following:

25 (1) §17-1-5.

26 (2) §17-1-6.

27 (3) §17-1-7.

1 (4) §17-1-8.

2 (5) §17-9-50.

3 (6) §17-9-50.2.

4 (7) Article 2, Article 3, or Article 4 of this
5 chapter.

6 Article 2. Offenses Committed by Election Officials.
7 §17-17A-10.

8 (a) (1) Any absentee election manager, sheriff,
9 deputy sheriff, member of a board of registrar, or judge of
10 probate who neglects or fails to perform any duty imposed by
11 this title shall be guilty of a Class A misdemeanor.

12 (2) Any official described in subdivision (1) acting
13 in the good faith exercise of his or her duties pursuant to
14 this title shall not be civilly or criminally liable as a
15 result of acts or omissions in carrying out the duties
16 required by this title.

17 (b) Any absentee election manager, sheriff, deputy
18 sheriff, member of a board of registrar, or judge of probate
19 who intentionally and knowingly fails or refuses to perform
20 any duty imposed by this title shall be guilty of a Class D
21 felony.

22 §17-17A-11.

23 (a) Any election official or officer who
24 intentionally and knowingly fails to perform any duty imposed
25 by this title or does any of the following shall be guilty of
26 a Class A misdemeanor:

1 (1) Fails to require proper identification pursuant
2 to the provisions of Section 17-9-30.

3 (2) Allows an individual to vote who the official
4 knows is not the individual he or she claims to be.

5 (3) Makes a copy of the signed voter poll list or
6 any memoranda from the signed voter poll list.

7 (4) Makes and distributes an unauthorized list of
8 individuals who are voting or who have voted.

9 (5) Discloses the number of a voter's ballot.

10 (6) Discloses how any voter voted.

11 (7) Refuses to allow any poll watcher to exercise
12 his or her rights as a watcher.

13 (8) Refuses to allow an elector to select an
14 assistant as required by law.

15 (b) Any election official or officer who
16 intentionally and knowingly fails to count a legal vote cast
17 by an elector shall be guilty of a Class C felony.

18 §17-17A-12.

19 Any individual who intentionally and knowingly does
20 any of the following shall be guilty of a Class C felony:

21 (1) Tampers with, injures, or attempts to injure any
22 electronic voting machine to be used or being used in an
23 election.

24 (2) Misuses an electronic voting machine.

25 (3) Prevents or attempts to prevent the correct
26 operation of an electronic voting machine.

1 (4) Gives or offers a key to an electronic voting
2 machine to any individual not authorized to possess the key.

3 (5) Deceives any voter in preparing his or her
4 ballot.

5 (6) Alters a ballot in a manner that does not
6 reflect the voter's choice.

7 (7) Makes a false or fraudulent return of the result
8 of any election or falsely changes the votes, ballots,
9 figures, or results of any election.

10 (8) Opens any envelope containing the poll list of
11 any voting place, except in case of an election contest or as
12 otherwise authorized by law.

13 Article 3. Fraud Offenses Committed by Voter.

14 §17-17A-30.

15 (a) Any individual who intentionally and knowingly
16 does any of the following shall be guilty of a Class D felony:

17 (1) Makes a false statement or presents false
18 identification when registering to vote.

19 (2) Presents false identification or claims to be an
20 elector other than himself or herself at a polling place.

21 (3) Votes in an election with knowledge that he or
22 she is not lawfully eligible to vote in the election.

23 (4) Signs on the poll list the name of any person
24 other than himself or herself, including any signing by mark.

25 (b) (1) Any individual who votes in this state more
26 than once at any election held in this state, or votes in both
27 this state and another state or territory in the same or

1 equivalent election shall be guilty of a Class A misdemeanor
2 except as provided in subdivision (2).

3 (2) Any individual who is convicted of a second or
4 subsequent violation of this subsection shall be guilty of a
5 Class C felony.

6 §17-17A-31.

7 Any individual who intentionally and knowingly does
8 any of the following shall be guilty of a Class C felony:

9 (1) Changes an absentee voter's ballot to the extent
10 that it does not reflect the voter's choice.

11 (2) Votes more than once by absentee ballot in the
12 same election.

13 (3) Votes for another voter by absentee ballot.

14 (4) Falsifies or alters information provided on an
15 absentee ballot application or verification documents required
16 for an absentee ballot.

17 (5) Solicits, encourages, or otherwise promotes
18 unlawful absentee voting.

19 (6) Prepares or assists in preparing the absentee
20 ballot of an individual who lacks the ability to communicate
21 his or her voting preferences for an absentee ballot.

22 Article 4. Obstruction.

23 §17-17A-40.

24 Any individual who intentionally and knowingly does
25 any of the following shall be guilty of a Class A misdemeanor:

26 (1) Obstructs, intimidates, threatens, or coerces
27 any other individual for the purpose of interfering with the

1 right of that individual to vote or to vote as he or she may
2 choose, or for the purpose of causing that individual to vote
3 for, or not to vote for, any candidate for state or local
4 office or for any constitutional amendment at any election.

5 (2) Pays or offers to pay money or other valuable
6 thing to a voter to vote or withhold his or her vote, or to
7 vote for or against any candidate for state or local office or
8 for any constitutional amendment at any election.

9 (3) Accepts payment or promise of payment of money
10 or other valuable thing from another to vote or withhold his
11 or her vote for, or not to vote for, any candidate for state
12 or local office or for any constitutional amendment at any
13 election.

14 Section 4. Any person who violates Article 3,
15 Chapter 4, of Title 17 shall be guilty, upon conviction, of a
16 Class C misdemeanor.

17 Section 5. (a) Any person or persons who holds,
18 attends, or participates in the holding of any meeting for the
19 purpose of nominating a candidate or candidates for public
20 office to be voted for at any general election in Alabama, or
21 for the purpose of electing delegates or other representatives
22 to any convention which may select candidates for public
23 office, at any time or place other than as provided for in
24 Chapter 13, or who otherwise violates the laws of this state
25 regulating mass meetings or beat meetings, shall be guilty,
26 upon conviction, of a Class C misdemeanor.

1 (b) This section shall not apply where a special
2 election is called for the election of a public officer for
3 which the party has no candidate or where, by death,
4 resignation, or otherwise, a vacancy has occurred in any
5 nomination made by the party. This exception shall not apply
6 to municipal elections.

7 Section 6. Chapter 17 of Title 17, commencing with
8 Section 17-17-1, Code of Alabama 1975, relating to violations
9 of election laws, is repealed.

10 Section 7. Although this bill would have as its
11 purpose or effect the requirement of a new or increased
12 expenditure of local funds, the bill is excluded from further
13 requirements and application under Amendment 621, as amended
14 by Amendment 890, now appearing as Section 111.05 of the
15 Official Recompilation of the Constitution of Alabama of 1901,
16 as amended, because the bill defines a new crime or amends the
17 definition of an existing crime.

18 Section 8. This act shall become effective on the
19 first day of the third month following its passage and
20 approval by the Governor, or its otherwise becoming law.