

1 HB165  
2 204522-1  
3 By Representative Ball  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 06-FEB-20

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

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

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT

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

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Section 17-11-10 of the Code of Alabama  
2 1975, is amended to read as follows:

3                   "§17-11-10.

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

9                   "(b) (1) For absentee ballots received by noon on the  
10 day of the election, the absentee election manager shall,  
11 beginning at noon, deliver the sealed affidavit envelopes  
12 containing absentee ballots to the election officials provided  
13 for in Section 17-11-11. The election officials shall then  
14 call the name of each voter casting an absentee ballot with  
15 poll watchers present as may be provided under the laws of  
16 Alabama and shall examine each affidavit envelope to determine  
17 if the signature of the voter has been appropriately  
18 witnessed. If the witnessing of the signature and the  
19 information in the affidavit establish that the voter is  
20 entitled to vote by absentee ballot, then the election  
21 officials shall certify the findings, open each affidavit  
22 envelope, and deposit the plain envelope containing the  
23 absentee ballot into a sealed ballot box.

24                   "(2) No poll worker or other election official shall  
25 open an affidavit envelope if the envelope indicates the  
26 ballot is an unverified provisional ballot or the affidavit  
27 printed thereon is unsigned by the voter or unmarked, and no

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

18 "(3) Upon closing of the polls, the absentee ballots  
19 shall be counted and otherwise handled in all respects as if  
20 the absentee voter were present and voting in person.

21 "(4) Precinct ballot counters may be used to count  
22 absentee ballots. Absentee election officials are to be  
23 appointed and trained in the same manner as prescribed for  
24 regular election officials. The number of absentee election  
25 officials shall be determined by the number of precinct  
26 counters provided. The county commission may provide more than  
27 one precinct ballot counter based upon the recommendation of

1 the absentee election manager. Beginning not earlier than noon  
2 on election day, the absentee election officials shall perform  
3 the duties prescribed in Section 17-11-11.

4 "(5) ~~As regards~~ With regards to municipalities with  
5 populations of less than 10,000, in the case of municipal  
6 elections held at a time different from a primary or general  
7 election, the return mail envelopes containing the ballots  
8 shall be delivered to the election official of the precinct of  
9 the respective voters, unless the city or town having a  
10 population of less than 10,000 inhabitants has, by permanent  
11 ordinance adopted six months prior to the municipal election,  
12 established a procedure for the appointment of absentee  
13 election officials pursuant to subsection (c) of Section  
14 11-46-27.

15 "(c) (1) Absentee ballots cast in a second primary  
16 election for federal, state, or county office by individuals  
17 voting pursuant to the federal Uniformed and Overseas Citizens  
18 Absentee Voting Act, 42 U.S.C. 1973ff et seq., and received  
19 after noon on the day of the second primary election, shall be  
20 opened and counted at the same time as the verified  
21 provisional ballots. At noon seven days after the second  
22 primary election, the absentee election manager shall deliver  
23 the sealed affidavit envelopes containing absentee ballots to  
24 the officials provided for in subsection (f) of Section  
25 17-10-2. The officials shall call the name of each voter  
26 casting an absentee ballot in the presence of watchers  
27 designated by any interested candidates and shall examine each

1 affidavit envelope to determine if the signature of the voter  
2 has been appropriately witnessed. If the witnessing of the  
3 signature and the information in the affidavit establish that  
4 the voter is entitled to vote by absentee ballot, then the  
5 election officials shall certify the findings, open each  
6 affidavit envelope, and deposit the plain envelope containing  
7 the absentee ballot into a sealed ballot box.

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

1           "(3) The absentee ballots described in this  
2 subsection shall be opened, counted, and tabulated. The  
3 results of the absentee ballots counted and tabulated on  
4 election day shall be amended to include the results of the  
5 absentee ballots described in this subsection.

6           "(4) In all other respects, unless otherwise  
7 specifically provided by law, the absentee ballots described  
8 in this subsection shall be treated as other absentee ballots.

9           "(d) In the event the voter's affidavit signature or  
10 mark on the affidavit envelope is not witnessed by the  
11 signatures of two witnesses 18 years of age or older or a  
12 notary public, or other officer, including a military  
13 commissioned officer, authorized to acknowledge oaths, or the  
14 ballot is rejected for any other legal reason, and the ballot  
15 envelope or ballot therein is not removed and counted, the  
16 rejected ballot shall be delivered to the local board of  
17 registrars by the absentee election manager. The local board  
18 of registrars shall issue a notice in writing to the voter  
19 stating the cause of the rejection and the reason why the  
20 voter's absentee ballot was not counted, and send the notice  
21 by first class mail to the voter within 30 calendar days after  
22 the election. Within 30 calendar days after each election, the  
23 sheriff shall collect all rejected ballots. A copy of the  
24 notice of rejection shall be retained by the office of the  
25 local judge of probate for a minimum of one year and shall be  
26 made available as provided in Section 36-12-40. The Secretary

1 of State shall adopt any rules as necessary to provide for the  
2 implementation of this subsection."

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