

1 SB81
2 147581-1
3 By Senator Ross
4 RFD: Constitution, Campaign Finance, Ethics, and Elections
5 First Read: 05-FEB-13

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8 SYNOPSIS: Under existing law, effective in the first
9 statewide primary in 2014, a qualified elector must
10 show valid photo identification at the polling
11 place in order to vote in person.

12 This bill would allow a qualified elector to
13 sign an affidavit at the polling place affirming
14 his or her identity in lieu of showing photo
15 identification.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT

20
21 To amend Sections 17-9-30 and 17-10-2, Code of
22 Alabama 1975, relating to voting procedures; to allow a
23 qualified elector to sign an affidavit affirming his or her
24 identity if the elector does not have valid photo
25 identification.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§17-9-30.

4 "(a) Each elector shall provide valid photo
5 identification to an appropriate election official prior to
6 voting. A voter required to show valid photo identification
7 when voting in person shall present to the appropriate
8 election official one of the following forms of valid photo
9 identification:

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

13 "(2) A valid Alabama photo voter identification card
14 issued under subsection (f) or other valid identification card
15 issued by a branch, department, agency, or entity of the State
16 of Alabama, any other state, or the United States authorized
17 by law to issue personal identification, provided that such
18 identification card contains a photograph of the elector.

19 "(3) A valid United States passport.

20 "(4) A valid employee identification card containing
21 the photograph of the elector and issued by any branch,
22 department, agency, or entity of the United States government,
23 this state, or any county, municipality, board, authority, or
24 other entity of this state.

25 "(5) A valid student or employee identification card
26 issued by a public or private college, university, or
27 postgraduate technical or professional school located within

1 the state, provided that such identification card contains a
2 photograph of the elector.

3 "(6) A valid United States military identification
4 card, provided that such identification card contains a
5 photograph of the elector.

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

8 "(b) Voters voting an absentee ballot shall submit
9 with the ballot a copy of one of the forms of identification
10 listed in subsection (a).

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

19 "(d) An individual required to present valid photo
20 identification in accordance with this section who is unable
21 to meet the identification requirements of this section shall
22 be permitted to ~~vote by a provisional ballot, as provided for~~
23 ~~by law~~ sign an affidavit in lieu of the photo identification.
24 The affidavit shall require the voter to provide his or her
25 name and address. The voter shall sign the affidavit under
26 penalty of perjury.

1 "(e) In addition, an individual who does not have
2 valid photo identification in his or her possession at the
3 polls shall be permitted to vote if the individual is
4 positively identified by two election officials as a voter on
5 the poll list who is eligible to vote and the election
6 officials sign a sworn affidavit so stating.

7 "(f) The Secretary of State shall issue, upon
8 application, an Alabama photo voter identification card to
9 registered Alabama electors which shall under state law be
10 valid only for the purposes of voter identification under
11 subsection (a) and available only to registered electors of
12 this state. No fee shall be charged or collected for the
13 application for or issuance of an Alabama photo voter
14 identification card.

15 "(g) No person shall be eligible for an Alabama
16 photo voter identification card if such person has a valid
17 unexpired driver's license, nondriver identification card, or
18 any other photo identification described in subsection (a).

19 "(h) The Alabama photo voter identification card
20 shall be captioned ALABAMA PHOTO VOTER IDENTIFICATION CARD and
21 shall contain a prominent statement that under Alabama law the
22 card is valid only as identification for voting purposes. The
23 Alabama photo voter identification card shall be laminated,
24 shall contain a digital color photograph of the applicant,
25 shall have the signature of the Secretary of State, and shall
26 include the following information:

27 "(1) Full legal name.

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

3 "(3) Date of birth.

4 "(4) Eye color.

5 "(5) Gender.

6 "(6) Height.

7 "(7) Weight.

8 "(8) Date identification card was issued.

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

11 "(i) The application for an Alabama photo voter
12 identification card shall elicit the information required
13 under subdivisions (1) to (7), inclusive, of subsection (h).
14 The application shall be signed and sworn to by the applicant,
15 and any falsification or fraud in the making of the
16 application shall constitute a Class C felony.

17 "(j) The Secretary of State shall require
18 presentation and verification of the following information
19 before issuing an Alabama photo voter identification card to a
20 person:

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

24 "(2) Documentation showing the person's date of
25 birth.

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

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

3 "(k) An Alabama photo voter identification card
4 shall remain valid so long as the person resides at that same
5 address and remains qualified to vote. It shall be the duty of
6 a person who moves his or her residence within the State of
7 Alabama to surrender his or her card to the Secretary of
8 State, and such person may after such surrender apply for and
9 receive a new card if the person is otherwise eligible under
10 this section. It shall be the duty of a person who moves his
11 or her residence outside the State of Alabama or who ceases to
12 be qualified to vote to surrender his or her card to the
13 Secretary of State.

14 "(l) The Secretary of State is authorized to
15 contract with a private provider for the production of the
16 Alabama photo voter identification card pursuant to any
17 applicable state bid laws.

18 "(m) The expenses for the production of the Alabama
19 photo voter identification card shall be paid from funds
20 appropriated in the state General Fund for Registration of
21 Voters.

22 "(n) The Secretary of State is directed to inform
23 the public regarding the requirements of subsection (a)
24 through whatever means deemed necessary by the Secretary of
25 State.

1 "(o) The Secretary of State is granted rule making
2 authority for the implementation of this section under the
3 Alabama Administrative Procedure Act.

4 "§17-10-2.

5 "(a) A voter shall be required to cast a provisional
6 ballot when:

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

12 "(2) An inspector has knowledge that the individual
13 is not entitled to vote at that precinct and challenges the
14 individual.

15 "~~(3) The individual is required to comply with the~~
16 ~~voter identification provisions of Section 17-10-1 but is~~
17 ~~unable to do so. If the voter's ballot becomes a provisional~~
18 ~~ballot due to lack of identification, the identification,~~
19 ~~including the address and telephone number of the voter, must~~
20 ~~be provided to the board of registrars no later than 5:00 P.M.~~
21 ~~on the Friday following the election. If the voter fails to~~
22 ~~provide identification to the board of registrars by 5:00 P.M.~~
23 ~~on the Friday following the election, the voter's ballot shall~~
24 ~~not be counted.~~

25 "~~(4)~~ (3) A federal or state court order extends the
26 time for closing the polls beyond that established by state
27 law and the individual votes during the extended period of

1 time. Notwithstanding any other provision of state law, where
2 provisional ballots are cast pursuant to a federal or state
3 court order extending the time for closing the polls beyond
4 that established by state law, the provisional ballots shall
5 be segregated from other provisional ballots into a separate
6 sealed container for such purpose and shall be counted,
7 tabulated, and canvassed only pursuant to the order of a court
8 having proper jurisdiction.

9 "~~(5)~~(4) The person has requested, but not voted, an
10 absentee ballot.

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

13 "(1) An inspector at the polling place shall notify
14 the individual that the individual may cast a provisional
15 ballot in that election and shall give the individual written
16 information that states that any individual who casts a
17 provisional ballot will be able to ascertain under the system
18 described in subsection (g) whether the vote was counted, and,
19 if the vote was not counted, the reason that the vote was not
20 counted.

21 "(2) The individual shall execute a written
22 affirmation by the individual before the inspector or clerk
23 stating the following:

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

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Signature or Mark

Printed Name of Voter

Printed Residence Address of Voter

City State Zip Code

Date of Birth"

11 "(3) The individual shall complete a voter
12 reidentification form prescribed by the Secretary of State for
13 use in updating the state voter registration list. This form
14 shall indicate whether it is associated with a provisional
15 ballot.

16 "(4) Where a provisional ballot is required on the
17 basis of an inspector's knowledge that a voter is not
18 qualified to vote in the precinct in which the individual is
19 seeking to vote, the inspector shall sign a statement under
20 penalty of perjury setting forth facts which the inspector
21 believes to support his or her belief that the individual is
22 not qualified to vote in the precinct in which the voter is
23 seeking to vote. The challenge statement of the inspector

1 shall be written on a multi-part form prescribed for such
2 purpose by the Secretary of State and the inspector shall give
3 one copy to the provisional voter, provide one copy to be
4 sealed with the provisional ballots, and provide one copy to
5 be returned to the board of registrars in a sealed envelope.

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

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

11 "(1) Upon receipt of an absentee ballot, the
12 absentee election manager shall determine whether
13 identification has been properly provided. If the
14 identification has not been properly provided, the absentee
15 election manager shall notify the voter in writing of the
16 following:

17 "a. That unless such identification is provided to
18 the absentee election manager by 5:00 P.M. on the Friday
19 before the election, the voter's absentee ballot will become a
20 provisional ballot.

21 "b. That in the event the voter's ballot becomes a
22 provisional ballot due to lack of identification, such
23 identification must be provided to the board of registrars no
24 later than 5:00 P.M. on the Friday following the election and
25 shall include the address and telephone information for the
26 board of registrars.

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

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

9 "(2) Upon receipt of an application for an absentee
10 ballot where the voter is not identified as appearing in the
11 precinct for which the voter seeks a ballot, the absentee
12 election manager shall:

13 "a. Mark the word "Provisional" on the second or
14 affidavit envelope prior to transmittal of the absentee
15 ballot.

16 "b. Enclose the following information with the
17 transmittal of the absentee ballot:

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

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

25 "3. A written explanation that any individual who
26 casts a provisional ballot will be able to ascertain under the
27 system described in subsection (g) whether the vote was

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

3 "(3) When an absentee ballot becomes a provisional
4 ballot as a result of an absentee precinct inspector having
5 knowledge that the individual is not entitled to vote at the
6 voting place applicable to the voter's ballot and challenges
7 the voter's right to vote a particular ballot, the absentee
8 precinct inspector shall follow the same procedure identified
9 in subdivision (4) of subsection (b) except as follows:

10 "a. In lieu of providing the provisional voter with
11 a copy of the poll worker challenge statement, the inspector
12 shall provide two copies to the absentee election manager once
13 the results from the absentee precinct have been tabulated and
14 certified.

15 "b. The absentee election manager shall mail one
16 copy of the challenge statement of the inspector by first
17 class mail by the day after the election to the mailing
18 address provided on the provisional voter's application for an
19 absentee ballot and shall enclose with it a written
20 explanation of the procedure used by the board of registrars
21 in verifying and certifying provisional ballots; an address
22 and telephone number by which the provisional voter may
23 respond; and a written explanation that any individual who
24 casts a provisional ballot will be able to ascertain under the
25 system described in subsection (g) whether the vote was
26 counted and, if the vote was not counted, the reason that the
27 vote was not counted.

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

13 "(e) Upon receipt of materials returned from the
14 polling places, the board of registrars shall forthwith update
15 the state voter registration list utilizing the voter
16 reidentification forms of provisional voters and shall verify
17 by a certification attached to each provisional voter
18 affirmation whether the provisional vote is entitled to be
19 counted and the reason for or against counting the provisional
20 ballot. For the purposes of a municipal election, when
21 verifying a provisional ballot based upon the fact that the
22 individual's name does not appear on the official list of
23 eligible voters for the polling place in which the individual
24 seeks to vote, the board of registrars shall verify that the
25 voter is registered to vote at an address located within the
26 municipal corporate limits or district within which he or she
27 seeks to vote. When verifying a provisional ballot based upon

1 the challenge of an inspector, the board of registrars shall
2 promptly contact the voter by first class mail and provide an
3 explanation of how the provisional voter may respond to the
4 challenge. After determining that the provisional voter has
5 had notice and an opportunity to be heard, the board of
6 registrars shall verify by a certification attached to the
7 challenge statement whether the provisional ballot is due to
8 be counted and, if not, why it should not be counted. The
9 board of registrars shall deliver the provisional voter
10 affirmations and inspector challenge statements, with the
11 certified findings of the board of registrars attached, to the
12 judge of probate, or in municipal elections to the municipal
13 clerk, no later than noon seven days after the election until
14 which time such findings shall remain confidential. Upon
15 delivery of such materials, the board of registrars shall
16 enter into the state voter registration list a voter history
17 providing identification of voters who cast provisional
18 ballots, whether their ballot was counted, and the reason the
19 ballot either was or was not counted.

20 "(f) Commencing at noon, Tuesday, seven days after
21 the election, the canvassing board, or in municipal elections
22 the municipal governing body, in the presence of watchers,
23 shall tabulate provisional ballots which have been certified
24 by the board of registrars as cast by registered and qualified
25 voters of the voting places in which such ballots were cast.
26 For the purpose of making election returns of provisional
27 ballots, provisional balloting results shall be returned and

1 canvassed as a separate precinct while disclosing all votes
2 for candidates and ballot measures cast in such ballots. The
3 canvassing board shall certify on a form to be prescribed by
4 the Secretary of State the results of the provisional votes
5 cast and shall post one copy in a public location within the
6 courthouse, or in the city hall in municipal elections, and
7 shall seal one copy with the provisional ballots, provisional
8 voter affirmations, inspector or clerk challenge statements,
9 and certifications of the board of registrars into a sealed
10 container or, in the case of primary elections, containers
11 designated for each political party for such purpose. Such
12 containers shall be delivered and remain secured with the
13 other records of the election in accordance with state law.

14 "(g) The board of registrars, after verifying the
15 identity of a provisional voter, shall make available at the
16 request of such voter, the findings of the board of registrars
17 as to whether the individual's provisional ballot was counted
18 and, if not, the reason why. This may be accomplished by
19 telephone, by letter, or by secured electronic means. The
20 Secretary of State shall provide a secure means for
21 provisional voters to verify by electronic means whether the
22 individual's vote was counted and, if not, the reason why.
23 There shall be no charge to the provisional voters for
24 obtaining this information.

25 "(h) The Secretary of State may by rule address the
26 means of identifying ballots cast by particular provisional
27 voters by the appointing board and the method of providing

1 confidentiality and security to communications with
2 provisional voters seeking information about the status of
3 their ballot. Notice of any proposed rule or amendment to an
4 existing rule relating to provisional balloting shall be sent
5 by certified mail to every judge of probate at least 30 days
6 prior to certification of the proposed rule or amendment under
7 the Administrative Procedure Act."

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