

HB64 INTRODUCED



1 HB64
2 AM1KQQ7-1
3 By Representative Hassell
4 RFD: Constitution, Campaigns and Elections
5 First Read: 06-Feb-24
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SYNOPSIS:

Under existing law, an absentee ballot may not be removed from the affidavit envelope if the affidavit envelope is defective.

This bill would require an absentee election manager to allow an elector who has submitted a defective absentee ballot affidavit within a certain time period before the election an opportunity to cure the defect.

A BILL
TO BE ENTITLED
AN ACT

Relating to voting; to amend Section 17-11-10, Code of Alabama 1975, to require an absentee election manager to allow an elector who has submitted a defective absentee ballot affidavit within a certain time period before the election an opportunity to cure the defect.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§17-11-10

(a) Upon receipt of the absentee ballot, the absentee



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29 election manager shall record ~~its~~ the receipt on the absentee
30 list as provided in Section 17-11-5, shall examine the
31 affidavit envelope and determine if it contains a defect that
32 would prohibit a poll worker or other election official from
33 removing or counting the ballot under subdivision (b) (2), and
34 shall safely keep the ballot without breaking the seal of the
35 affidavit envelope.

36 (2) For any absentee ballot received three or more
37 business days preceding an election, the absentee election
38 manager, within two business days of receipt of the absentee
39 ballot, shall notify the elector of each defect with his or
40 her absentee ballot, provide instructions on how to cure the
41 defect, and notify the elector that he or she has until the
42 last business day before the election to cure the defect.

43 (3) The absentee election manager shall allow an
44 elector to cure any of the following defects:

45 a. The elector did not sign the affidavit.

46 b. The address provided on the affidavit does not match
47 the address on the absentee ballot application.

48 c. The order of envelopes is incorrect.

49 d. The affidavit is not properly witnessed or
50 notarized.

51 e. The elector failed to indicate his or her reason for
52 voting absentee.

53 (b) (1) The absentee election manager, beginning at 7:00
54 a.m. on the day of the election, shall deliver the sealed
55 affidavit envelopes containing absentee ballots to the
56 election officials provided for in Section 17-11-11. The



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57 election officials shall then call the name of each voter
58 casting an absentee ballot with poll watchers present as may
59 be provided under the laws of Alabama and shall examine each
60 affidavit envelope to determine if the signature of the voter
61 has been appropriately witnessed. If the witnessing of the
62 signature and the information in the affidavit establish that
63 the voter is entitled to vote by absentee ballot, then the
64 election officials shall certify the findings, open each
65 affidavit envelope, and deposit the plain envelope containing
66 the absentee ballot into a sealed ballot box.

67 (2) No poll worker or other election official shall
68 open an affidavit envelope if the envelope indicates the
69 ballot is an unverified provisional ballot or the affidavit is
70 unsigned by the voter or unmarked, and no ballot envelope or
71 ballot may be removed or counted. No poll worker or other
72 election official shall open an affidavit envelope if the
73 voter's affidavit signature or mark is not witnessed by the
74 signatures of two witnesses or a notary public, or other
75 officer, including a military commissioned officer, authorized
76 to acknowledge oaths, and no ballot envelope or ballot may be
77 removed or counted. The provision for witnessing of the
78 voter's affidavit signature or mark in Section 17-11-7 goes to
79 the integrity and sanctity of the ballot and election. No
80 court or other election tribunal shall allow the counting of
81 an absentee ballot with respect to which the voter's affidavit
82 signature or mark is not witnessed by the signatures of two
83 witnesses 18 years of age or older or a notary public, or
84 other officer, including a military commissioned officer,



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85 authorized to acknowledge oaths, prior to being delivered or
86 mailed to the absentee election manager.

87 (3) Upon closing of the polls, the absentee ballots
88 shall be counted and otherwise handled in all respects as if
89 the absentee voter were present and voting in person. Precinct
90 ballot counters may be used to count absentee ballots.
91 Absentee election officials are to be appointed and trained in
92 the same manner as prescribed for regular election officials.
93 The number of absentee election officials shall be determined
94 by the number of precinct counters provided. The county
95 commission may provide more than one precinct ballot counter
96 based upon the recommendation of the absentee election
97 manager. Beginning not earlier than 7:00 a.m. on election day,
98 the absentee election officials shall perform the duties
99 prescribed in Section 17-11-11.

100 (4) ~~As regards~~ Regarding municipalities with
101 populations of less than 10,000, in the case of municipal
102 elections held at a time different from a primary or general
103 election, the return mail envelopes containing the ballots
104 shall be delivered to the election official of the precinct of
105 the respective voters, unless the city or town having a
106 population of less than 10,000 inhabitants has established, by
107 permanent ordinance adopted six months prior to the municipal
108 election, a procedure for the appointment of absentee election
109 officials pursuant to subsection (c) of Section 11-46-27.

110 (c) (1) Absentee ballots cast in a second primary
111 election for federal, state, or county office by individuals
112 voting pursuant to the federal Uniformed and Overseas Citizens



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113 Absentee Voting Act, 52 U.S.C. §§ 20301-20311, and received
114 after noon on the day of the second primary election, shall be
115 opened and counted at the same time as the verified
116 provisional ballots. At noon seven days after the second
117 primary election, the absentee election manager shall deliver
118 the sealed affidavit envelopes containing absentee ballots to
119 the officials provided for in subsection (f) of Section
120 17-10-2. The officials shall call the name of each voter
121 casting an absentee ballot in the presence of watchers
122 designated by any interested candidates and shall examine each
123 affidavit envelope to determine if the signature of the voter
124 has been appropriately witnessed. If the witnessing of the
125 signature and the information in the affidavit establish that
126 the voter is entitled to vote by absentee ballot, then the
127 election officials shall certify the findings, open each
128 affidavit envelope, and deposit the plain envelope containing
129 the absentee ballot into a sealed ballot box.

130 (2) No election official shall open an affidavit
131 envelope if the affidavit printed thereon is unsigned by the
132 voter or unmarked, and no ballot envelope or ballot therein
133 may be removed or counted. No election official shall open an
134 affidavit envelope if the voter's affidavit signature or mark
135 is not witnessed by the signatures of two witnesses or a
136 notary public, or other officer, including a military
137 commissioned officer, authorized to acknowledge oaths, and no
138 ballot envelope or ballot therein may be removed or counted.
139 The provision for witnessing of the voter's affidavit
140 signature or mark in Section 17-11-7 goes to the integrity and



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141 sanctity of the ballot and election. No court or other
142 election tribunal shall allow the counting of an absentee
143 ballot with respect to which the voter's affidavit signature
144 or mark is not witnessed by the signatures of two witnesses 18
145 years of age or older or a notary public, or other officer,
146 including a military commissioned officer, authorized to
147 acknowledge oaths, prior to being delivered or mailed to the
148 absentee election manager.

149 (3) The absentee ballots described in this subsection
150 shall be opened, counted, and tabulated. The results of the
151 absentee ballots counted and tabulated on election day shall
152 be amended to include the results of the absentee ballots
153 described in this subsection.

154 (4) In all other respects, unless otherwise
155 specifically provided by law, the absentee ballots described
156 in this subsection shall be treated as other absentee ballots.

157 (d) The Secretary of State shall adopt rules to
158 implement subsection (a)."

159 Section 2. This act shall become effective on October
160 1, 2024.