

1 SB212  
2 147767-1  
3 By Senators Figures, Coleman, Sanders, Singleton, Smitherman,  
4 Irons, Dunn, Ross, Keahey, Beasley, Bedford, Ward, Bussman,  
5 Dial, and Marsh  
6 RFD: Constitution, Campaign Finance, Ethics, and Elections  
7 First Read: 14-FEB-13

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8 SYNOPSIS: Under existing law, a qualified elector can  
9 only vote by absentee ballot if the elector meets  
10 certain criteria indicating that the elector is  
11 unavailable to vote in person on election day.

12 This bill would allow any qualified elector  
13 to vote by absentee ballot in an election.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 Relating to absentee voting; to amend Sections  
20 17-11-3, 17-11-5, and 17-11-7, Code of Alabama 1975, to allow  
21 any qualified elector to vote by absentee ballot in an  
22 election.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 17-11-3, 17-11-5, and 17-11-7,  
25 Code of Alabama 1975, are amended to read as follows:

26 "§17-11-3.

1           "(a) Any qualified elector of this state may apply  
2 for and vote an absentee ballot by mail or by hand delivery,  
3 as provided in Sections 17-11-5 and 17-11-9, in any primary,  
4 general, special, or municipal election, if he or she makes  
5 application in writing therefor not less than five days prior  
6 to the election in which he or she desires to vote ~~and meets~~  
7 ~~one of the following requirements:.~~

8           "~~(1) The person will be out of the county or the~~  
9 ~~state, or the municipality for municipal elections, on~~  
10 ~~election day.~~

11           "~~(2) The person has any physical illness or~~  
12 ~~infirmity which prevents his or her attendance at the polls,~~  
13 ~~whether he or she is within or without the county on the day~~  
14 ~~of the election.~~

15           "~~(3) The person works on a shift which has at least~~  
16 ~~10 hours which coincide with the hours the polls are open at~~  
17 ~~his or her regular polling place.~~

18           "~~(4) The person is enrolled as a student at an~~  
19 ~~educational institution located outside the county of his or~~  
20 ~~her personal residence attendance at which prevents his or her~~  
21 ~~attendance at the polls.~~

22           "~~(5) The person is a member of, or spouse or~~  
23 ~~dependent of a member of, the Armed Forces of the United~~  
24 ~~States or is similarly qualified to vote absentee pursuant to~~  
25 ~~the federal Uniformed and Overseas Citizens Absentee Voting~~  
26 ~~Act, 42 U.S.C. 1973ff.~~

1           ~~"(6) The person has been appointed as an election~~  
2 ~~officer or named as a poll watcher at a polling place other~~  
3 ~~than his or her regular polling place.~~

4           "(b) An applicant for an absentee ballot who is a  
5 member of the Armed Forces of the United States, including the  
6 Alabama National Guard, the United States Naval Reserves, the  
7 United States Air Force Reserves, and the United States Army  
8 Reserve on active duty or active duty for training or an  
9 applicant who is the spouse of any member of the armed forces  
10 or any other applicant qualified to vote absentee pursuant to  
11 the federal Uniformed and Overseas Citizens Absentee Voting  
12 Act, 42 U.S.C. 1973ff, may make application for an absentee  
13 ballot by filling out the federal postcard application form,  
14 authorized and provided for under the provisions of "The  
15 Federal Voting Assistance Act of 1955," Public Law 296,  
16 Chapter 656, H.R. 4048, approved August 9, 1955, 84th Congress  
17 1st Session.

18           "(c) Any registered elector who requires emergency  
19 treatment of a licensed physician within five days of an  
20 election may apply for an emergency absentee ballot for the  
21 election and may vote by returning the absentee ballot no  
22 later than noon on the day the election is held. The attendant  
23 physician shall describe and certify the circumstances as  
24 constituting an emergency on a special form designed by the  
25 Secretary of State and provided by his or her office to local  
26 absentee election managers. The special form shall be attached  
27 to the application.

1           "(d) Any registered elector whose name appears on  
2 the poll list of qualified voters may vote by an emergency  
3 absentee ballot if he or she is required by his or her  
4 employer under unforeseen circumstances to be out of the  
5 county on an emergency business trip on election day. Under  
6 such circumstances, the applicant shall apply for an emergency  
7 absentee ballot at the office of the absentee election manager  
8 no later than the close of the business day one day prior to  
9 the election. The applicant shall complete and file an  
10 application form designed by the Secretary of State for  
11 emergency absentee voters. The form shall contain an affidavit  
12 which the applicant shall sign or swear acknowledging that he  
13 or she was not aware of the out-of-county business requirement  
14 prior to five days before the election. An applicant who meets  
15 the requirements of this subsection may vote by an emergency  
16 absentee ballot. After voting the ballot, the voter shall hand  
17 the ballot to the absentee election manager.

18           "(e) Notwithstanding any other provision of  
19 otherwise applicable law, in the event more than one absentee  
20 ballot is cast in the name of the single voter, whether any  
21 such multiple ballot is cast by mail or otherwise, none of the  
22 affidavit envelopes containing the multiple ballots shall be  
23 opened, and none of the multiple ballots shall be counted,  
24 except in the event of an election contest, upon the order of  
25 the election contest tribunal. Upon the conclusion of an  
26 election contest or, in the event no such contest is filed,  
27 upon the expiration of time for filing such a contest, the

1 multiple ballots shall be provided to the district attorney,  
2 with photocopies provided to the state Attorney General, for  
3 such investigation, prosecution, or other action as may be  
4 appropriate under applicable law.

5 "§17-11-5.

6 "(a) Upon receipt of an application for an absentee  
7 ballot as provided in Section 17-11-3, if the applicant's name  
8 appears on the list of qualified voters produced from the  
9 state voter registration list in the election to be held, or  
10 if the voter makes an affidavit for a challenged vote or  
11 provisional ballot, the absentee election manager shall  
12 furnish the absentee ballot to the applicant by: (1)  
13 Forwarding it by United States mail to the applicant's or  
14 voter's residence address, or upon written request of the  
15 voter, to the address where the voter regularly receives mail  
16 or (2) by handing the absentee ballot to the voter in person  
17 or, in the case of emergency voting, his or her designee in  
18 person. If the absentee election manager has reasonable cause  
19 to believe that the applicant has given a fraudulent address  
20 on the application for the absentee ballot, the absentee  
21 election manager shall turn over the ballot application to the  
22 district attorney for any action which may be necessary under  
23 this chapter. ~~The absentee election manager may require~~  
24 ~~additional proof of a voter's eligibility to vote absentee~~  
25 ~~when there is evidence of continuous absentee voting.~~ The  
26 absentee election manager shall mail any absentee ballot  
27 requested to be mailed as provided in Section 17-11-3 no later

1 than the next business day after an application has been  
2 received unless the absentee ballots have not been delivered  
3 to the absentee election manager. If the absentee ballots have  
4 not been so delivered, the absentee election manager shall  
5 hold all requests until the ballots are delivered and shall  
6 then respond by placing ballots in the mail no later than the  
7 next business day.

8           "(b) The official list of qualified voters shall be  
9 furnished to the absentee election manager by the judge of  
10 probate using a printout from the state voter registration  
11 list of registered voters for that county containing vote  
12 registration information useful in the identification of  
13 absentee voters. The information provided in this report shall  
14 be established by rules adopted by the Secretary of State with  
15 the advice of the Alabama Circuit Court Clerks Association or  
16 its members and shall indicate whether the individual is  
17 obligated to produce identification in accordance with  
18 Sections 17-9-30 and 17-10-1. The Secretary of State may  
19 further provide by administrative rule for electronic access  
20 to this list for optional use by the absentee election  
21 manager. This list shall be made available beginning at least  
22 45 days before the election. In municipal elections, the  
23 official list of qualified voters shall be furnished to the  
24 absentee election manager at least 35 days before the  
25 election. Any supplemental list of qualified electors shall  
26 also be provided to the absentee election manager as soon as  
27 the list becomes available. The absentee election manager

1 shall underscore on the list the name of each voter who has  
2 applied for an absentee ballot and shall write immediately  
3 beside his or her name the word "absentee." The Secretary of  
4 State by rule may provide for electronic access to the  
5 absentee election manager's county list of registered voters  
6 and for the method of identifying applicants for absentee  
7 ballots in conjunction with the state voter registration list.

8 "(c) The absentee election manager shall enroll the  
9 name, residence, and voting place of the applicant, and the  
10 date the application was received on a list of absentee  
11 voters. Each day the absentee election manager shall enter on  
12 the list the names, addresses, and voting places of each voter  
13 who has that day applied for an absentee ballot and shall, for  
14 all elections other than municipal elections, post a copy of  
15 the list of applications received each day on the regular  
16 bulletin board or other public place in the county courthouse.  
17 In municipal elections, the absentee election manager shall  
18 post a copy of the list of applications received each day on  
19 the regular bulletin board or other public place in the city  
20 hall. The absentee election manager in all elections shall  
21 deliver to the board of registrars the day following the  
22 election, a copy of the list of all absentee voters. The list  
23 shall be maintained in the office of the circuit clerk for 60  
24 days after the election, at which time it shall be delivered  
25 to the judge of probate. Before the polls open at any election  
26 on election day, the absentee election manager shall  
27 effectuate the delivery to the election officers of each



1 voting place a list showing the name and address of every  
2 person whose name appears on the official list of qualified  
3 electors for the voting place who applied for an absentee  
4 ballot in the election. The name of the person who applied for  
5 an absentee ballot shall be identified as an absentee voter on  
6 the list of qualified electors kept at the voting place, and  
7 the person shall not vote again, except that in county, state,  
8 and federal elections the person may vote a provisional  
9 ballot. Applications for absentee ballots are required for  
10 elections which are more than 30 days apart, except as to  
11 individuals voting pursuant to the federal Uniformed and  
12 Overseas Absentee Voting Act, 42 U.S.C. 1973ff.

13 "(d) For individuals voting pursuant to the federal  
14 Uniformed and Overseas Absentee Voting Act, 42 U.S.C. 1973ff,  
15 the Secretary of State shall by rule prescribe use of  
16 standardized military and overseas voter registration  
17 applications and applications for absentee ballots adopted by  
18 the United States government for such use. The Secretary of  
19 State shall also prescribe by rule provisions within the  
20 standard state application form for absentee voting which  
21 permit the voter to identify himself or herself as a military  
22 or overseas voter. Unless otherwise indicated by the military  
23 or overseas voter, an application for an absentee ballot by  
24 such a voter shall remain valid through the next two regularly  
25 scheduled general election cycles for federal office. The  
26 circuit clerk shall confirm by January 1 of each election year  
27 the address of the military and overseas voters prior to

1 mailing the ballots during each election cycle, and the  
2 absentee election manager shall provide an absentee ballot to  
3 the military and overseas voters for each such subsequent  
4 election. The absentee election manager, within seven days  
5 after each regularly scheduled general election for federal  
6 office, shall report the number of military and overseas  
7 ballots mailed out and the number of ballots received to the  
8 Secretary of State who shall report this information to the  
9 Federal Election Assistance Commission within 90 days of each  
10 regularly scheduled general election for federal office.

11 §17-11-7.

12 "(a) Each absentee ballot shall be accompanied by an  
13 envelope upon which shall be printed an affidavit.

14 "(b) With respect to an absentee ballot cast  
15 pursuant to Section 17-11-3, the affidavit shall read as  
16 follows:

17 ""State of Alabama

18 "County of \_\_\_\_\_

19 "I, the undersigned, do swear (or affirm) that:

20 "(1) I am a resident of \_\_\_\_\_ County in the  
21 State of Alabama.

22 "(2) My place of residence in Alabama is: \_\_\_\_\_

23 (street)

24 \_\_\_\_\_, Alabama \_\_\_\_\_

25 (city or town)

(zip code)

1 "(3) My voting precinct (or place where I vote)  
2 is: \_\_\_\_\_

3 " \_\_\_\_\_  
4 " \_\_\_\_\_

5 "(4) My date of birth is: \_\_\_\_\_  
6 month day year

7  
8 ~~"(5) I am entitled to vote an absentee ballot  
9 because:~~

10 ~~"Check only one:~~

11 ~~"\_\_\_ I will be out of the county or the state on  
12 election day.~~

13 ~~"\_\_\_ I am physically incapacitated and will not be  
14 able to vote in person on election day.~~

15 ~~"\_\_\_ I work a required workplace shift which has at  
16 least 10 hours which coincide with the polling hours at my  
17 regular polling place.~~

18 ~~"\_\_\_ I am a student at an educational institution  
19 located outside the county of my permanent residence and am  
20 therefore unable to vote at my usual polling place on election  
21 day.~~

22 ~~"\_\_\_ I am a member of or a spouse or dependent of a  
23 member of the Armed Forces of the United States or am~~

1 ~~otherwise entitled to vote pursuant to the federal Uniformed~~  
2 ~~and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.~~

3 ~~"\_\_\_\_\_ I have been appointed as an election officer at~~  
4 ~~a polling place which is not my regular polling place.~~

5 "I further swear (or affirm) that I have not voted  
6 nor will I vote in person in the election to which this ballot  
7 pertains.

8 "I have marked the enclosed absentee ballot  
9 voluntarily and I have read or had read to me and understand  
10 the instructions accompanying this ballot and I have carefully  
11 complied with such instructions.

12 "Moreover, I further swear (or affirm) that all of  
13 the information given above is true and correct to the best of  
14 my knowledge and that I understand that by knowingly giving  
15 false information so as to vote illegally by absentee ballot  
16 that I shall be guilty of a misdemeanor which is punishable by  
17 a fine not to exceed one thousand dollars (\$1,000) or confine-  
18 ment in the county jail for not more than six months, or both.

19 \_\_\_\_\_  
20 (Signature or mark of voter.)

21 \_\_\_\_\_  
22 (Printed name of voter.)

23 "IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF  
24 YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF

1 AGE OR OLDER OR A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO  
2 ACKNOWLEDGE OATHS, PRIOR TO BEING DELIVERED OR MAILED TO THE  
3 ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.

4 "Sworn to and subscribed before me this \_\_\_\_\_ day of  
5 \_\_\_\_\_, 2\_\_.

6 "I certify that the affiant is known (or made known)  
7 to me to be the identical party he or she claims to be.

8 \_\_\_\_\_ (Signature of official)

9 (Title of official)

10 \_\_\_\_\_

11 (Address of official)

12 OR

13 1st Witness \_\_\_\_\_

14 Signature

15 \_\_\_\_\_

16 Print name

17 \_\_\_\_\_

18 Address

19 \_\_\_\_\_

20 City Zip Code

