

1 SB40
2 171027-1
3 By Senator Dial
4 RFD: Finance and Taxation General Fund
5 First Read: 03-AUG-15

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8 SYNOPSIS: This bill would provide a procedure for
9 conducting a federal instant runoff primary
10 election and a special federal ballot for those
11 primary elections and second primary elections in
12 which the voters are voting by absentee ballot
13 pursuant to the Uniformed and Overseas Citizens
14 Absentee Voting Act and nomination for a federal
15 office other than President which is contested by
16 three or more candidates.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

21
22 Relating to primary elections; to add Section
23 17-13-8.1 to the Code of Alabama 1975, to provide a procedure
24 for conducting a federal instant runoff primary election and a
25 special federal ballot for those primary elections and second
26 primary elections in which the voters are voting by absentee
27 ballot pursuant to the Uniformed and Overseas Citizens

1 Absentee Voting Act and the nomination for a federal office
2 other than President which is contested by three or more
3 candidates.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 17-13-8.1 is added to the Code of
6 Alabama 1975, to read as follows:

7 §17-13-8.1.

8 (a) Notwithstanding the provisions of Section
9 17-6-23 and Section 17-13-18, in a primary election or second
10 primary election, this section shall apply only to voters who
11 are voting by absentee ballot pursuant to the Uniformed and
12 Overseas Citizens Absentee Voting Act in any county or portion
13 thereof in which the nomination for a federal office other
14 than the office of President which is contested by three or
15 more candidates.

16 (b) The judge of probate shall prepare each of the
17 following:

18 (1) A special federal ballot to be used in a federal
19 instant runoff primary election. The special federal ballot
20 shall contain a list of all federal offices, other than the
21 office of President, contested by three or more candidates and
22 the candidates qualifying for the election for each office.

23 (2) A special state ballot for the primary election
24 shall contain the office of President in presidential election
25 years, any federal offices for which there are only two
26 candidates, all state and county offices, the candidates

1 qualifying for the offices, and any referenda to be voted on
2 in the primary election.

3 (3) A special state ballot for a second primary
4 election, if necessary, shall contain any state or county
5 offices for which a second primary election is required, the
6 candidates qualifying for the offices, and any referenda to be
7 voted on in a second primary election.

8 (c)(1) The special federal ballot shall permit the
9 voter to cast a ballot in a federal instant runoff primary
10 election by indicating his or her order of preference for each
11 candidate for each office listed on the ballot.

12 (2) To indicate his or her order of preference for
13 each candidate for each office, the voter shall mark or put
14 the number one next to the name of the candidate who is his or
15 her first choice, the number two for his or her second choice,
16 and so forth, so that a number indicating the preference of
17 the voter is marked or written by the voter next to the name
18 of the candidate on the ballot. However, the voter is not
19 required to indicate his or her preference for more than one
20 candidate on the ballot if he or she so chooses.

21 (3) The special federal ballot shall be marked as a
22 special federal instant runoff primary ballot.

23 (4) Instructions shall be provided with the special
24 federal ballot to the voter explaining the special federal
25 instant runoff voting process.

26 (5) The special federal ballots shall be counted in
27 the following manner for each office listed on the ballot:

1 a. In a primary election, the first choice
2 preference of each voter shall be the vote counted as cast by
3 the voter. The total count of first choice preference votes
4 received by each candidate shall be added to the count of
5 votes produced for the candidates pursuant to Section
6 17-13-13. Choices other than the voters' first choice
7 preferences shall not be counted or divulged during the count
8 or upon the conclusion of the primary election. Upon the
9 conclusion of this count, the special federal ballots shall be
10 secured and maintained by the absentee election manager until
11 the time for counting absentee ballots for the second primary
12 election, if a second primary election is necessary.

13 b. If a second primary election is necessary, the
14 vote to be counted as cast by each voter shall be the highest
15 designated choice of the voter of the two candidates
16 participating in a contest. The total count of the votes
17 received by each candidate shall be added to the count of
18 votes produced for the candidates pursuant to Section
19 17-13-18.

20 (d) (1) The special state ballot shall be marked as a
21 special state primary ballot or special state second primary
22 ballot, as applicable.

23 (2) The special state ballot shall be counted in the
24 manner provided for in Section 17-13-13 or Section 17-13-18,
25 as applicable to a primary election or second primary
26 election.

1 (e) The votes for any office listed on the special
2 federal ballot or special state ballot shall be canvassed,
3 certified, and announced in the manner provided for in Section
4 17-13-17 and Section 17-13-18.

5 (f) The costs associated with implementing this
6 section shall be reimbursed by the State of Alabama as an
7 election expense pursuant to Chapter 16 of this title.

8 (g) The Secretary of State may promulgate rules in
9 accordance with the Alabama Administrative Procedure Act to
10 implement this section.

11 Section 2. Section 1 shall be implemented only upon
12 notice by the Secretary of State to the Code Commissioner that
13 vacatur of the federal court order requiring federal second
14 primary elections to be held nine weeks after the primary
15 election has occurred, or upon entry of a federal court order
16 indicating that vacatur of the aforementioned order is not
17 necessary. The federal court action shall be taken not later
18 than the 76th day before the primary election for this act to
19 be implemented.

20 Section 3. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.