

1 SB15  
2 144963-3  
3 By Senator Reed  
4 RFD: Constitution, Campaign Finance, Ethics, and Elections  
5 First Read: 14-JAN-14  
6 PFD: 08/09/2013

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8 SYNOPSIS: Under existing law, certain qualified  
9 electors are permitted to apply for and vote by  
10 absentee ballot or emergency absentee ballot.

11 This bill would authorize any registered  
12 voter who is unable to vote at his or her regular  
13 voting place because of a declaration of a state  
14 emergency by the Governor to apply for and vote by  
15 absentee ballot.

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
20

21 To amend Sections 17-11-3 and 17-11-7, Code of  
22 Alabama 1975, as amended by Act 2013-202, 2013 Regular Session  
23 (Acts 2013, p.\_\_\_\_), relating to absentee voting and emergency  
24 absentee ballots, to authorize a qualified elector who is  
25 unable to vote at his or her regular voting place because of a  
26 declaration of a state emergency by the Governor to apply for  
27 and vote by absentee ballot.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. The Legislature finds and declares the  
3 following:

4 (1) The right to vote is extremely important.

5 (2) Some qualified electors may not be able to vote  
6 if the voting place where they vote is not accessible because  
7 of the declaration of a national or state emergency by the  
8 President of the United States or the Governor of this state.

9 (3) It is essential to our democracy that all  
10 qualified electors should be afforded the right to vote if the  
11 voting place where they vote is inaccessible because of the  
12 declaration of a national or state emergency.

13 Section 2. Sections 17-11-3 and 17-11-7 of the Code  
14 of Alabama 1975, as amended by Act 2013-202, 2013 Regular  
15 Session (Acts 2013, p.\_\_\_\_), are amended to read as follows:

16 "§17-11-3.

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

24 "(1) The person will be out of the county or the  
25 state, or the municipality for municipal elections, on  
26 election day.

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

5           "(3) The person works on a shift which has at least  
6 10 hours which coincide with the hours the polls are open at  
7 his or her regular polling place.

8           "(4) The person is enrolled as a student at an  
9 educational institution located outside the county of his or  
10 her personal residence attendance at which prevents his or her  
11 attendance at the polls.

12           "(5) The person is a member of, or spouse or  
13 dependent of a member of, the Armed Forces of the United  
14 States or is similarly qualified to vote absentee pursuant to  
15 the federal Uniformed and Overseas Citizens Absentee Voting  
16 Act, 42 U.S.C. 1973ff.

17           "(6) The person has been appointed as an election  
18 officer or named as a poll watcher at a polling place other  
19 than his or her regular polling place.

20           "(b) An applicant for an absentee ballot who is a  
21 member of the Armed Forces of the United States, including the  
22 Alabama National Guard, the United States Naval Reserves, the  
23 United States Air Force Reserves, and the United States Army  
24 Reserve on active duty or active duty for training or an  
25 applicant who is the spouse of any member of the armed forces  
26 or any other applicant qualified to vote absentee pursuant to  
27 the federal Uniformed and Overseas Citizens Absentee Voting

1 Act, 42 U.S.C. 1973ff, may make application for an absentee  
2 ballot by filling out the federal postcard application form,  
3 authorized and provided for under the provisions of ~~"The~~  
4 ~~Federal Voting Assistance Act of 1955," Public Law 296,~~  
5 ~~Chapter 656, H.R. 4048, approved August 9, 1955, 84th Congress~~  
6 ~~1st Session~~ the Uniformed and Overseas Citizens Absentee  
7 Voting Act, 42 U.S.C. §1973ff(b) (2).

8 "(c) Any registered elector who requires emergency  
9 treatment of a licensed physician within five days of an  
10 election may apply for an emergency absentee ballot for the  
11 election and may vote by returning the absentee ballot no  
12 later than noon on the day the election is held. The attendant  
13 physician shall describe and certify the circumstances as  
14 constituting an emergency on a special form designed by the  
15 Secretary of State and provided by his or her office to local  
16 absentee election managers. The special form shall be attached  
17 to the application.

18 "(d) Any registered elector whose name appears on  
19 the poll list of qualified voters may vote by an emergency  
20 absentee ballot if he or she is required by his or her  
21 employer under unforeseen circumstances to be out of the  
22 county on an emergency business trip on election day, or he or  
23 she is unable to vote at his or her regular voting place  
24 because of a declaration of a state emergency by the Governor  
25 of this state. Under such circumstances, the applicant shall  
26 apply for an emergency absentee ballot at the office of the  
27 absentee election manager no later than the close of the

1 business day one day prior to the election. The applicant  
2 shall complete and file an application form designed by the  
3 Secretary of State for emergency absentee voters. The form  
4 shall contain an affidavit which the applicant shall sign or  
5 swear acknowledging that he or she was not aware of the  
6 out-of-county business requirement prior to five days before  
7 the election. An applicant who meets the requirements of this  
8 subsection may vote by an emergency absentee ballot. After  
9 voting the ballot, the voter shall hand the ballot to the  
10 absentee election manager.

11 "(e) If the occurrence of a state of emergency as  
12 declared in this or any other state, or by the federal  
13 government, renders substantial compliance with this article  
14 impossible or unreasonable for a group of qualified voters who  
15 respond to the emergency, the Secretary of State, pursuant to  
16 Section 41-22-5 of the Alabama Administrative Procedure Act,  
17 may promulgate an emergency rule to allow those qualified  
18 voters to vote by absentee ballot.

19 "Notwithstanding any other laws to the contrary, all  
20 expenses and costs incurred by the state or any county in  
21 carrying out the responsibilities and duties included in an  
22 emergency rule promulgated pursuant to this subsection shall  
23 be paid by the State of Alabama from any funds made available  
24 for election expenses under state and federal law.

25 "(f) Notwithstanding any other provision of  
26 otherwise applicable law, in the event more than one absentee  
27 ballot is cast in the name of the single voter, whether any

1 such multiple ballot is cast by mail or otherwise, none of the  
2 affidavit envelopes containing the multiple ballots shall be  
3 opened, and none of the multiple ballots shall be counted,  
4 except in the event of an election contest, upon the order of  
5 the election contest tribunal. Upon the conclusion of an  
6 election contest or, in the event no such contest is filed,  
7 upon the expiration of time for filing such a contest, the  
8 multiple ballots shall be provided to the district attorney,  
9 with photocopies provided to the state Attorney General, for  
10 such investigation, prosecution, or other action as may be  
11 appropriate under applicable law.

12 "§17-11-7.

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

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

18 "State of Alabama

19 "County of \_\_\_\_\_

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

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

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

24 (street)

25 \_\_\_\_\_, Alabama \_\_\_\_\_

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(city or town)

(zip code)

"(3) My voting precinct (or place where I vote)

is: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

"(4) My date of birth is: \_\_\_\_\_

month day year

"(5) I am entitled to vote an absentee ballot

because:

"Check only one:

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

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

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

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



1           "\_\_\_ I am a member of or a spouse or dependent of a  
2 member of the Armed Forces of the United States or am  
3 otherwise entitled to vote pursuant to the federal Uniformed  
4 and Overseas Citizens Absentee Voting Act, 42 U.S.C. 1973ff.

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

7           "\_\_\_ I will be out of the county on election day  
8 responding to a state of emergency as declared by this state  
9 or any other state, or by the federal government.

10          "\_\_\_ I am unable to vote at my regular voting place  
11 because of a declaration of a state of emergency by the  
12 Governor of this state.

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

16          "I have marked the enclosed absentee ballot  
17 voluntarily and I have read or had read to me and understand  
18 the instructions accompanying this ballot and I have carefully  
19 complied with such instructions.

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

1 \_\_\_\_\_  
2 (Signature or mark of voter.)

3 \_\_\_\_\_  
4 (Printed name of voter.)

5 "IF YOUR AFFIDAVIT IS NOT SIGNED (OR MARKED), AND IF  
6 YOUR AFFIDAVIT IS NOT WITNESSED BY TWO WITNESSES 18 YEARS OF  
7 AGE OR OLDER OR A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO  
8 ACKNOWLEDGE OATHS, PRIOR TO BEING DELIVERED OR MAILED TO THE  
9 ABSENTEE ELECTION MANAGER, YOUR BALLOT WILL NOT BE COUNTED.

10 "Sworn to and subscribed before me this \_\_\_\_\_ day of  
11 \_\_\_\_\_, 2\_\_.

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

14 \_\_\_\_\_ (Signature of official)

15 (Title of official)

16 \_\_\_\_\_

17 (Address of official)

18 OR

19 1st Witness \_\_\_\_\_

20 Signature  
21 \_\_\_\_\_

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2nd Witness \_\_\_\_\_

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City Zip Code

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