

1 HB182
2 96440-1
3 By Representative Hill
4 RFD: Constitution and Elections
5 First Read: 05-FEB-08
6 PFD: 01/31/2008

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8 SYNOPSIS: Under existing law, a person qualified to
9 vote absentee pursuant to the federal Uniformed and
10 Overseas Citizens Absentee Voting Act may make
11 application for an absentee ballot by filling out
12 the federal postcard application form.

13 Beginning in 2010, or earlier if feasible,
14 this bill would authorize a qualified uniformed or
15 overseas voter to request and vote an absentee
16 ballot in any primary, second primary, general,
17 special, municipal or municipal runoff election,
18 through a secure Internet site implemented and
19 maintained by the Secretary of State if the person
20 applies for the absentee ballot through the same
21 Internet site not less than five days prior to the
22 election in which he or she desires to vote. The
23 bill would also provide penalties for any person
24 who compromises the integrity or privacy of an
25 Internet absentee ballot.

26 This bill would authorize the Secretary of
27 State to use federal HAVA funds to implement and

1 maintain secure Internet voting to the extent that
2 such use is authorized under federal laws, rules,
3 regulations, and guidelines.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Beginning in 2010, or earlier if feasible, to
10 provide for an absentee balloting process through a secure
11 Internet site implemented and maintained by the Secretary of
12 State for certain uniformed and overseas voters; to
13 specifically provide that the Secretary of State may use
14 federal HAVA funds to implement and maintain a secure Internet
15 voting site to the extent that such use is authorized under
16 federal laws, rules, regulations, and guidelines; and to amend
17 Sections 17-11-10 and 17-17-24, Code of Alabama 1975, to
18 further provide for absentee voting pursuant to this act and
19 to provide penalties for any person who compromises the
20 integrity or the privacy of an absentee ballot voted through
21 the Internet.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. (a) Notwithstanding any other laws to the
24 contrary, beginning in 2010, or earlier if feasible, any
25 person who is qualified to vote absentee pursuant to the
26 federal Uniformed and Overseas Citizens Absentee Voting Act,
27 42 U.S.C. 1973ff, including the Alabama National Guard, the

1 United States Naval Reserves, the United States Air Force
2 Reserves, the Marine Reserves, foreign missionaries, and Peace
3 Corps volunteers serving abroad, may apply for and vote an
4 absentee ballot in any primary, second primary, general,
5 special, municipal, or municipal runoff election through a
6 secure Internet site implemented and maintained by the
7 Secretary of State not less than five days prior to the
8 election in which the applicant desires to vote.

9 (b) The Secretary of State, in consultation with the
10 county commissions, judges of probate, sheriffs, circuit
11 clerks, boards of registrars, municipal clerks, and the
12 military department, shall promulgate pursuant to the
13 Administrative Procedure Act any rules deemed necessary to
14 carry out the purposes of this act.

15 Section 2. Sections 17-11-10 and 17-17-24, Code of
16 Alabama 1975, are amended to read as follows:

17 "§17-11-10.

18 "(a) Upon receipt of the absentee ballot, the
19 absentee election manager shall record its receipt thereof on
20 the absentee list as provided in Section 17-11-5 and shall
21 safely keep the ballot without breaking the seal of the
22 affidavit envelope.

23 "(b) For absentee ballots received by noon on the
24 day of the election, the absentee election manager shall,
25 beginning at noon, deliver the sealed affidavit envelopes
26 containing absentee ballots to the election officials provided
27 for in Section 17-11-11. The election officials shall then

1 call the name of each voter casting an absentee ballot with
2 poll watchers present as may be provided under the laws of
3 Alabama and shall examine each affidavit envelope to determine
4 if the signature of the voter has been appropriately
5 witnessed. If the witnessing of the signature and the
6 information in the affidavit establish that the voter is
7 entitled to vote by absentee ballot, then the election
8 officials shall certify the findings, open each affidavit
9 envelope, and deposit the plain envelope containing the
10 absentee ballot into a sealed ballot box.

11 "No poll worker or other election official shall
12 open an affidavit envelope if the envelope indicates the
13 ballot is an unverified provisional ballot or the affidavit
14 printed thereon is unsigned by the voter or unmarked, and no
15 ballot envelope or ballot therein may be removed or counted.
16 No poll worker or other election official shall open an
17 affidavit envelope if the voter's affidavit signature or mark
18 is not witnessed by the signatures of two witnesses or a
19 notary public, or other officer, including a military
20 commissioned officer, authorized to acknowledge oaths, and no
21 ballot envelope or ballot therein may be removed or counted.
22 The provision for witnessing of the voter's affidavit
23 signature or mark in Section 17-11-7 goes to the integrity and
24 sanctity of the ballot and election. No court or other
25 election tribunal shall allow the counting of an absentee
26 ballot with respect to which the voter's affidavit signature
27 or mark is not witnessed by the signatures of two witnesses 18

1 years of age or older or a notary public, or other officer,
2 including a military commissioned officer, authorized to
3 acknowledge oaths, prior to being delivered or mailed to the
4 absentee election manager.

5 "Upon closing of the polls, the absentee ballots
6 shall be counted and otherwise handled in all respects as if
7 the absentee voter were present and voting in person.

8 "Precinct ballot counters may be used to count
9 absentee ballots. Absentee election officials are to be
10 appointed and trained in the same manner as prescribed for
11 regular election officials. The number of absentee election
12 officials shall be determined by the number of precinct
13 counters provided. The county commission may provide more than
14 one precinct ballot counter based upon the recommendation of
15 the absentee election manager. Beginning not earlier than noon
16 on election day, the absentee election officials shall perform
17 the duties prescribed in Section 17-11-11.

18 "As regards municipalities with populations of less
19 than 10,000, in the case of municipal elections held at a time
20 different from a primary or general election, the return mail
21 envelopes containing the ballots shall be delivered to the
22 election official of the precinct of the respective voters,
23 unless the city or town having a population of less than
24 10,000 inhabitants has, by permanent ordinance adopted six
25 months prior to the municipal election, established a
26 procedure for the appointment of absentee election officials
27 pursuant to subsection (c) of Section 11-46-27.

1 "(c) Absentee ballots cast in a primary, second
2 primary, general, special, municipal, or municipal runoff
3 election for federal, state, or county office by individuals
4 voting pursuant to the federal Uniformed and Overseas Citizens
5 Absentee Voting Act, 42 U.S.C. 1973ff et seq., and received
6 after noon on the day of the ~~second primary~~ election but no
7 later than noon seven days after the day of the election,
8 shall be opened and counted at the same time as the verified
9 provisional ballots. At noon seven days after the ~~second~~
10 ~~primary~~ election, the absentee election manager shall deliver
11 the sealed affidavit envelopes containing absentee ballots to
12 the officials provided for in subsection (f) of Section
13 17-10-2. The officials shall call the name of each voter
14 casting an absentee ballot in the presence of watchers
15 designated by any interested candidates and shall examine each
16 affidavit envelope to determine if the signature of the voter
17 has been appropriately witnessed. If the witnessing of the
18 signature and the information in the affidavit establish that
19 the voter is entitled to vote by absentee ballot, then the
20 election officials shall certify the findings, open each
21 affidavit envelope, and deposit the plain envelope containing
22 the absentee ballot into a sealed ballot box.

23 "No election official shall open an affidavit
24 envelope if the affidavit printed thereon is unsigned by the
25 voter or unmarked, and no ballot envelope or ballot therein
26 may be removed or counted. No election official shall open an
27 affidavit envelope if the voter's affidavit signature or mark

1 is not witnessed by the signatures of two witnesses or a
2 notary public, or other officer, including a military
3 commissioned officer, authorized to acknowledge oaths, and no
4 ballot envelope or ballot therein may be removed or counted.
5 The provision for witnessing of the voter's affidavit
6 signature or mark in Section 17-11-7 goes to the integrity and
7 sanctity of the ballot and election. No court or other
8 election tribunal shall allow the counting of an absentee
9 ballot with respect to which the voter's affidavit signature
10 or mark is not witnessed by the signatures of two witnesses 18
11 years of age or older or a notary public, or other officer,
12 including a military commissioned officer, authorized to
13 acknowledge oaths, prior to being delivered or mailed to the
14 absentee election manager. Beginning in 2010, or earlier if
15 feasible, a ballot voted through a secure Internet site
16 implemented and maintained by the Secretary of State may be
17 authenticated through an alternative method, rather than by
18 witnesses or notarization. Any alternative method for
19 authentication shall be promulgated by the Secretary of State
20 pursuant to the Administrative Procedure Act.

21 "The absentee ballots described in this subsection
22 shall be opened, counted, and tabulated. The results of the
23 absentee ballots counted and tabulated on election day shall
24 be amended to include the results of the absentee ballots
25 described in this subsection.

1 "In all other respects, unless otherwise
2 specifically provided by law, the absentee ballots described
3 in this subsection shall be treated as other absentee ballots.

4 "§17-17-24.

5 "(a) Any person who willfully changes an absentee
6 voter's ballot to the extent that it does not reflect the
7 voter's true ballot, any person who willfully votes more than
8 once by absentee ballot in the same election, any person who
9 willfully votes for another voter or falsifies absentee ballot
10 applications or verification documents so as to vote absentee,
11 beginning in 2010, or earlier if feasible, any person who
12 compromises the integrity or privacy of a ballot issued or
13 voted through a secure Internet site implemented and
14 maintained by the Secretary of State, including, but not
15 limited to, disclosing the votes cast on said ballot, other
16 than election officials properly acting within the scope of
17 their responsibilities under this chapter, or any person who
18 solicits, encourages, urges, or otherwise promotes illegal
19 absentee voting, shall be guilty, upon conviction, of a Class
20 C felony. Any person who willfully aids any person unlawfully
21 to vote an absentee ballot, any person who knowingly and
22 unlawfully votes an absentee ballot, and any voter who votes
23 both an absentee and a regular ballot at any election shall be
24 similarly punished.

25 "(b) Upon request by the local district attorney or
26 the Secretary of State, the Attorney General shall provide

1 investigating assistance in instances of absentee ballot or
2 voting violations.

3 "(c) Nothing in this section shall be construed to
4 impede or inhibit organized legal efforts to encourage voter
5 participation in the election process or to discourage a
6 candidate from encouraging electors to lawfully vote by
7 absentee ballot. "

8 Section 3. 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.