HB399

207722-2

By Representative Allen

RFD: Constitution, Campaigns and Elections

First Read: 11-FEB-21
SYNOPSIS: Under existing law, an elector may vote by absentee ballot if he or she meets one of the listed criteria for which absentee voting is authorized. To vote by absentee ballot, an elector must provide a copy of photo identification and must have his or her ballot witnessed by two individuals or be notarized.

Also under existing law, if a state of emergency renders substantial compliance with the absentee ballot laws unreasonable, the Secretary of State may adopt an emergency rule to allow those electors to vote by absentee ballot.

This bill would prohibit the Secretary of State, when adopting emergency rules to revise the absentee ballot requirements in a state of emergency, from waiving the requirements that an elector submit an application and provide a copy of photo identification and have his or her ballot witnessed or notarized.
A BILL

TO BE ENTITLED

AN ACT

Relating to absentee ballot voting; to amend Section 17-11-3, Code of Alabama 1975; to prohibit the Secretary of State, when adopting emergency rules to revise the absentee ballot requirements in a state of emergency, from waiving the requirements that an elector submit an application and provide a copy of photo identification in order to receive an absentee ballot and have his or her absentee ballot witnessed or notarized.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 17-11-3, Code of Alabama 1975, is amended to read as follows:

"§17-11-3.

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

"(1) The person expects to be out of the county or the state, or the municipality for municipal elections, on election day."
"(2) The person has any physical illness or infirmity which prevents his or her attendance at the polls, whether he or she is within or without the county on the day of the election.

"(3) The person expects to work a shift which has at least 10 hours which coincide with the hours the polls are open at his or her regular polling place.

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

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

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

"(7) The person is a caregiver for a family member to the second degree of kinship by affinity or consanguinity and the family member is confined to his or her home.

"(8) The person is incarcerated in prison or jail and has not been convicted of a felony involving moral turpitude, as provided in Section 17-3-30.1.

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

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

"(d)(1) Any registered elector whose name appears on
the poll list of qualified voters may vote by an emergency
absentee ballot if any of the following situations arise:

"a. The elector is required by his or her employer
under unforeseen circumstances within five days before an
election to be unavailable to vote at the polls on election day.

"b. The elector is a caregiver of a person who requires emergency treatment by a licensed physician within five days before an election.

c. A family member to the second degree of kinship by affinity or consanguinity of an elector dies within five days before an election.

"(2) Under such circumstances, the elector shall apply for an emergency absentee ballot at the office of the absentee election manager no later than the close of the business day one day prior to the election. The applicant shall complete and file an application form designed by the Secretary of State for emergency absentee voters. The form shall contain an affidavit which the applicant shall sign or swear acknowledging that he or she was not aware of the situation constituting the emergency prior to five days before the election. An applicant who meets the requirements of this subsection may vote by an emergency absentee ballot. After voting the ballot, the voter shall hand the ballot to the absentee election manager.

"(e)(1) If the occurrence of a state of emergency as declared in this or any other state, or by the federal government, renders substantial compliance with this article impossible or unreasonable for a group of qualified voters who respond to the emergency, the Secretary of State, pursuant to Section 41-22-5, may adopt an emergency rule to allow those
qualified voters to vote by absentee ballot. Notwithstanding any other laws to the contrary, all expenses and costs incurred by the state or any county in carrying out the responsibilities and duties included in an emergency rule adopted pursuant to this subsection shall be paid by the State of Alabama from any funds made available for election expenses under state and federal law.

"(2) Notwithstanding subdivision (1), the Secretary of State, at any time, including in response to a state of emergency, shall not permit or authorize voting by absentee ballot in a manner that would do any of the following:

"a. Waive the requirement that a copy of photo identification be submitted to receive an absentee ballot.

"b. Waive the requirement that an absentee ballot be notarized or witnessed by two individuals.

"c. Waive the requirement that an elector submit an absentee ballot application in order to receive an absentee ballot.

"(f) Notwithstanding any other provision of otherwise applicable law, in the event more than one absentee ballot is cast in the name of the single voter, whether any such multiple ballot is cast by mail or otherwise, none of the affidavit envelopes containing the multiple ballots shall be opened, and none of the multiple ballots shall be counted, except in the event of an election contest, upon the order of the election contest tribunal. Upon the conclusion of an election contest or, in the event no such contest is filed,
upon the expiration of time for filing such a contest, the
multiple ballots shall be provided to the district attorney,
with photocopies provided to the state Attorney General, for
the investigation, prosecution, or other action as may be
appropriate under applicable law."

Section 2. This act shall become effective on the
first day of the third month following its passage and
approval by the Governor, or its otherwise becoming law.