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2 89th General Assembly

A Bill

3 Regular Session, 2013

SENATE BILL 1067

4

5 By: Senator J. English

6 *By: Representative Kerr*

7

8

For An Act To Be Entitled

9 AN ACT TO PREVENT ELECTION MISCONDUCT; TO AMEND THE
10 LAWS CONCERNING ABSENTEE BALLOTS; AND FOR OTHER
11 PURPOSES.

12

13

14

Subtitle

15

TO PREVENT ELECTION MISCONDUCT; TO AMEND
16 THE LAWS CONCERNING ABSENTEE BALLOTS.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20

21

SECTION 1. Arkansas Code § 7-5-309 is amended to read as follows:

22

7-5-309. Voting procedure.

23

*(a)(1) At general, primary, special, and school elections in counties
24 that use paper ballots, the county board of election commissioners shall
25 provide voting booths for each polling site in a number deemed appropriate by
26 the county board of election commissioners.*

27

*(2) Each voting booth shall be situated so as to permit a voter
28 to prepare his or her ballot screened from observation and shall be furnished
29 with any supplies and conveniences as will enable the voter to prepare his or
30 her ballot*

31

*(3) The voting booths shall be situated in the polling site in
32 plain view of the poll workers.*

33

*(4) A person ~~other than the poll workers and those admitted for~~
34 ~~the purpose of voting~~ shall not be permitted ~~within the immediate voting~~
35 ~~area, which shall be considered as within six feet (6') of the voting booths,~~
36 ~~except by~~ unless the person is:*



1 (A) A poll worker;

2 (B) A voter;

3 (C) A voter's authorized assistant; or

4 (D) A person:

5 (i) Who has been granted the authority of to be
6 within six feet (6') of the voting booths by the election judge; and ~~then~~
7 ~~only when~~

8 (ii) Whose presence is necessary to keep order and
9 enforce the law.

10 (b) Before giving the voter a ballot, a poll worker shall:

11 (1) Initial the back of the ballot;

12 (2) Remove the ballot stub; and

13 (3) Place the stub into the stub box provided.

14 (c)(1)(A) Upon receiving his or her ballot, the voter shall ~~proceed to~~
15 ~~mark it by placing an appropriate mark~~ appropriately.

16 (B) A voter shall not be allowed more than five (5) minutes
17 to mark his or her ballot.

18 (2) The voter or the voter's authorized assistant shall ~~then~~
19 ~~personally~~ deposit the ballot into the ballot box provided.

20 (d)(1) The voter shall not be required to sign, initial, or in any way
21 identify himself or herself with the ballot, the ballot stub, or the list of
22 voters other than in the manner set forth in this section.

23 (2) However, a poll worker may inspect the back of the ballot
24 before the voter deposits it to see if it has been initialed by an election
25 official.

26 (e) After having voted or having declined to do so, the voter shall
27 immediately depart from the polling site.

28 (f) A person shall not be permitted to carry a ballot outside of the
29 polling place.

30 (g)(1) If a paper ballot is left at a voting booth or anywhere else in
31 the polling site without being inserted into the ballot box by the voter or
32 the voter's authorized assistant before departing the polling site, a poll
33 worker shall:

34 (A) Write "Abandoned" on the face of the paper ballot;

35 (B) Place the paper ballot into an envelope marked
36 "Abandoned Ballot";

1 (C) Note in writing on the outside of the envelope all
2 circumstances surrounding the abandoned ballot; and

3 (D) Preserve the abandoned ballot separately.

4 (2) The county board of election commissioners shall not count
5 the ballot.

6 (h)(1) If a paper ballot that is fed by a voter or the voter's
7 authorized assistant into an electronic vote tabulating device at the polling
8 site is rejected by the device but is still in the receiving part of the
9 counter and the voter has not reported to a poll worker his or her desire to
10 cancel or replace the ballot before departing the polling site, two (2) poll
11 workers shall take action to override warnings on the device and complete the
12 process of casting the ballot.

13 (2) The poll workers shall document:

14 (A) The time;

15 (B) The name of the voter;

16 (C) The names of the poll workers completing the process of
17 casting the ballot; and

18 (D) All other circumstances surrounding the abandoned
19 ballot.

20
21 SECTION 2. Arkansas Code § 7-5-403 is amended to read as follows:

22 7-5-403. Designated bearers, authorized agents, and administrators.

23 (a)(1) A designated bearer may obtain absentee ballots ~~from the county~~
24 ~~clerk for not~~ no more than two (2) voters per election.

25 (2)(A) ~~At no time shall a~~ A designated bearer shall not have
26 more than two (2) absentee ballots in his or her possession at any time.

27 (B) If the county clerk knows or reasonably suspects that
28 a designated bearer has more than two (2) absentee ballots in his or her
29 possession, the county clerk shall notify the prosecuting attorney.

30 (3)(A) A designated bearer receiving an absentee ballot from the
31 county clerk for a voter shall obtain the absentee ballot directly from the
32 county clerk and deliver the absentee ballot directly to the voter.

33 (B) A designated bearer receiving an absentee ballot from
34 a voter shall obtain the absentee ballot directly from the voter and deliver
35 the absentee ballot directly to the county clerk.

36 (4)(A) A designated bearer may deliver to the county clerk the

1 absentee ballots for not more than two (2) voters.

2 (B) The designated bearer shall be named on the voter
3 statement accompanying the absentee ballot.

4 (5) In order to obtain an absentee ballot from the county clerk:

5 (A) The designated bearer shall show a form of current
6 photographic identification to the county clerk;

7 (B) The county clerk shall print the designated bearer's
8 name and address beside the voter's name on a register;

9 (C) The designated bearer shall sign the register under
10 oath indicating receipt of the voter's absentee ballot; and

11 (D) The county clerk shall indicate beside the designated
12 bearer's name on the register that he or she obtained an absentee ballot for
13 a voter.

14 (6) ~~Upon delivering~~ When a designated bearer delivers an
15 absentee ballot to the county clerk:

16 (A) The designated bearer shall present current and valid
17 photographic identification to the county clerk;

18 (B) The county clerk shall print the designated bearer's
19 name and address beside the voter's name on a register;

20 (C) The designated bearer shall sign the register under
21 oath indicating delivery of the voter's absentee ballot; ~~and~~

22 (D) The county clerk shall not accept an absentee ballot
23 from a designated bearer who does not sign the register under oath; and

24 (E) The county clerk shall write or stamp the word
25 "BEARER", and write the designated bearer's name and address on the voter's
26 absentee ballot return envelope.

27 (7) When providing an absentee ballot to a designated bearer or
28 receiving an absentee ballot from a designated bearer, the county clerk shall
29 provide to the designated bearer a written notice informing the designated
30 bearer that:

31 (A) A designated bearer may obtain ballots for no more
32 than two (2) voters per election;

33 (B) A designated bearer shall at no time have more than
34 two (2) ballots in his or her possession;

35 (C) A designated bearer ~~may~~ shall not deliver ballots to
36 the county clerk for ~~no~~ more than two (2) voters per election; and

1 (D) Possession of an absentee ballot with the intent to
2 defraud a voter or an election official is a felony under § 7-1-104.

3 (8) The county clerk shall post a notice of the rules concerning
4 designated bearers and authorized agents in each county clerk's office where
5 absentee ballots are distributed or returned.

6 (b)(1) An authorized agent may deliver applications for absentee
7 ballots to the county clerk and obtain absentee ballots from the county clerk
8 for not more than two (2) voters per election who cannot cast a ballot at the
9 appropriate polling place on election day because the voter is a patient in a
10 hospital or long-term care or residential care facility licensed by the
11 state.

12 (2) At no time shall an authorized agent have more than two (2)
13 absentee ballots in his or her possession.

14 (3)(A) An authorized agent receiving an absentee ballot from the
15 county clerk for a voter shall deliver the absentee ballot directly to the
16 voter.

17 (B) An authorized agent receiving an absentee ballot from a
18 voter shall deliver the absentee ballot directly to the county clerk.

19 (4)(A) In order for an authorized agent to obtain a ballot from
20 the county clerk, the authorized agent shall submit to the county clerk an
21 affidavit from the administrative head of a hospital or long-term care or
22 residential care facility licensed by the state that the applicant is a
23 patient of the hospital or long-term care or residential care facility
24 licensed by the state and is thereby unable to vote on the election day at
25 his or her regular polling site.

26 (B) A copy of the affidavit shall be retained by the
27 county clerk as an attachment to the application for an absentee ballot.

28 (5) In order to obtain an absentee ballot from the county clerk,
29 the:

30 (A) Authorized agent shall present current photographic
31 identification to the clerk;

32 (B) Clerk shall print the authorized agent's name and
33 address beside the voter's name on a register; and

34 (C) Authorized agent shall sign the register under oath
35 indicating receipt of the voter's ballot.

36 ~~Upon delivering~~ When an authorized agent delivers an

1 absentee ballot to the county clerk, the:

2 (A) Authorized agent shall show some form of current
3 photographic identification to the clerk;

4 (B) Clerk shall print the authorized agent's name and
5 address beside the voter's name on a register; ~~and~~

6 (C) Authorized agent shall sign the register under oath
7 indicating delivery of the voter's ballot; and

8 (D) The county clerk shall not accept an absentee ballot
9 from an authorized agent who does not sign the register under oath.

10 (7) The county clerk shall write or stamp the words "AUTHORIZED
11 AGENT" and the agent's name and address on the voter's absentee ballot return
12 envelope.

13 (8) The county clerk shall post a notice of the rules concerning
14 designated bearers and authorized agents in each county clerk's office where
15 absentee ballots are distributed or returned.

16 (c)(1) The county clerk shall keep a register of designated bearers
17 and authorized agents.

18 (2) The designated bearer and authorized agent register shall
19 contain the following oath on each page: "I ACKNOWLEDGE THAT ARKANSAS LAW
20 PROHIBITS DESIGNATED BEARERS AND AUTHORIZED AGENTS FROM RECEIVING OR
21 RETURNING MORE THAN TWO (2) ABSENTEE BALLOTS PER ELECTION. I HAVE COMPLIED
22 WITH THE ARKANSAS LAW. IF YOU I UNDERSTAND THAT IF I PROVIDE FALSE
23 INFORMATION ON THIS FORM, YOU I MAY BE GUILTY OF PERJURY AND SUBJECT TO A
24 FINE OF UP TO TEN THOUSAND DOLLARS (\$10,000) OR IMPRISONMENT FOR UP TO TEN
25 (10) YEARS, OR BOTH, UNDER FEDERAL AND STATE LAWS."

26 (d)(1)(A) An administrator may deliver to the county clerk an
27 application for an absentee ballot for any voter who is a patient of a long-
28 term care or residential care facility licensed by the state and who ~~names~~
29 authorizes the administrator ~~on his or her application as the administrator~~
30 ~~of the facility where the voter resides~~ to obtain an absentee ballot on his
31 or her behalf.

32 (B) The absentee ballot application shall identify the
33 administrator by name as the administrator of the facility where the voter
34 resides.

35 (2) ~~An~~ Upon presentation of photographic identification to the
36 county clerk, an administrator may receive absentee ballots for as many

1 *qualified residents of the facility as ~~apply~~:*

2 *(A) Apply for absentee ballots ~~upon presentation of~~*
3 *~~photographic identification to the county clerk; and~~*

4 *(B) Identify the administrator in the voter's absentee*
5 *ballot application.*

6 *(3)(A) An administrator may deliver the absentee ballot to the*
7 *county clerk for any voter who names the administrator on his or her*
8 *application and voter statement.*

9 *(B) Absentee ballots may be delivered to the county clerk*
10 *in person by the administrator or by mail.*

11 *(4) ~~An~~ Before obtaining an absentee ballot, an administrator*
12 *shall submit to the county clerk an affidavit, signed and dated by the*
13 *administrator, stating:*

14 *(A) That he or she is the administrative head of a long-*
15 *term care or residential care facility licensed by the state;*

16 *(B) The name and address of the facility; ~~and~~*

17 *(C) That he or she has been authorized by the voters ~~of~~*
18 *who reside in his or her facility who named him or her in their applications*
19 *for absentee ballot and voter statement to deliver their absentee ballots, to*
20 *obtain from the county clerk and return to the county clerk absentee ballots*
21 *on their behalf; and*

22 *(D) That each of the voters for whom the administrator*
23 *seeks to obtain an absentee ballot has named the administrator on his or her*
24 *application.*

25 *(5) The county clerk shall attach a copy of the administrator's*
26 *affidavit to each application for an absentee ballot delivered by the*
27 *administrator to the county clerk.*

28 *(6) When the ballots are returned by the administrator in person*
29 *or by mail, the county clerk shall write or stamp the word "ADMINISTRATOR"*
30 *and write the administrator's name on the voter's absentee ballot return*
31 *envelope.*

32 *(e) Any person who knowingly makes a false statement on an affidavit*
33 *required by this section shall be guilty of perjury and subject to a fine of*
34 *up to ten thousand dollars (\$10,000) or imprisonment of up to ten (10) years.*

35
36 *SECTION 3. Arkansas Code § 7-5-404 is amended to read as follows:*

1 7-5-404. Applications for ballots.

2 (a)(1)(A) Applications for absentee ballots must be signed by the
3 applicant and verified by the county clerk by checking the voter's name,
4 address, date of birth, and signature from the registration records ~~or, if~~
5 unless the application is sent by electronic means.

6 (B) If the application is sent by electronic means, the
7 application must bear a verifiable facsimile of the applicant's signature.

8 (2)(A) If the signatures on the absentee ballot application and
9 the voter registration record are not similar, the county clerk shall not
10 provide an absentee ballot to the voter.

11 (B) If the absentee ballot request is rejected under
12 subdivision (a)(2)(A) of this section, the county clerk shall:

13 (i) Provide notice promptly to the voter of the
14 rejection;

15 (ii) Allow the voter to resubmit the request; and

16 (iii) Electronically record the rejection in the
17 permanent system maintained by the county clerk.

18 (C) The notice to the voter under subdivision (a)(2)(B) of
19 this section shall be made by:

20 (i) The most efficient means available including
21 without limitation by telephone or email; and

22 (ii) Written notice sent by first-class mail to the
23 address where the voter is registered to vote.

24 (3) Delivery of the request for an absentee ballot to the county
25 clerk may be made in one (1) of the following ways, and in no other manner:

26 (A) For applications submitted using the form prescribed
27 in § 7-5-405:

28 (i) In person at the office of the county clerk of
29 the county of residence of the voter no later than the time the county
30 clerk's office regularly closes on the day before election day;

31 (ii) Applications by mail must be received in the
32 office of the county clerk of the county of residence of the voter not later
33 than seven (7) days before the election for which the application was made;

34 (iii) A designated bearer may deliver the completed
35 application to the office of the county clerk of the county of residence of
36 the applicant not later than the time the county clerk's office regularly

1 closes on the day before the day of the election;

2 (iv) A person declared as the authorized agent of
3 the applicant may deliver the application to the office of the county clerk
4 of the county of residence of the applicant not later than 1:30 p.m. on the
5 day of the election;

6 (v) An administrator may deliver the application in
7 person at the office of the county clerk of the county of residence of the
8 voter no later than the time the county clerk's office regularly closes on
9 the day before election day; or

10 (vi)(a) Delivery by electronic means to the county
11 clerk's office of the county of residence of the voter not later than seven
12 (7) days before the election for which the application was made.

13 (b) The completed application sent by
14 electronic means will be accepted only upon verification of the facsimile
15 signature of the applicant by the county clerk.

16 (c) Once verified as a reasonable likeness of
17 the voter's signature, the signature appearing on a copy of an application
18 sent by electronic means shall be presumed to be authentic until proven
19 otherwise; or

20 (B) If the applicant does not use the form prescribed in §
21 7-5-405, he or she may make an application for an absentee ballot as follows:

22 (i) A letter or postcard must be received in the
23 office of the county clerk not later than seven (7) days before the date of
24 the election. The letter or postcard shall contain information sufficient for
25 the county board of election commissioners and the county clerk to accept the
26 letter or postcard in lieu of the application form; or

27 (ii) An applicant may transmit a written request for
28 an absentee ballot by electronic means that shall contain the voter's
29 signature and other information sufficient for acceptance in lieu of the
30 application form.

31 (b)(1) Any person eligible to vote by absentee ballot may request the
32 county clerk to mail to an address within the continental United States an
33 application for an absentee ballot.

34 (2)(A) For those persons voting by absentee ballot who reside
35 outside the county in which they are registered to vote, the application
36 shall remain in effect for one (1) year unless revoked by the voter, and the

1 county clerk shall thereafter automatically mail, no later than twenty-five
2 (25) days before each election, an absentee ballot for each election.

3 ~~(B)(i) Except for persons of long-term care or residential~~
4 ~~facilities licensed by the state or other persons who are voters with~~
5 ~~disabilities as defined in § 7-5-311(d), for~~ For those persons voting by
6 absentee ballot who reside within the county in which they are registered to
7 vote, the application shall be valid for only one (1) election cycle.

8 (ii) The election cycle shall include any one (1)
9 election and the corresponding runoff election.

10 (C)(i) For a voter residing in a long-term care or
11 residential care facility licensed by the state the application shall remain
12 in effect for one (1) calendar year unless withdrawn by the voter.

13 (ii) The county clerk automatically shall mail, no
14 later than twenty-five (25) days before each election, an absentee ballot for
15 each election unless before mailing the administrator of the facility has
16 presented an absentee ballot request from the voter authorizing the
17 administrator to receive the absentee ballot on behalf of the voter for that
18 election.

19 (D)(i) For a voter with a disability as defined in § 7-5-
20 311, the application shall remain in effect for one (1) calendar year unless
21 withdrawn by the voter.

22 (ii) The county clerk automatically shall mail, no
23 later than twenty-five (25) days before each election, an absentee ballot for
24 each election.

25 (c) The following may request an absentee ballot for one (1) or more
26 elections, up to and including the next ~~two (2)~~ regularly scheduled general
27 ~~elections~~ election for federal office, including without limitation any
28 runoff elections that may occur as a result of the outcome of the general
29 elections, by submitting one (1) application during that period of time in
30 the manner provided under subsection (a) of this section:

31 (1) A citizen of the United States temporarily residing outside
32 the territorial limits of the United States;

33 (2) A member of the uniformed services of the United States
34 while in active duty or service, including his or her spouse or dependent,
35 who by reason of active duty or service of the member is absent from the
36 place of residence where the member, spouse, or dependent is otherwise

1 *qualified to vote; and*

2 *(3) A member of the Merchant Marine while in active duty or*
3 *service, including his or her spouse or dependent, who by reason of the*
4 *active duty or service of the member is absent from the place of residence*
5 *where the member, spouse, or dependent is otherwise qualified to vote.*

6 *(d) As used in this section, "electronic means" means a scanned image*
7 *sent by:*

8 *(1) Electronic mail; or*

9 *(2) Facsimile machine.*

10

11 *SECTION 4. Arkansas Code § 7-5-405(b)(3), concerning the form for the*
12 *application for absentee ballot, is amended to read as follows:*

13 *(3) Persons whose applications would be valid through the next*
14 *~~two~~(2) regularly scheduled general ~~elections~~ election for federal office,*
15 *including any resulting runoff elections.*

16

17 *SECTION 5. Arkansas Code § 7-5-408 is amended to read as follows:*

18 *7-5-408. List of applications – Preparation, preservation, and*
19 *inspection.*

20 *(a) The county clerk shall make a list of the applications for*
21 *absentee ballots as the applications are received and shall keep the list of*
22 *applications and retain the application forms after the election in which*
23 *they are to be used for the same period as is required for retaining ballots.*

24 *(b) When each absentee ballot is returned to the county clerk, the*
25 *clerk shall indicate on the list of applications that the absentee ballot was*
26 *returned.*

27 *(c) The list and applications shall be available to public inspection*
28 *during regular business hours from sixty (60) days prior to the election*
29 *until they are destroyed.*

30 *(d)(1) The county clerk shall record in the electronic voter*
31 *registration system the date the county clerk receives the voter's:*

32 *(A) Absentee ballot application; and*

33 *(B) Absentee ballot.*

34 *(2) Except as provided in subdivision (d)(3) of this section*
35 *during the sixty (60) days before election day, the county clerk shall record*
36 *in the electronic voter registration system:*

1 (A) Within one (1) business day after the receipt of the
2 voter's absentee ballot, the date the county clerk received the voter's
3 absentee ballot; and

4 (B) Within two (2) business days after receipt of the
5 voter's absentee ballot application, the date the county clerk received the
6 absentee ballot application.

7 (3) If a voter's absentee ballot is received by the county clerk
8 on election day, the county clerk immediately shall record the date the
9 absentee ballot was received.

10 (4) The county clerk shall not provide an absentee ballot to an
11 election official for counting unless the ballot has been marked as received
12 in the electronic voter registration system.

13
14 SECTION 6. Arkansas Code § 7-5-409(a)(1)(A), concerning qualifications
15 to receive an absentee ballot, is amended to read as follows:

16 7-5-409. Materials furnished to qualified voters.

17 (a)(1)(A) The county clerk must satisfy himself or herself that the
18 applicant for an absentee ballot is a qualified registered elector in the
19 ward, precinct, or township in which he or she claims to be a resident or
20 that the applicant ~~is exempted from~~ does not require prior registration under
21 § 7-5-406.

22
23 SECTION 7. Arkansas Code § 7-5-409(b)(4)(B), concerning certain
24 information included on the voter statement, is amended to read as follows:

25 (B) Blanks shall be provided for the voter to provide his
26 or her printed name, signature, address, date of birth, printed name and
27 address of the administrator, authorized agent, or designated bearer,
28 signature of administrator, authorized agent, or designated bearer, and
29 address of the administrator, authorized agent, or designated bearer;

30
31 SECTION 8. Arkansas Code § 7-5-409(g), concerning records maintained
32 regarding absentee ballots, is amended to read as follows:

33 (g) Upon delivery of an absentee ballot to an individual authorized to
34 receive an absentee ballot, the county clerk shall mark the electronic voter
35 registration list and the precinct voter registration list to indicate that
36 an absentee ballot has been delivered to the voter.

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SECTION 9. Arkansas Code § 7-5-412 is amended to read as follows:

7-5-412. Marking and return of absentee ballots – Delivery of mailed absentee ballots.

(a) Upon receiving the blank absentee ballot, voter statement, and envelopes, whether in the office of the county clerk or elsewhere, the voter shall mark the absentee ballot and place the absentee ballot in the provided envelope. He or she shall then seal the envelope containing the absentee ballot and place it in the other provided outer envelope with the following:

(1) The completed and executed voter statement, including identification of the designated bearer, authorized agent, or administrator when appropriate; and

(2) A copy of a current and valid photographic identification or a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the first-time voter, for first-time voters who registered by mail. However, this requirement does not apply if:

(A) The voter registered to vote by mail and provided the identification at that time; or

(B) The first-time voter registered to vote by mail and submitted his or her driver's license number or at least the last four (4) digits of his or her social security number at the time and this information matches the information in an existing state identification record bearing the same number, name, and date of birth as provided in the registration.

(b) A voter who desires to cast an absentee ballot but who does not meet the identification requirements of subdivision (a)(2) of this section may cast his or her absentee ballot by mail, and the absentee ballot shall be considered as a provisional ballot.

(c) ~~Absentee~~ After recording receipt of the absentee ballot in the electronic voter registration system, absentee ballots received by mail on election day before the polls close shall be delivered promptly by the county clerk to the election officials designated to canvass and count absentee ballots.

SECTION 10. Arkansas Code § 7-5-416 is amended to read as follows:

7-5-416. Counting of absentee ballots.

1 (a)(1) The election officials for absentee ballots shall meet ~~in the~~
2 ~~courthouse~~ in a place designated by the county board of election
3 commissioners no earlier than 8:30 a.m. on election day for the purpose of
4 processing absentee ballots.

5 (2) The county board shall give public notice of the time and
6 location of the opening, processing, canvassing, and counting of absentee
7 ballots and early voting ballots as provided in § 7-5-202.

8 (3) ~~The~~ On election day, the county clerk shall forward the
9 following items to the election officials designated by the county board to
10 open, process, canvass, and count absentee ballots:

11 (A) The absentee ballot applications sorted alphabetically
12 or by precinct to the election officials for absentee ballots;

13 (B) The absentee ballots; and

14 (C) A written report containing the following information:

15 (i) The number of absentee ballot applications
16 received by the county clerk;

17 (ii) The number of absentee ballots sent by the
18 county clerk;

19 (iii) The number of absentee ballots returned to the
20 county clerk;

21 (iv) The number of absentee ballots rejected by the
22 county clerk and the reason for the rejection;

23 (v) The number of absentee ballots marked as
24 received on the paper absentee ballot applications list; and

25 (vi) If the number of absentee ballots returned to
26 the county clerk and the number of absentee ballots marked as received on the
27 paper absentee ballot lists are different and the reason for the difference
28 is known, the reason for the difference.

29 (4) The processing and counting of absentee ballots shall be
30 open to the public, and candidates and ~~political parties~~ authorized poll
31 watchers may be present in person or by a representative designated in
32 writing ~~pursuant to~~ under § 7-5-312 during the opening, processing,
33 canvassing, and counting of the absentee ballots as provided in this
34 subchapter.

35 (5)(A) Absentee or early votes may be counted prior to the
36 closing of the polls on election day.

1 *(B) The results shall not be printed, posted, or released*
2 *until after the polls close on election day.*

3 *(b)(1) The opening, processing, counting, and canvassing of absentee*
4 *ballots shall be conducted as follows:*

5 *(A) One (1) of the election officials shall open outer*
6 *absentee ballot envelopes one (1) by one (1) and verify the contents;*

7 *(B) If the required materials are properly placed in the*
8 *outer absentee ballot envelope, the election official shall proceed to read*
9 *aloud from the voter statement the name of the voter;*

10 *(C) If the required materials are not properly placed in*
11 *the outer absentee ballot envelope, a second election official shall open the*
12 *inner absentee ballot envelope to verify the contents;*

13 *(D) If all required materials are present within one (1)*
14 *or the other envelopes, the election officials shall put the materials in the*
15 *proper envelopes while preserving the secrecy of the voter's ballot and shall*
16 *proceed to read aloud from the voter statement the name of the voter and the*
17 *voting precinct in which the voter claims to be a legal voter;*

18 *(E) As each outer envelope is opened and the name of the*
19 *voter is read, the election officials for the absentee box shall list in*
20 *duplicate the name and voting precinct of the voter;*

21 *(F)(i) After the election official reads aloud from the*
22 *statement, the election officials shall compare the name, address, date of*
23 *birth, and signature of the voter's absentee application with the voter's*
24 *statement and, for first-time voters who registered by mail, the first-time*
25 *voter's identification document unless the voter previously provided*
26 *identification at the time of mailing the voter registration application.*

27 *(ii) If the county board of election commissioners*
28 *determines that the application and the voter's statement do not compare as*
29 *to name, address, date of birth, and signature, the absentee ballot shall not*
30 *be counted.*

31 *(iii) If a first-time voter fails to provide the*
32 *required identification with the absentee ballot or at the time of mailing*
33 *the voter registration application, then the absentee application, absentee*
34 *ballot envelope, and voter's statement shall be placed in an envelope marked*
35 *"provisional" and the absentee ballot shall be considered a provisional*
36 *ballot;*

1 (G) The election officials shall compare the name and
2 address of the bearer, agent or administrator written on the absentee ballot
3 return envelope with the information on the voter statement. If the
4 information does not match, then the outer envelope, absentee application,
5 secrecy envelope containing the ballot, and the voter's statement shall be
6 placed in an envelope marked "provisional" and the absentee ballot shall be
7 considered a provisional ballot;

8 (H) If the absentee voter fails to return the voter
9 statement, the vote shall not be counted;

10 ~~(H)~~(I) Failure of the voter to submit the required
11 absentee materials in the proper envelopes shall not be grounds for
12 disqualifying the voter;

13 (J) If the voter statement does not authorize a bearer,
14 agent, or administrator to receive or return his or her absentee ballot and
15 the ballot was received or returned by a bearer, agent, or administrator, the
16 vote shall not be counted;

17 ~~(I)~~(K) If no challenge is made by a qualified poll
18 watcher, the election official shall remove the inner envelope, without
19 opening the inner envelope containing the ballot, and place it in the ballot
20 box without marking it in any way;

21 ~~(J)~~(L)(i) After all of the outer envelopes have been
22 opened and a list has been made in duplicate of the name and voting precinct
23 of the voters as required in this section, the election officials of the
24 absentee box shall preserve all the statements of voters and the voters'
25 identification documents and deliver them to the county clerk, who shall file
26 and keep them for the same length of time after the election as is required
27 for retention of other ballots.

28 (ii) The voter statements shall be made available
29 for public inspection during regular business hours.

30 (iii) The voters' identification documents shall not
31 be subject to public inspection except as part of a judicial proceeding to
32 contest the election;

33 ~~(K)~~(M) When all of the inner envelopes containing the
34 ballots have been placed in the ballot box, the ballot box shall be shaken
35 thoroughly to mix the ballots; and

36 ~~(L)~~(N) The ballot box shall be opened and the ballots

1 *canvassed and counted.*

2 *(2) No election results shall be printed or released prior to*
3 *the closing of the polls on election day.*

4 *(c) If any person casting an absentee ballot dies before the polls*
5 *open on election day, his or her vote shall not be counted.*

6 *(d) It is the intent of this section to permit the election officials*
7 *for absentee ballots to meet and process, canvass, and count absentee ballots*
8 *according to this section prior to the closing of the polls on election day.*

9 *(e)(1) Absentee votes shall be cast on paper ballots.*

10 *(2)(A) The ballots shall first be counted for write-in votes by*
11 *the election officials.*

12 *(B) Then, at the discretion of the county board, the*
13 *ballots may be either hand counted or counted on an electronic vote*
14 *tabulating device.*

15 *(f)(1) Absentee ballots marked as "special runoff ballots" received*
16 *from a qualified voter from one (1) of the categories in § 7-5-406(a) ~~and who~~*
17 *~~is temporarily residing outside the territorial limits of the United States~~*
18 *shall be opened for general primary elections and general runoff elections*
19 *according to the procedures described in subsection (b) of this section.*

20 *(2) However, in counting the special runoff ballot, one (1) of*
21 *the election officials shall open the envelope containing the special runoff*
22 *ballot and read the numbers indicated next to the names of the two (2)*
23 *candidates in the general primary election or in the general runoff election.*

24 *(3) The candidate with the highest ranking shall receive the*
25 *vote.*

26 *(4) A special runoff ballot received with the preferential*
27 *primary absentee ballot shall be counted in the general primary election, and*
28 *a special runoff ballot received with the general election absentee ballot*
29 *shall be counted in the general runoff election.*

30 *(5) The Secretary of State shall prepare instructions for*
31 *opening, counting, and canvassing special runoff ballots and provide the*
32 *instructions to each county board of election commissioners.*

33

34 */s/J. English*

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