

OFFICE OF THE
ATTORNEY GENERAL

DON SIEGELMAN
ATTORNEY GENERAL
MONTGOMERY, ALABAMA 36130
(205) 261-7400



STATE OF ALABAMA

MAY 12 1988

88-00286

Honorable John L. Buskey
P. O. Box 6216
Montgomery, Alabama 36106

Probate Judges - Absentee Ballots
Elections - Absentee Voting

A probate judge is required to
have absentee ballots printed for
all elections.

Dear Mr. Buskey:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

Is a probate judge expected and required to
have absentee ballots printed for all
elections, including special elections for
referenda, annexations, etc?

FACTS AND ANALYSIS

In answer to your question, the Probate Judge is required
to have absentee ballots printed for all elections.

Code of Alabama 1975, §11-42-2(5) provides in pertinent
part, as follows:

The election to determine whether or not the
proposed territory shall be brought within such
corporate limits must be conducted in all respects
as provided by the general election laws and under
the same sanctions and penalties, except as changed
by the provisions of this article, and except that
an official ballot need not be provided.

In regard to Absentee Voting Code of Alabama 1975,
§17-10-3 provides in pertinent part, as follows:

Any qualified elector of this state and any person who, but for having moved from the state within the 30 days immediately preceding the election, is a qualified elector of this state who will be unable to vote at his regular polling place because of his absence from the county of his residence on the day of any primary, general, special or municipal election, or who because of any physical illness or infirmity which prevents his attendance at the polls, whether he is within or without the county on the day of the election, may vote an absentee ballot, provided he makes application in writing therefor not less than five days prior to the election in which he desires to vote as authorized in this chapter.

Code of Alabama 1975, §17-18-7 provides in pertinent part, as follows:

Special elections are to be held and conducted, the returns thereof made and certificates given and, unless otherwise expressly provided, regulated in all respects by the provisions in relation to general elections. (Code 1876, §270; Code 1886, §365; Code 1896, §1604; Code 1907, §445; Code 1923, §535; Code 1940, T. 17, §221.)

It is the opinion of this office that in order for a probate judge to satisfy requirements set forth in Section 17-10-3 he must print absentee ballots for all elections.

CONCLUSION

Section 17-10-3 gives any qualified elector of this state who satisfies the requirements of this section the right to vote by absentee ballot. It is therefore incumbent on the Judge to provide Absentee Ballots for those requesting them.

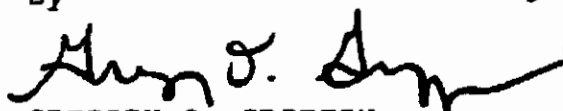
Honorable John L. Buskey
Page Three

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General

By-

A handwritten signature in black ink, appearing to read "Gregory O. Griffin". The signature is written in a cursive style with a long, sweeping tail.

GREGORY O. GRIFFIN
Assistant Attorney General

DS/GOG/rh