

1 HB282  
2 147449-3  
3 By Representatives Newton (C) and Standridge  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 14-FEB-13

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ENGROSSED

A BILL  
TO BE ENTITLED  
AN ACT

To amend Section 17-6-28, Code of Alabama 1975, relating to write-in votes, to provide for the procedure for counting write-in votes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 17-6-28, Code of Alabama 1975, is amended to read as follows:

"§17-6-28.

"(a) Write-in votes shall be permitted only in non-municipal general elections. The ballot must be constructed so that the voter can mark a write-in vote for each office in the same manner that votes are registered for regular candidates. In order to cast a valid write-in vote, the voter must (1) write the name on the ballot and (2) register the vote by a mark in the space designated for that office. A write-in vote shall not be counted if the vote is not registered as provided above. If a voter registers a vote for a name on the ballot and then writes in another name for the same office but fails to register the write-in vote, the ballot shall be treated as if no write-in vote had occurred and the regular vote shall be counted. If a properly

1 registered write-in vote causes an over-vote, it shall be  
2 treated as any other over-vote and none of the votes for the  
3 over-voted office shall be counted. However, the remainder of  
4 the ballot shall be counted. When counting write-in votes,  
5 poll officials must check for over-votes if the electronic  
6 ballot counter does not perform the function.

7 "(b) All write-in ballots shall be returned on  
8 election night to a central location in the county as  
9 determined by the judge of probate. If it is determined that  
10 total write-in ballots for any office cannot affect the  
11 outcome of the election for that office, all write-in votes  
12 for that office shall not be counted except as provided in  
13 subdivision (4).

14 "(1) Except for elections subject to subdivision  
15 (2), the canvassing board for the county shall make a  
16 determination of whether the write-in votes for an office can  
17 affect the outcome of the election. If the canvassing board  
18 determines that the write-in votes can affect the outcome of  
19 the election, the write-in votes shall be counted. If the  
20 canvassing board determines that the number of write-in votes  
21 cannot affect the outcome of the election for the office, the  
22 write-in votes for that office shall not be counted, except as  
23 provided in subdivision (4).

24 "(2) For write-in votes for elections involving  
25 voters of more than one county, the judge of probate for each  
26 county where ballots are cast for the office shall forward to  
27 the Secretary of State the number of write-in votes for the

1 office. The Secretary of State shall then make a determination  
2 of whether the write-in votes for the office can affect the  
3 outcome of the election for that office. If the Secretary of  
4 State determines that the number of write-in votes can affect  
5 the outcome of the election, the write-in votes shall be  
6 counted. If the Secretary of State determines that the number  
7 of write-in votes cannot affect the outcome of the election,  
8 the write-in votes for the office shall not be counted, except  
9 as provided in subdivision (4).

10 "(3) If write-in votes are required to be counted,  
11 all write-in votes for office shall be counted by duly  
12 appointed election officials on or before noon on the Tuesday  
13 that is seven days after the election.

14 Any compensation paid pursuant to this subsection  
15 shall be a reimbursable expense as provided in Chapter 16 of  
16 Title 17, Code of Alabama 1975.

17 "(4) Any qualified elector who voted in an election  
18 may request within two business days of the election that the  
19 write-in votes for any office be counted. The elector  
20 requesting that the write-in votes for an office be counted  
21 shall pay the actual costs of the counting."

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

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Constitution,  
Campaigns and Elections..... . . . . . 14-FEB-13

Read for the second time and placed  
on the calendar 1 amendment ..... . . . . . 07-MAR-13

Read for the third time and passed  
as amended..... . . . . . 04-APR-13

Yeas 99, Nays 0, Abstains 0

Jeff Woodard  
Clerk