

1 HB145  
2 116311-7  
3 By Representative Newton (C)  
4 RFD: Constitution and Elections  
5 First Read: 12-JAN-10  
6 PFD: 01/07/2010

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ENROLLED, An Act,

To amend Section 17-6-28, Code of Alabama 1975, to further provide for the counting of 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 registered write-in vote causes an over-vote, it shall be treated as any other over-vote and none of the votes for the over-voted office shall be counted. However, the remainder of the ballot shall be counted. When counting write-in votes,

1 poll officials must check for over-votes if the electronic  
2 ballot counter does not perform the function.

3 "(b) All write-in ballots shall be returned to a  
4 central location in the county as determined by the judge of  
5 probate. If it is determined that total write-in ballots for  
6 any office cannot affect the outcome of the election for that  
7 office, all write-in votes for that office shall not be  
8 counted except as provided herein.

9 "(1) The judge of probate for elections involving  
10 voters in only the county where the judge of probate serves  
11 shall make a determination of whether the write-in votes for  
12 an office can affect the outcome of the election. If the judge  
13 of probate determines that the write-in votes can affect the  
14 outcome of the election, the write-in votes shall be counted.  
15 If the judge of probate determines that the number of write-in  
16 votes cannot affect the outcome of the election for the  
17 office, the write-in votes for that office shall not be  
18 counted, except as provided in subdivision (3).

19 "(2) For write-in votes for elections involving  
20 voters of more than one county, the judge of probate for each  
21 county where ballots are cast for the office shall forward to  
22 the Secretary of State the number of write-in votes for the  
23 office. The Secretary of State shall then make a determination  
24 of whether the write-in votes for the office can affect the  
25 outcome of the election for that office. If the Secretary of

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

7 "(3) Any qualified elector who voted in an election  
8 may request within two business days of the election that the  
9 write-in votes for any office be counted. The elector  
10 requesting that the write-in votes for an office be counted  
11 shall pay the actual costs of the counting."

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

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 19-JAN-10, as amended.

Greg Pappas  
Clerk

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Senate

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09-MAR-10

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Passed