

1 HB503  
2 166653-1  
3 By Representative Hill (M)  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 16-APR-15

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8 SYNOPSIS: Under existing law, write-in votes are  
9 permitted only in non-municipal general elections  
10 and all write-in votes are counted if the voter  
11 properly writes the name on the ballot and  
12 registers the vote by a mark in the space  
13 designated for that particular office.

14 This bill would amend the current law to  
15 provide that write-in votes for a specific office  
16 would be counted at the same time as provisional  
17 ballots are counted if the number of write-in votes  
18 for that office is greater than or equal to the  
19 difference in votes between the candidates  
20 receiving the greatest number of votes for that  
21 office.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Sections 17-6-28 and 17-12-1, Code of  
2 Alabama 1975, relating to write-in votes, to provide that  
3 write-in votes would be counted at the same time as  
4 provisional ballots under certain conditions.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6           Section 1. Sections 17-6-28 and 17-12-1, Code of  
7 Alabama 1975, are amended to read as follows:

8           "§17-6-28.

9           "(a) Write-in votes shall be permitted only in  
10 non-municipal general elections and shall be counted as  
11 provided in this section based on one of the following:-

12           "(1) Upon a determination that the number of  
13 write-in votes for a specific office is greater than or equal  
14 to the difference in votes between the candidates receiving  
15 the greatest number of votes for the specific office.

16           "(2) Upon a written request satisfying the  
17 requirements in subsection (h).

18           "(b) The ballot for a non-municipal general election  
19 must be constructed so that the voter can mark a write-in vote  
20 for each office in the same manner that votes are registered  
21 for regular candidates. In order to cast a valid write-in  
22 vote, the voter must (1) write the name on the ballot and (2)  
23 register the vote by a mark in the space designated for that  
24 office. A write-in vote shall not be counted if the vote that  
25 is not registered as provided above shall not be considered a  
26 valid write-in vote and shall not be included in determining  
27 the number of write-in votes cast for a specific office as

1 required in this section. If a voter registers a vote for a  
2 name on the ballot and then writes in another name for the  
3 same office but fails to register the write-in vote, the  
4 ballot shall be treated as if no write-in vote had occurred  
5 and the regular vote shall be counted. If a properly  
6 registered write-in vote causes an over-vote, it shall be  
7 treated as any other over-vote and none of the votes for the  
8 over-voted office shall be counted. However, the remainder of  
9 the ballot shall be counted. When counting write-in votes,  
10 poll officials must check for over-votes if the electronic  
11 ballot counter does not perform the function.

12 "(c) Upon the closing of the polls, all write-in  
13 votes from each polling place in the county shall be returned  
14 to a central location in the county as determined by the judge  
15 of probate where the canvassing board shall determine the  
16 number of write-in votes cast for each office on the ballot.  
17 The chair of each local political party as defined in Section  
18 17-13-40, any person whose name is on the ballot as an  
19 independent, and any announced or known write-in candidates  
20 shall be given actual notice of the time and place where the  
21 canvassing board will meet to determine the number of write-in  
22 votes cast for each office on the ballot and shall be  
23 permitted to be present when the determination is made. Once  
24 the determination of the number of write-in votes cast for  
25 each office has been made, the canvassing board shall take the  
26 following actions:

1           "(1) For federal and state offices on the ballot,  
2           prepare and transmit to the Secretary of State not later than  
3           5:00 p.m. on the Wednesday immediately following the election  
4           a written report itemizing the number of write-in votes cast  
5           for each separate federal or state office on the ballot.

6           "(2) For each specific county office on the ballot,  
7           determine whether the number of write-in votes cast is greater  
8           than or equal to the difference in votes between the  
9           candidates receiving the greatest number of votes for the  
10           specific county office.

11           "(3) Post a notice stating the number of write-in  
12           votes cast in each office on the ballot and, for each specific  
13           county office on the ballot, stating whether the number of  
14           write-in votes cast for the office is greater than or equal to  
15           the difference in votes between the candidates receiving the  
16           greatest number of votes for the specific county office. The  
17           notice shall be posted on the door of the courthouse and any  
18           other place deemed appropriate by the canvassing board  
19           including, but not limited to, a county website.

20           "(d) Upon determining the number of write-in votes  
21           as required in subsection (c), all ballots with write-in votes  
22           shall be delivered to the sheriff who shall securely keep the  
23           ballots in the same manner as provisional ballots are kept  
24           pursuant to subsection (d) of Section 17-10-2.

25           "(e) Upon receipt of all county reports setting out  
26           the number of write-in votes for each federal or state office,  
27           the Secretary of State shall determine whether the number of

1 write-in votes cast statewide for any specific federal or  
2 state office is greater than or equal to the difference in  
3 votes between the candidates receiving the greatest number of  
4 votes for that office. In the event the Secretary of State  
5 determines that the number of write-in votes cast statewide  
6 for any federal or state office is greater than or equal to  
7 the difference in votes between the candidates receiving the  
8 greatest number of votes for that office, not later than noon  
9 on the Friday immediately following the election, the  
10 Secretary of State shall notify each judge of probate from a  
11 county where write-in votes for that office were cast that the  
12 write-in votes for that office shall be counted and reported  
13 as provided in this section.

14 "(f) When the number of write-in votes for any  
15 specific office is greater than or equal to the difference in  
16 votes between the candidates receiving the greatest number of  
17 votes for that office write-in votes shall be counted at the  
18 same time and in the same manner as provisional ballots are  
19 counted pursuant to subsection (f) of Section 17-10-2.

20 "(g) Any qualified elector who disputes the  
21 determination regarding the counting of write-in votes cast  
22 for any particular office on the ballot made by either the  
23 canvassing board or the Secretary of State may file a written  
24 objection as follows, stating with specificity the grounds for  
25 objection:

26 "(1) For objections to the determination made by a  
27 canvassing board for a specific county office, the objection

1 shall be filed with the canvassing board prior to the date  
2 ballots are due to be counted pursuant to subsection (f).

3 "(2) For objections to the determination made by the  
4 Secretary of State for a specific federal or state office, the  
5 objection shall be filed with the Secretary of State prior to  
6 the date ballots are due to be counted pursuant to subsection  
7 (f).

8 "Any written objection filed pursuant to this  
9 subsection shall be reviewed by the canvassing board for  
10 objections filed under subdivision (1) or by the Secretary of  
11 State for objections filed under subdivision (2). If it is  
12 determined the objection has merit, write-in ballots cast in  
13 the office subject to the objection shall be counted pursuant  
14 to subsection (f).

15 "(h) Any expenses incurred for the counting of  
16 write-in votes shall be a reimbursable expense as provided in  
17 Chapter 16 of this title.

18 "(i) In addition to the requirement to count  
19 write-in votes as provided in this section, any qualified  
20 elector who voted in an election may request that write-in  
21 votes for a specific county office on a ballot be counted  
22 provided the request is made in writing to the judge of  
23 probate in the county where the elector voted no later than  
24 5:00 p.m. on the Friday following the election and is  
25 accompanied by a bond or certified check in an amount  
26 sufficient to cover the cost of the count as determined by the  
27 judge of probate. Any qualified elector who voted in an

1 election may request that write-in votes for a federal or  
2 state office on a ballot to be counted, provided the request  
3 is made in writing to the Secretary of State not later than  
4 5:00 p.m. on the Friday following the election and is  
5 accompanied by a bond or certified check in an amount  
6 sufficient to cover the cost of the count as determined by the  
7 Secretary of State. Any write-in vote count authorized under  
8 this subsection shall take place at the same time and in the  
9 same manner as provisional ballots are counted pursuant to  
10 subsection (f) of Section 17-10-2.

11 "§17-12-1.

12 "When the time arrives for closing the polls, all  
13 qualified voters, who are then waiting within the voting room  
14 to vote, shall be permitted by the election officers to do so.

15 "After closing the polls and sealing the required  
16 records, the precinct election officials shall follow the  
17 manufacturer's instructions to lock the equipment against  
18 further voting and to obtain a printout of the votes on each  
19 office and question. The first printout shall be torn from the  
20 equipment so that all printing during the day, from the  
21 initial test before the polls opened through the first  
22 printout of results, shall be on one continuous sheet or roll  
23 of paper. Then, four other printouts of the results shall be  
24 produced and torn out. To each certificate shall be added, if  
25 it is not automatically printed, the following information:

26 "(1) The name of the voting place.

27 "(2) The date.



1           "(3) The identifying number (serial number) of the  
2           tabulating equipment.

3           "(4) The value of the public counter (indicating the  
4           number of votes cast).

5           "(5) The name of each candidate next to the total  
6           number of votes cast for that candidate.

7           "(6) The number and short title of each proposition  
8           next to the number of votes for and against that proposition.

9           "(7) In general elections only, ~~any~~ the number of  
10          write-in votes ~~shall be counted and the totals added to the~~  
11          ~~certificates of result~~ cast in each race on the ballot.

12          "All precinct election officials shall sign each  
13          certificate of result."

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