

1 HB19  
2 173250-4  
3 By Representative Lindsey  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 15-AUG-16

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§17-6-28.

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

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

"(2) Upon a written request satisfying the requirements in subsection (i).

"(b) The ballot for a non-municipal general election 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)

1 register the vote by a mark in the space designated for that  
2 office. A write-in vote ~~shall not be counted if the vote that~~  
3 is not registered as provided above shall not be considered a  
4 valid write-in vote and shall not be included in determining  
5 the number of write-in votes cast for a specific office as  
6 required in this section. If a voter registers a vote for a  
7 name on the ballot and then writes in another name for the  
8 same office but fails to register the write-in vote, the  
9 ballot shall be treated as if no write-in vote had occurred  
10 and the regular vote shall be counted. If a properly  
11 registered write-in vote causes an over-vote, it shall be  
12 treated as any other over-vote and none of the votes for the  
13 over-voted office shall be counted. However, the remainder of  
14 the ballot shall be counted. When counting write-in votes,  
15 poll officials must check for over-votes if the electronic  
16 ballot counter does not perform the function.

17 "(c) Upon the closing of the polls, all write-in  
18 votes which may be in the form of a ballot or, if an  
19 electronic voting system is utilized in the polling place, a  
20 ballot image, results tape, or other media as prescribed by  
21 the Secretary of State by administrative rule, from each  
22 polling place in the county shall be returned to a central  
23 location in the county as determined by the judge of probate  
24 where the canvassing board shall determine the number of  
25 write-in votes cast for each office on the ballot, ballot

1 image, results tape, or other media as prescribed by the  
2 Secretary of State by administrative rule. The chair of each  
3 local political party as defined in Section 17-13-40, any  
4 person whose name is on the ballot as an independent, and any  
5 announced or known write-in candidates shall be given a  
6 minimum of 24 hours notice of the time and place where the  
7 canvassing board will meet to determine the number of write-in  
8 votes cast for each office on the ballot, ballot image,  
9 results tape, or other media prescribed by the Secretary of  
10 State by administrative rule and shall be permitted to be  
11 present when the determination is made. The county, at its  
12 discretion, may appoint and compensate poll workers to assist  
13 the canvassing board in determining the number of write-in  
14 votes for each office. After the determination of the number  
15 of write-in votes cast for each office has been made, the  
16 canvassing board shall take the following actions:

17 "(1) For federal and state offices on the ballot,  
18 prepare and transmit to the Secretary of State not later than  
19 5:00 p.m. on the first Friday following the election a written  
20 report itemizing the number of write-in votes cast for each  
21 separate federal or state office on the ballot and the total  
22 votes cast for each of the candidates receiving the greatest  
23 number of votes for each federal or state office on the ballot  
24 in the county.

1           "(2) For each specific county office on the ballot,  
2 determine whether the number of write-in votes cast is greater  
3 than or equal to the difference in votes between the  
4 candidates receiving the greatest number of votes for the  
5 specific county office.

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

15           "(d) Upon determining the number of write-in votes  
16 as required in subsection (c), all ballots, ballot images, or  
17 results tapes with write-in votes shall be delivered to the  
18 sheriff who shall securely keep the ballots, ballot images, or  
19 results tapes in the same manner as provisional ballots are  
20 kept pursuant to subsection (d) of Section 17-10-2.

21           "(e) Upon receipt of all county reports setting out  
22 the number of write-in votes for each federal or state office,  
23 the Secretary of State shall determine whether the number of  
24 write-in votes cast statewide for any specific federal or  
25 state office is greater than or equal to the difference in

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

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

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

24 "(1) For objections to the determination made by a  
25 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 by a county for the  
16 counting of write-in votes shall be a reimbursable expense as  
17 provided in 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 first Friday following the election and is  
25 accompanied by a bond or certified check in an amount

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

13 "§17-12-1.

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

17 "After closing the polls and sealing the required  
18 records, the precinct election officials shall follow the  
19 manufacturer's instructions to lock the equipment against  
20 further voting and to obtain a printout of the votes on each  
21 office and question. The first printout shall be torn from the  
22 equipment so that all printing during the day, from the  
23 initial test before the polls opened through the first  
24 printout of results, shall be on one continuous sheet or roll  
25 of paper. Then, four other printouts of the results shall be

1 produced and torn out. To each certificate shall be added, if  
2 it is not automatically printed, the following information:

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

4 "(2) The date.

5 "(3) The identifying number (serial number) of the  
6 tabulating equipment.

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

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

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

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

16 "All precinct election officials shall sign each  
17 certificate of result."

18 Section 2. The Secretary of State may adopt  
19 administrative rules pursuant to the Alabama Administrative  
20 Procedure Act as necessary to implement this act.

21 Section 3. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.

