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

1	ENGROSSED
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4	A BILL
5	TO BE ENTITLED
6	AN ACT
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8	To amend Section 17-6-28, Code of Alabama 1975, to
9	further provide for the counting of write-in votes.
10	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
11	Section 1. Section 17-6-28, Code of Alabama 1975, is
12	amended to read as follows:
13	<b>"</b> §17-6-28.
14	"(a) Write-in votes shall be permitted only in
15	non-municipal general elections. The ballot must be
16	constructed so that the voter can mark a write-in vote for
17	each office in the same manner that votes are registered for
18	regular candidates. In order to cast a valid write-in vote,
19	the voter must (1) write the name on the ballot and (2)
20	register the vote by a mark in the space designated for that
21	office. A write-in vote shall not be counted if the vote is
22	not registered as provided above. If a voter registers a vote
23	for a name on the ballot and then writes in another name for
24	the same office but fails to register the write-in vote, the
25	ballot shall be treated as if no write-in vote had occurred
26	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, poll officials must check for over-votes if the electronic ballot counter does not perform the function.

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

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

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

1 office. The Secretary of State shall then make a determination of whether the write-in votes for the office can affect the outcome of the election for that office. If the Secretary of 3 State determines that the number of write-in votes can affect 4 5 the outcome of the election, the write-in votes shall be counted. If the Secretary of State determines that number of 6 7 write-in votes cannot affect the outcome of the election, the write-in votes for the office shall not be counted, except as 8 provided in subdivision (3). 9 10 "(3) Any qualified elector who voted in an election

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

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

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3	House of Representatives
4 5 6 7	Read for the first time and re- ferred to the House of Representa- tives committee on Constitution and Elections
8 9 10 11	Read for the second time and placed on the calendar with 1 substitute and 14-JAN-10
12 13 14 15	Read for the third time and passed as amended
16 17 18 19	Greg Pappas Clerk