

1 SB241
2 156001-2
3 By Senators Whatley and Ward
4 RFD: Constitution, Campaign Finance, Ethics, and Elections
5 First Read: 21-JAN-14

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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 only 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 Once the determination of the number of write-in votes cast
18 for each office has been made, the canvassing board shall take
19 the following actions:

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

25 "(2) For each specific county office on the ballot,
26 determine whether the number of write-in votes cast is greater
27 than or equal to the difference in votes between the

1 candidates receiving the greatest number of votes for the
2 specific county office.

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

8 "(e) Upon receipt of all county reports setting out
9 the number of write-in votes for each federal or state office,
10 the Secretary of State shall determine whether the number of
11 write-in votes cast statewide for any specific federal or
12 state office is greater than or equal to the difference in
13 votes between the candidates receiving the greatest number of
14 votes for that office. In the event the Secretary of State
15 determines that the number of write-in votes cast statewide
16 for any federal or state office is greater than or equal to
17 the difference in votes between the candidates receiving the
18 greatest number of votes for that office, not later than noon
19 on the Friday immediately following the election, the
20 Secretary of State shall notify each judge of probate from a
21 county where write-in votes for that office were cast that the
22 write-in votes for that office shall be counted and reported
23 as provided in this section.

24 "(f) When the number of write-in votes for any
25 specific office is greater than or equal to the difference in
26 votes between the candidates receiving the greatest number of
27 votes for that office write-in votes shall be counted at the

1 same time and in the same manner as provisional ballots are
2 counted pursuant to subsection (f) of Section 17-10-2.

3 "(g) Any expenses incurred for the counting of
4 write-in votes shall be a reimbursable expense as provided in
5 Chapter 16 of this title.

6 "(h) In addition to the requirement to count
7 write-in votes as provided in this section, any qualified
8 elector who voted in an election may request that write-in
9 votes for a specific county office on a ballot be counted
10 provided the request is made in writing to the judge of
11 probate in the county where the elector voted no later than
12 5:00 p.m. on the Friday following the election and is
13 accompanied by a bond or certified check in an amount
14 sufficient to cover the cost of the count as determined by the
15 judge of probate. Any qualified elector who voted in an
16 election may request that write-in votes for a federal or
17 state office on a ballot to be counted, provided the request
18 is made in writing to the Secretary of State not later than
19 5:00 p.m. on the Friday following the election and is
20 accompanied by a bond or certified check in an amount
21 sufficient to cover the cost of the count as determined by the
22 Secretary of State. Any write-in vote count authorized under
23 this subsection shall take place at the same time and in the
24 same manner as provisional ballots are counted pursuant to
25 subsection (f) of Section 17-10-2.

26 "§17-12-1.

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

4 "After closing the polls and sealing the required
5 records, the precinct election officials shall follow the
6 manufacturer's instructions to lock the equipment against
7 further voting and to obtain a printout of the votes on each
8 office and question. The first printout shall be torn from the
9 equipment so that all printing during the day, from the
10 initial test before the polls opened through the first
11 printout of results, shall be on one continuous sheet or roll
12 of paper. Then, four other printouts of the results shall be
13 produced and torn out. To each certificate shall be added, if
14 it is not automatically printed, the following information:

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

16 "(2) The date.

17 "(3) The identifying number (serial number) of the
18 tabulating equipment.

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

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

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

25 "(7) In general elections only, ~~any~~ the number of
26 ~~write-in votes shall be counted and the totals added to the~~
27 ~~certificates of result~~ cast for each candidate on the ballot.

1 "All precinct election officials shall sign each
2 certificate of result."

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