

1 HB241
2 189861-1
3 By Representative Johnson (R)
4 RFD: Constitution, Campaigns and Elections
5 First Read: 18-JAN-18

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8 SYNOPSIS: Under existing law, in any non-municipal
9 general election, a voter may cast a write-in vote
10 by writing in any name on the official ballot for a
11 public office, and that write-in vote must be
12 counted.

13 This bill would require a person seeking
14 election to public office through a write-in
15 candidacy to announce his or her candidacy by
16 filing a statement with voting officials by a
17 certain date before the general election.

18 This bill would also provide that write-in
19 votes shall be counted only for those write-in
20 candidates who have announced their write-in
21 candidacy.

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

1 Relating to write-in votes; to amend Section
2 17-6-28, Code of Alabama 1975, amended by Act 2016-450 of the
3 2016 First Special Session; to require a person seeking
4 election to public office through a write-in candidacy to
5 announce his or her candidacy by filing a statement with
6 voting officials by a certain date before the general
7 election; and to provide that write-in votes shall be counted
8 only for those write-in candidates who have announced their
9 write-in candidacy.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

11 Section 1. Section 17-6-28, Code of Alabama 1975,
12 amended by Act 2016-450 of the 2016 First Special Session, is
13 amended to read as follows:

14 "§17-6-28.

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

18 "(1) Upon a determination that the number of
19 write-in votes for a specific office is greater than or equal
20 to the ~~difference in votes between the two candidates~~ number
21 of votes received by the candidate receiving the greatest
22 number of votes for the specific office.

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

25 "(b) A person seeking election to public office
26 through a write-in candidacy shall announce his or her
27 write-in candidacy by filing with the judge of probate, in the

1 case of county offices, or the Secretary of State, in the case
2 of federal or state offices, a statement of write-in
3 candidacy. The statement of write-in candidacy shall do all of
4 the following:

5 "(1) Include, at a minimum, the full name of the
6 write-in candidate and the name of the office to which he or
7 she is seeking election, including district number or place
8 number where applicable.

9 "(2) Be signed and dated by the write-in candidate.

10 "(3) Be submitted to the judge of probate, in the
11 case of county offices, or the Secretary of State, in the case
12 of federal or state offices, no later than the fifth day
13 preceding the election in which the write-in candidate seeks
14 to participate.

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

1 ballot shall be treated as if no write-in vote had occurred
2 and the regular vote shall be counted. If a properly
3 registered write-in vote causes an over-vote, it shall be
4 treated as any other over-vote and none of the votes for the
5 over-voted office shall be counted. However, the remainder of
6 the ballot shall be counted. When counting write-in votes,
7 poll officials must check for over-votes if the electronic
8 ballot counter does not perform the function.

9 ~~"(c)~~ (d) Upon the closing of the polls, all write-in
10 votes, which may be in the form of a ballot or, if an
11 electronic voting system is utilized in the polling place, a
12 ballot image, results tape, or other media as prescribed by
13 the Secretary of State by administrative rule, from each
14 polling place in the county shall be returned to a central
15 location in the county as determined by the judge of probate
16 where the canvassing board shall determine the number of
17 write-in votes cast for each office on the ballot, ballot
18 image, results tape, or other media as prescribed by the
19 Secretary of State by administrative rule. The chair of each
20 local political party as defined in Section 17-13-40, any
21 person whose name is on the ballot as an independent, and any
22 announced ~~or known~~ write-in candidates shall be given a
23 minimum of 24 ~~hours~~ hours' notice of the time and place where
24 the canvassing board will meet to determine the number of
25 write-in votes cast for each office on the ballot, ballot
26 image, results tape, or other media prescribed by the
27 Secretary of State by administrative rule and shall be

1 permitted to be present when the determination is made. The
2 county, at its discretion, may appoint and compensate poll
3 workers to assist the canvassing board in determining the
4 number of write-in votes for each office. After the
5 determination of the number of write-in votes cast for each
6 office has been made, the canvassing board shall take the
7 following actions:

8 "(1) For federal and state offices on the ballot,
9 prepare and transmit to the Secretary of State not later than
10 5:00 p.m. on the first Friday following the election a written
11 report itemizing the number of write-in votes cast for each
12 separate federal or state office on the ballot and the total
13 votes cast for ~~each of~~ the candidates receiving the greatest
14 number of votes for each federal or state office on the ballot
15 in the county.

16 "(2) For each specific county office on the ballot,
17 determine whether the number of write-in votes cast is greater
18 than or equal to the ~~difference in votes between the~~
19 ~~candidates~~ number of votes received by the candidate receiving
20 the greatest number of votes for the specific county office.

21 "(3) Post a notice stating the number of write-in
22 votes cast in each office on the ballot and, for each specific
23 county office on the ballot, stating whether the number of
24 write-in votes cast for the office is greater than or equal to
25 the ~~difference in votes between the candidates~~ number of votes
26 received by the candidate receiving the greatest number of
27 votes for the specific county office. The notice shall be

1 posted on the door of the courthouse and any other place
2 deemed appropriate by the canvassing board including, but not
3 limited to, a county website.

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

11 "~~(e)~~(f) Upon receipt of all county reports setting
12 out the number of write-in votes for each federal or state
13 office, the Secretary of State shall determine whether the
14 number of write-in votes cast statewide for any specific
15 federal or state office is greater than or equal to the
16 ~~difference in votes between the candidates~~ number of votes
17 received by the candidate receiving the greatest number of
18 votes for that office. In the event the Secretary of State
19 determines that the number of write-in votes cast statewide
20 for any federal or state office is greater than or equal to
21 the ~~difference in votes between the candidates~~ number of votes
22 received by the candidate receiving the greatest number of
23 votes for that office, not later than noon on the first Monday
24 following the election, the Secretary of State shall notify
25 each judge of probate from a county where write-in votes for
26 that office were cast that the write-in votes for announced

1 write-in candidates for that office shall be counted and
2 reported as provided in this section.

3 ~~"(f)~~ (g) When the number of write-in votes for any
4 specific office is greater than or equal to the ~~difference in~~
5 ~~votes between the candidates~~ number of votes received by the
6 candidate receiving the greatest number of votes for that
7 office, the write-in votes for announced write-in candidates
8 shall be counted at the same time and in the same manner as
9 provisional ballots are counted pursuant to subsection (f) of
10 Section 17-10-2. Write-in votes shall be counted only for
11 those write-in candidates who have announced their write-in
12 candidacy pursuant to subsection (b). No write-in votes shall
13 be counted for a person whose name is already printed on the
14 ballot as a candidate.

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

21 "(1) For objections to the determination made by a
22 county canvassing board for a specific county office, the
23 objection shall be filed with the canvassing board prior to
24 the date ballots are due to be counted pursuant to subsection
25 ~~(f)~~ (g).

26 "(2) For objections to the determination made by the
27 Secretary of State for a specific federal or state office, the

1 objection shall be filed with the Secretary of State prior to
2 the date ballots are due to be counted pursuant to subsection
3 ~~(f)~~ (g).

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

11 "~~(h)~~ (i) Any expenses incurred by a county for the
12 counting of write-in votes shall be a reimbursable expense as
13 provided in Chapter 16.

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

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

8 "(k) The Secretary of State may adopt rules to
9 implement this section."

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