1   HB356

2   166446-1

3   By Representative Hill (M)

4   RFD: Constitution, Campaigns and Elections

5   First Read: 31-MAR-15

1   166446-1:n:03/26/2015:PMG/cj LRS2015-1245

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8   SYNOPSIS: Under existing law, election officials are

9   required to count all write-in votes after an

10   election.

11   This bill would provide standards and

12   procedures for the counting of write-in ballots.

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14   A BILL

15   TO BE ENTITLED

16   AN ACT

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18   Relating to elections; to amend Sections 17-6-28 and

19   17-12-1, Code of Alabama 1975; to add Section 17-6-28.1 to the

20   Code of Alabama 1975, to provide standards and procedures for

21   the counting of write-in ballots.

22   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23   Section 1. Sections 17-6-28 and 17-12-1, Code of

24   Alabama 1975, are amended to read as follows:

25   "§17-6-28.

26   "Write-in votes shall be permitted only in

27   non-municipal general elections and shall be counted as

1   provided in Section 17-6-28.1. The ballot must be constructed

2   so that the voter can mark a write-in vote for each office in

3   the same manner that votes are registered for regular

4   candidates. In order to cast a valid write-in vote, the voter

5   must (1) write the name on the ballot and (2) register the

6   vote by a mark in the space designated for that office. A

7   write-in vote shall not be counted if the vote is not

8   registered as provided above. If a voter registers a vote for

9   a name on the ballot and then writes in another name for the

10   same office but fails to register the write-in vote, the

11   ballot shall be treated as if no write-in vote had occurred

12   and the regular vote shall be counted. If a properly

13   registered write-in vote causes an over-vote, it shall be

14   treated as any other over-vote and none of the votes for the

15   over-voted office shall be counted. However, the remainder of

16   the ballot shall be counted. When counting write-in votes,

17   poll officials must check for over-votes if the electronic

18   ballot counter does not perform the function. Write-in votes

19   may not be cast through the use of stickers or rubber stamps

20   or other means that do not involve the voter writing a name on

21   the ballot.

22   "§17-12-1.

23   "When the time arrives for closing the polls, all

24   qualified voters, who are then waiting within the voting room

25   to vote, shall be permitted by the election officers to do so.

26   "After closing the polls and sealing the required

27   records, the precinct election officials shall follow the

1   manufacturer's instructions to lock the equipment against

2   further voting and to obtain a printout of the votes on each

3   office and question. The first printout shall be torn from the

4   equipment so that all printing during the day, from the

5   initial test before the polls opened through the first

6   printout of results, shall be on one continuous sheet or roll

7   of paper. Then, four other printouts of the results shall be

8   produced and torn out. To each certificate shall be added, if

9   it is not automatically printed, the following information:

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

11   "(2) The date.

12   "(3) The identifying number (serial number) of the

13   tabulating equipment.

14   "(4) The value of the public counter (indicating the

15   number of votes cast).

16   "(5) The name of each candidate next to the total

17   number of votes cast for that candidate.

18   "(6) The number and short title of each proposition

19   next to the number of votes for and against that proposition.

20   "(7) In general elections only, ~~any~~ the number of

21   write-in votes ~~shall be counted and the totals added to the~~

22   ~~certificates of result~~ cast for each office on the ballot.

23   "All precinct election officials shall sign each

24   certificate of result."

25   Section 2. Section 17-6-28.1 is added to the Code of

26   Alabama 1975, to read as follows:

27   §17-6-28.1.

1   (a) Write-in votes shall be counted during the time

2   period commencing the day after the non-municipal general

3   elections and expiring at noon on the seventh day after a

4   non-municipal general election.

5   (b) The appointing board, or a majority of the

6   members of the board acting as an appointing board, shall

7   appoint from the qualified voters of the county a sufficient

8   number of write-in poll workers to count the write-in votes.

9   The number of write-in poll workers to be appointed shall be

10   determined by the judge of probate. Write-in poll workers

11   shall be compensated in the same manner as election day poll

12   workers.

13   (c) The write-in poll workers shall meet at a place

14   to be determined by the judge of probate to count the write-in

15   votes. Public notice shall be given prior to the date of the

16   election as to the time and place for the counting of write-in

17   votes.

18   (d) To facilitate the counting of write-in votes,

19   the write-in poll workers may use electronic reproductions of

20   the write-in votes cast by each voter provided that the

21   electronic reproduction of each write-in vote designates the

22   office and name for which the write-in vote was cast.

23   (e) A write-in vote may not be counted if the vote

24   is not registered as provided in Section 17-6-28.

25   (f) A write-in vote shall be counted only when cast

26   for a living human being. Write-in votes for fictional

27   characters shall not be counted.

1   (g) If a voter registers a vote for a name on the

2   ballot and then writes in another name for the same office but

3   fails to register the write-in vote, the ballot shall be

4   treated as if no write-in vote had occurred and the regular

5   vote shall be counted.

6   (h) If a properly registered write-in vote causes an

7   over-vote, it shall be treated as any other over-vote and none

8   of the votes for the over-voted office shall be counted.

9   However, the remainder of the ballot shall be counted. When

10   counting write-in votes, poll officials must check for

11   over-votes if the electronic ballot counter does not perform

12   the function.

13   (i) No later than noon on the seventh day after the

14   non-municipal general election, the write-in poll workers

15   shall certify to the judge of probate the count of write-in

16   votes cast for each name and each office. The judge of probate

17   shall present the certified count of write-in votes to the

18   canvassing board for inclusion in the canvass and

19   certification of results as provided for in Chapter 12, Title

20   17.

21   (j) The Secretary of State may promulgate rules in

22   accordance with the Alabama Administrative Procedure Act to

23   implement the provisions of this section.

24   Section 3. This act shall become effective on the

25   first day of the third month following its passage and

26   approval by the Governor, or its otherwise becoming law.