1   SB185

2   147449-2

3   By Senator Whatley

4   RFD: Constitution, Campaign Finance, Ethics, and Elections

5   First Read: 12-FEB-13

1   147449-2:n:02/07/2013:FC/tj LRS2013-325R1

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8   SYNOPSIS: Under existing law, write-in votes are

9   permitted only in non-municipal general elections.

10   In order to have a write-in vote counted, the voter

11   must write the name on the ballot and register the

12   vote by a mark in the space designated for that

13   particular office.

14   This bill would provide for the procedure

15   for counting write-in votes at a central location

16   in the county.

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18   A BILL

19   TO BE ENTITLED

20   AN ACT

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22   To amend Section 17-6-28, Code of Alabama 1975,

23   relating to write-in votes, to provide for the procedure for

24   counting write-in votes.

25   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26   Section 1. Section 17-6-28, Code of Alabama 1975, is

27   amended to read as follows:

1   "§17-6-28.

 2   "(a) Write-in votes shall be permitted only in

 3   non-municipal general elections. The ballot must be

 4   constructed so that the voter can mark a write-in vote for

 5   each office in the same manner that votes are registered for

 6   regular candidates. In order to cast a valid write-in vote,

 7   the voter must (1) write the name on the ballot and (2)

 8   register the vote by a mark in the space designated for that

 9   office. A write-in vote shall not be counted if the vote is

10   not registered as provided above. If a voter registers a vote

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

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

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

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

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

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

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

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

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

20   ballot counter does not perform the function.

21   "(b) All write-in ballots shall be returned on

22   election night to a central location in the county as

23   determined by the judge of probate. If it is determined that

24   total write-in ballots for any office cannot affect the

25   outcome of the election for that office, all write-in votes

26   for that office shall not be counted except as provided in

27   subdivision (4).

1   "(1) Except for elections subject to subdivision

2   (2), the canvassing board for the county shall make a

3   determination of whether the write-in votes for an office can

4   affect the outcome of the election. If the canvassing board

5   determines that the write-in votes can affect the outcome of

6   the election, the write-in votes shall be counted. If the

7   canvassing board determines that the number of write-in votes

8   cannot affect the outcome of the election for the office, the

9   write-in votes for that office shall not be counted, except as

10   provided in subdivision (4).

11   "(2) For write-in votes for elections involving

12   voters of more than one county, the judge of probate for each

13   county where ballots are cast for the office shall forward to

14   the Secretary of State the number of write-in votes for the

15   office. The Secretary of State shall then make a determination

16   of whether the write-in votes for the office can affect the

17   outcome of the election for that office. If the Secretary of

18   State determines that the number of write-in votes can affect

19   the outcome of the election, the write-in votes shall be

20   counted. If the Secretary of State determines that the number

21   of write-in votes cannot affect the outcome of the election,

22   the write-in votes for the office shall not be counted, except

23   as provided in subdivision (4).

24   "(3) If write-in votes are required to be counted,

25   all write-in votes for office shall be counted by duly

26   appointed election officials on or before noon on the Tuesday

27   that is seven days after the election.

1   "(4) Any qualified elector who voted in an election

2 may request within two business days of the election that the

3 write-in votes for any office be counted. The elector

4 requesting that the write-in votes for an office be counted

5 shall pay the actual costs of the counting."

6   Section 2. This act shall become effective on the

7 first day of the third month following its passage and

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