HB113

59512-3

By Representative Guin

RFD: Constitution and Elections

First Read: 04-MAR-03

PFD: 02/21/2003
ENROLLED, An Act,

To provide for an automatic recount of votes in a general election for any public office if a candidate is defeated by a difference of not more than one half of one percent of the total votes cast for the office; to amend Sections 17-13-6 and 17-16-31, Code of Alabama 1975, to provide further for reporting results of primary and general elections; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) When, in a general election, the election returns for any public office, including a judicial office, reflect that a candidate is defeated or any ballot statewide measure is defeated by not more than one half of one percent of the votes cast for the office, or the ballot measure, as certified by the appropriate election officer, a recount shall be held unless the defeated candidate submits a written waiver for the recount as provided herein:

(1) In the case of an election for any federal, state, circuit, or district office, or the state Senate, state House of Representatives, or any other office that is not a county office, a written waiver for a recount may be submitted
to the Secretary of State within 24 hours after the certification of the results of the election. Upon receipt of the waiver, the Secretary of State shall immediately order the recount to be cancelled.

(2) In the case of an election for any county office, a written waiver for a recount may be submitted to the judge of probate within 24 hours after the certification of the results of the election. Upon receipt of the waiver, the judge of probate shall immediately order the recount to be cancelled.

(b) Any recount held pursuant to subsection (a) shall be commenced within 72 hours after certification of the results of the election.

(c) The canvassing board shall obtain the polling officials necessary to conduct the recount as required by this act to perform a recount of the vote. The polling officials shall be compensated in the same manner and at the same rate as provided by law for vote tabulation activities in an election that does not result in a recount.

(d) The expenses of a recount conducted pursuant to subsection (a) shall be a state charge if the recount is held for an election for a federal, state, circuit, or district office, or the state Senate, state House of Representatives, or any other office that is not a county office. The expenses of a recount conducted pursuant to subsection (a) shall be a
county charge if the recount is held for an election for
county office.

(e) If a recount is conducted pursuant to subsection
(a), the appropriate certifying authority shall amend the
initial certification of the election to reflect the results
of the recount.

(f) If a recount is conducted pursuant to subsection
(a), the time limit for contesting the election shall be
suspended until the vote is recertified, reflecting the
results of the recount.

(g) The canvassing authority is the canvassing board
in general elections. There being a public interest in fair
and accurate elections, costs shall be kept to a minimum by
using county personnel or volunteer workers whenever possible.
The recount shall be conducted under the supervision of a
trained and certified poll official. Representatives of
opposing interests shall be given at least 24 hours notice and
shall be invited to participate in the recount.

(h) The recount shall be conducted as simply as the
type of equipment and local conditions permit provided that
the following minimum safeguards are observed. The box or
envelope holding the ballots shall be delivered unopened, and
still sealed in the original container to the inspector in
charge of the recount. A representative of the authority
having custody of the ballots shall be present during the
recount. The recount shall consist of reading the ballots through the counter. Any ballot that was counted in the original election, but is rejected by the counter in the recount shall be counted by hand. Representatives of opposing interests may participate in the hand recount, and any unresolved disputes over the interpretation of the intent of the voter may be appealed to the canvassing authority.

(i) When the recount has been completed, the ballots shall be returned to their container along with a printout of the recount results. The ballot container shall be sealed and signed by the inspector conducting the recount and by the representative of the authority having custody of the ballots.

(j) If the results of a recount conducted under subsection (a) name as a winner a person other than the person initially certified, the outcome shall constitute grounds for an election contest as now prescribed by law.

Section 2. Sections 17-13-6 and 17-16-31, Code of Alabama 1975, are amended to read as follows:

"§17-13-6.

"As soon as the ballots are all counted, the inspectors must shall ascertain the number of votes received for each person and for what office and must shall make a statement of the same in writing, which statement must shall be signed by them. They must also certify in writing on one of the poll lists, that such the poll list is
the poll list of the election precinct at which they were inspectors, the day and year on which such the election was held and for what offices, which certificates must shall be signed by them, and such the statement of the poll lists and votes, thus as certified, must shall be sealed up, together with a list of the registered voters in such the precinct at such the election on such day, in a box one or more boxes to be furnished by the sheriff of the county, one or more for each precinct, and to consist The box or boxes shall consist of wood, tin, or sheet iron, and be securely fastened by locks, and be directed to the sheriff of the county, if there be one, and if none, then to the person discharging the duties of such the office, and who shall immediately deliver the same to the returning officer of the precinct. No later than two hours after the polls are closed, the precinct election results as tabulated by the inspectors shall be posted by the inspectors for public inspection at a place in the county courthouse designated by the judge of probate; however, counties that have centralized balloting tabulation as determined by the Alabama Secretary of State may not be required to post the results until January 1, 2006.

"The statement of votes and the poll list delivered to the returning officer of the precinct must shall be delivered to the returning officer of the county within two hours of departing the precinct."
"Any returning officer of the precinct who fails to deliver the statement of votes and poll list to the returning officer of the county, within the time required by law, must, on conviction, shall be fined not less than $100.00 one hundred dollars ($100) nor more than $500.00 five hundred dollars ($500), and must shall also be imprisoned in the county jail for not more than six months.

$17-16-31.

"At the close of the primary election at each polling place, and nowhere else, the inspectors and clerks shall proceed forthwith, without adjournment, in the manner provided by law in the case of general elections, to count the votes. No later than two hours after the polls are closed, the precinct election results as tabulated by the inspectors shall be posted by the inspectors for public inspection at a place in the county courthouse designated by the judge of probate; however, counties that have centralized balloting tabulation as determined by the Alabama Secretary of State may not be required to post the results until January 1, 2006."

Section 3. 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."
Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives
I hereby certify that the within Act originated in
and was passed by the House 11-MAR-03, as amended.

Greg Pappas
Clerk

| Senate | 16-JUN-03 | Amended and Passed
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| House  | 16-JUN-03 | Passed, as amended by Conference Committee Report
| Senate | 16-JUN-03 | Passed, as amended by Conference Committee Report