

1 HB98
2 88440-2
3 By Representatives Newton (D), Holmes, Dukes, Dunn, Jackson,
4 Warren, Gordon, Scott, Knight, Schmitz, Robinson (J), Harper,
5 Boyd, Todd, Moore (M), Gipson and Hill
6 RFD: Constitution and Elections
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SYNOPSIS: The current state constitution was ratified in 1901 and requires submitting the question of whether to call a constitutional convention to revise the constitution to the qualified electors of the state.

 This bill would call for an election to submit the question of whether to call a constitutional convention to the qualified electors of the state. If the majority voting vote in favor of holding a constitutional convention, it would provide for the election of delegates to the convention, provide for the holding of the convention, and would provide for an election to submit the proposed constitution, once prepared by the convention, to the voters for ratification in conformity with Amendment 714 of the Constitution of Alabama of 1901, now appearing as Section 286.01 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 To provide for an election on the issue of calling a
6 constitutional convention to revise and amend the Constitution
7 of Alabama of 1901; and in the event a majority of electors
8 voting favor the convention, to provide for the election of
9 delegates to the convention; to provide for the holding of the
10 convention; and to provide for an election to ratify the
11 proposed constitution in conformity with Amendment 714 of the
12 Constitution of Alabama of 1901, now appearing as Section
13 286.01 of the Official Recompilation of the Constitution of
14 Alabama 1901, as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. A special statewide election shall be
17 held in February 2008 on the same date and in the same manner
18 and by the same officers as the presidential preference
19 primary election provided for in Section 17-13-100 of the Code
20 of Alabama of 1975, as such section has been or may be from
21 time to time amended, for the purpose of determining whether a
22 convention shall be held to revise and amend the Constitution
23 of Alabama of 1901. At the election, the question of whether
24 to hold a convention shall be submitted to a vote of the
25 qualified electors of this state. There shall be printed on
26 the official ballots the question to be voted in the following
27 form:

1 "Do you favor the holding of a constitutional
2 convention for the purpose of revising the Constitution of
3 Alabama of 1901?

4 "Yes () No ()"

5 If a majority of the voters voting at the election
6 shall approve of the holding of a convention for the purpose
7 stated, the election of the delegates for the convention and
8 the holding of the convention shall be held in the manner
9 hereinafter provided.

10 Section 2. In the same manner as for any other
11 general election ballot, the election officials of each county
12 shall ascertain the number of votes "Yes" and the number of
13 votes "No" and shall certify the vote results to the Secretary
14 of State. The Secretary of State, as quickly as practicable,
15 shall certify the statewide results. If it appears that a
16 majority of all persons voting voted for the holding of the
17 convention, the Governor shall give public notice, by
18 proclamation, of the fact that a majority of the electors of
19 the state voting at the election approved the call of the
20 convention for the purpose of revising and amending the
21 Constitution of Alabama of 1901. The proclamation shall be
22 published in every county in a newspaper of general
23 circulation. The courts of the state shall take judicial
24 notice of the proclamation. Additionally, if the holding of
25 the convention is approved by the qualified electors, a
26 supplemental appropriation shall be made at the next regular

1 session of the Legislature for funds necessary to implement
2 this plan.

3 Section 3. The Legislature of Alabama declares and
4 finds the following:

5 (1) That Alabama's voters are intelligent,
6 insightful, wise, and spiritual, and thus, totally trustworthy
7 to decide fundamental questions of current and future state
8 policy and law, including and especially the character and
9 content of their own Constitution.

10 (2) That Alabama's 1901 Constitution is today in
11 urgent of need of a fresh and open reexamination and revision
12 in a sound public convention process to assure maximum public
13 voices and broad participation, with respect to and with
14 humility by all present state and local elected officials.

15 (3) That Alabama's new Constitution should provide a
16 fundamental law by the people, for the people, and of the
17 people of the great State of Alabama, with an enduring legacy
18 of fundamental rights of liberty and justice for all, firmly
19 developed by the people of the State of Alabama, invoking the
20 favor and the guidance of Almighty God.

21 Section 4. If the holding of the convention is
22 approved by the qualified electors of this state, the
23 delegates elected in the manner hereinafter provided shall
24 convene in the historic hall of the old chambers of the House
25 of Representatives in the State Capitol building in the City
26 of Montgomery at 12:00 noon on the first Monday in October
27 2008, and proceed to organize the convention by the election

1 of a president from among themselves, and any other officers,
2 who need not be delegates, as they may deem necessary. The
3 most senior associate justice of the Alabama Supreme Court, or
4 in his or her absence the second most senior associate
5 justice, shall call the convention to order and preside over
6 the convention until a president is elected. The convention
7 shall continue in session at times and places designated by
8 the president of the convention until, by careful revision and
9 amendment of the present constitution, it shall frame and
10 adopt a revised constitution for this state but in no event
11 shall the convention continue past July 1, 2009.

12 Section 5. (a) There shall be two delegates elected
13 from each House of Representatives district as the districts
14 exist at the time of the delegate election based on the most
15 recent census for a total of 210 delegates. There shall be one
16 male and one female delegate elected from each district.
17 Delegates, who shall be elected without political affiliation,
18 at a special election that shall be held on the first Tuesday
19 in June 2008, on the same date and in the same manner and held
20 by the same officers as the political party primary election
21 provided for in Section 17-13-3 of the Code of Alabama of
22 1975, as such section has been or may be from time to time
23 amended. If no candidate receives a majority of the votes cast
24 in the election for delegates for which there were two or more
25 candidates, a run-off election shall be held between the two
26 candidates who received the most votes on the same date and in
27 the same manner and by the same officers as provided in

1 Section 17-13-3 of the Code of Alabama of 1975 for second or
2 run-off primary elections.

3 (b) A delegate to the convention shall be at least
4 18 years of age prior to the election, a qualified elector of
5 his or her district, a citizen of the State of Alabama for
6 three years, and a resident of his or her district for one
7 year immediately preceding the election, and shall reside in
8 his or her district while serving as a delegate.

9 (c) Candidates for election as delegates shall be
10 qualified by filing a declaration of candidacy with the
11 Secretary of State together with a qualifying fee of fifty
12 dollars (\$50), which fee shall be deposited into the State
13 Treasury to the credit of the Secretary of State to be used in
14 the administration of this election. The date for
15 qualification as determined by the Secretary of State shall be
16 no less than 60 days prior to the first Tuesday in April 2008.
17 All candidates for delegates shall be subject to the Fair
18 Campaign Practices Act and any other laws governing candidates
19 and elections at the time of the qualification and election;
20 provided, however, that the following shall also apply:

21 (1) For purposes of the reporting requirements of
22 the Fair Campaign Practices Act, an individual who has
23 received contributions or made expenditures, or given his or
24 her consent for any other person or persons to receive
25 contributions on his or her behalf, in the amount of one
26 thousand dollars (\$1,000) with a view to bringing about his or
27 her election as a delegate shall be deemed a "candidate," even

1 though that individual has not filed a declaration of
2 candidacy with the Secretary of State.

3 (2) Other than contributions a candidate for
4 delegate makes to his or her own campaign, a candidate is
5 prohibited from accepting a campaign contribution (including
6 any "in-kind" contribution) exceeding one hundred dollars
7 (\$100) from any one source. For the purpose of this
8 limitation, a run-off election shall be considered a separate
9 election in which a candidate may accept an additional amount
10 not exceeding one hundred dollars (\$100) from any individual
11 source.

12 (3) All contributions, of whatever amount, must be
13 reported pursuant to the procedures prescribed by the Fair
14 Campaign Practices Act.

15 (4) No candidate shall accept any contribution after
16 the filing of the report required by Section 17-5-8, Code of
17 Alabama 1975, which shall be filed between five and 10 days
18 before the election.

19 (5) Any postelection contribution is prohibited.

20 (6) Upon election, the delegates shall be subject to
21 the Alabama Ethics Act and any other laws governing elected or
22 appointed state officials.

23 (d) The judge of probate of each county shall
24 prepare and furnish to the election officials of each voting
25 place in the county a sufficient number of official ballots,
26 prepared in the manner provided under existing laws, and

1 containing the names of the persons who have been certified as
2 candidates as provided in this act.

3 Section 6. If a dispute occurs as to the right of
4 any person to sit in the convention as a delegate, the
5 question shall be decided by the convention which shall be the
6 exclusive judge of the election, qualification, and returns of
7 its own members. Any person desiring to contest the election
8 of a person certified as being elected as a delegate to the
9 convention may do so in the same manner as the election of a
10 member of the House of Representatives of the Legislature of
11 Alabama is contested and by giving the same bond. Testimony
12 shall be taken in the same manner.

13 Section 7. Before entering upon the discharge of his
14 or her duties as a member of the convention, each delegate,
15 before a judge of a circuit court or the Supreme Court of
16 Alabama, shall take the following oath: "I do solemnly swear
17 that I will support the Constitution of the United States, and
18 I will honestly and faithfully perform the duties as a
19 delegate of this convention, so help me God."

20 Section 8. The delegates to the convention shall be
21 supplied with stationery, books, statutes, reports, and
22 documents in the same manner as members of the Legislature of
23 Alabama. The delegates shall receive for their service the
24 same compensation from the State Treasury as is allowed to
25 members of the Legislature of Alabama and shall be entitled to
26 a daily rate per diem equal to that rate paid to state
27 employees for overnight per diem, plus mileage at the mileage

1 rate provided for state employees. The expenses of the
2 convention shall be paid in the same manner as provided for
3 members of the Legislature of Alabama. The compensation, per
4 diem, mileage, and other expenses shall be paid on the
5 certificates of the president and the secretary or clerk of
6 the convention, to the state Comptroller, in the same manner
7 that payment of compensation, per diem, and mileage to members
8 of the Legislature of Alabama is by law directed to be made.
9 Notwithstanding the foregoing, no legislative member who is a
10 delegate shall receive additional legislative compensation or
11 per diem if the legislative member is being paid any other
12 payments on the same dates for attendance on other state
13 business. Per diem, mileage, compensation, and other expenses
14 shall not be allowed or paid to any member of the convention
15 for a period of time longer than a maximum of 60 meeting days.

16 Section 9. For purposes of this act and the
17 constitutional convention, the definition of "lobbying" in
18 Section 36-25-1(17), Code of Alabama 1975, is adopted and also
19 includes the practice of promoting, opposing, or in any manner
20 attempting to influence the introduction, defeat, or enactment
21 of any constitutional provision before the convention or any
22 committee thereof. For purposes of this act and the
23 constitutional convention, the term "lobbyist" as defined in
24 Section 36-25-1(18), Code of Alabama 1975, is adopted and also
25 includes anyone who performs activities included in the
26 foregoing definition of "lobbying." Except to the extent this
27 act establishes more restrictive requirements, the Alabama

1 Code of Ethics shall apply to lobbyists to the same extent it
2 applies to lobbying the Legislature or a regulatory agency.
3 Without limitation of the generality of the foregoing, all
4 lobbyists shall be required to register with the State Ethics
5 Commission as required by Section 36-25-18, Code of Alabama
6 1975, and to file the reports required by that section.
7 Additionally, each lobbyist shall file with the State Ethics
8 Commission on the first day and the fifteenth day of each
9 month, beginning August 1, 2008, and continuing until the
10 convention files its proposal or proposals with the Secretary
11 of State, a report, made under oath, setting forth all
12 expenditures made by him or her relative to lobbying
13 activities. Furthermore, delegates shall be prohibited from
14 receiving a thing of value in association with his or her
15 duties as a delegate.

16 Section 10. The convention shall file with the
17 Secretary of State, within one week after its adjournment,
18 certified by the president and secretary or clerk, a correct
19 copy of the constitution that the convention adopted. The
20 convention shall keep a journal of its proceedings and file it
21 upon adjournment with the Secretary of State.

22 Section 11. Except as herein otherwise provided, the
23 general election laws of this state shall apply fully to the
24 elections provided for under this act, including all matters
25 preliminary to the holding of the elections as well as all
26 matters subsequent thereto.

1 Section 12. (a) In the event of the framing of a
2 constitution by this convention, the Governor, within one week
3 after the filing of the constitution with the Secretary of
4 State, shall issue a proclamation, published in the same
5 manner as the proclamation to assemble this convention. The
6 proclamation shall state that the constitution has been framed
7 and that an election will be held on a specific date in the
8 same manner and by the same officers as general elections are
9 required to be held for the purpose of submitting to the
10 qualified voters of this state for ratification or rejection
11 of the constitution. The election shall be held at the same
12 time and the same manner as the 2010 general election.

13 (b) At the election provided for by the preceding
14 subsection, the question of whether to ratify the constitution
15 proposed by the convention shall be submitted to a vote of the
16 qualified electors of this state. There shall be printed on
17 the official ballots the question to be voted on followed by
18 the words "Yes" and "No," opposite one of which the voter may
19 indicate his or her preference. The returns of this election
20 shall be made in the same manner, within the same time, by the
21 same officers, certified to the same officer, and shall be in
22 the same form as herein provided for the election regarding
23 whether to hold a convention.

24 Section 13. Within 15 days after the day on which
25 the election is held for the ratification or rejection of the
26 constitution, the Governor, Secretary of State, and the
27 Attorney General shall meet in the office of the Secretary of

1 State to tabulate the votes on the issue of ratification or
2 rejection and the results shall be certified to the Governor
3 by the Secretary of State and the Attorney General. The
4 Governor shall make known to the people of this state the
5 results of the election by proclamation published in the
6 manner herein provided. If a majority of the voters voting at
7 the election voted affirmatively to ratify the constitution,
8 the Governor shall designate within the proclamation that
9 January 1 of the following year is the effective date the new
10 constitution shall go into effect as the Constitution of the
11 State of Alabama, and shall be binding and obligatory upon all
12 the people of this state.

13 Section 14. If an election is called in the event of
14 the framing of a constitution, the judge of probate of each
15 county in the state shall prepare and furnish the official
16 ballots to be voted at such election as is now required under
17 the general election laws of the state which official ballot
18 shall be prepared according to the requirements of Section 2.
19 No ballot other than an official ballot shall be cast and
20 counted in the election, and the election shall be held and
21 conducted as general elections are held, except as otherwise
22 provided by this act.

23 Section 15. This act shall become effective
24 immediately upon its passage by the Legislature.