

1 HB502
2 114932-1
3 By Representative Newton (D)
4 RFD: Constitution and Elections
5 First Read: 04-FEB-10

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8 SYNOPSIS: The current state constitution was ratified
9 in 1901 and requires submitting the question of
10 whether to call a constitutional convention to
11 revise the constitution to the qualified electors
12 of the state.

13 This bill would call for a special statewide
14 election to submit the question of whether to call
15 a constitutional convention to the qualified
16 electors of the state. If the majority voting on
17 the question vote in favor of holding a
18 constitutional convention, it would provide for the
19 election of delegates to the convention, provide
20 for the holding of the convention, and would
21 provide for a special election to submit the
22 proposed constitution, once prepared by the
23 convention, to the voters for ratification in
24 conformity with Amendment 714 of the Constitution
25 of Alabama of 1901, now appearing as Section 286.01
26 of the Official Recompilation of the Constitution
27 of Alabama of 1901, as amended.

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2 A BILL
3 TO BE ENTITLED
4 AN ACT
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6 To provide for a special election on the issue of
7 calling a constitutional convention to revise and amend the
8 Constitution of Alabama of 1901; and in the event a majority
9 of electors voting on the issue in the special election favor
10 the convention, to provide for the election of delegates to
11 the convention; to provide for the holding of the convention;
12 and to provide for a special election to ratify the proposed
13 constitution in conformity with Amendment 714 of the
14 Constitution of Alabama of 1901, now appearing as Section
15 286.01 of the Official Recompilation of the Constitution of
16 Alabama 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. A special statewide election shall be
19 held in June 2010 on the same date and in the same manner and
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, for the purpose of determining whether a convention
24 shall be held to revise and amend the Constitution of Alabama
25 of 1901. At the election, the question of whether to hold a
26 convention shall be submitted to a vote of the qualified

1 electors of this state. There shall be printed on the official
2 ballots the question to be voted in the following form:

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

6 "Yes () No ()"

7 If a majority of the voters voting on the question
8 at the special statewide election shall approve of the holding
9 of a convention for the purpose stated, the election of the
10 delegates for the convention and the holding of the convention
11 shall be held in the manner hereinafter provided.

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

1 the qualified electors, a supplemental appropriation shall be
2 made during the next special or regular session of the
3 Legislature for funds necessary to implement this plan.

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

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

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

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

22 Section 4. If the holding of the convention is
23 approved by the qualified electors of this state, the
24 delegates elected in the manner hereinafter provided shall
25 convene in the historic hall of the old chambers of the House
26 of Representatives in the State Capitol building in the City
27 of Montgomery at 12:00 noon on the first Monday in June 2011,

1 and proceed to organize the convention by the election of a
2 president and any other officers, from among themselves, as
3 they may deem necessary. The most senior associate justice of
4 the Alabama Supreme Court, or in his or her absence the second
5 most senior associate justice, shall call the convention to
6 order and preside over the convention until a president is
7 elected. The convention shall continue in session at times and
8 places designated by the president of the convention until, by
9 careful revision and amendment of the present constitution, it
10 shall frame and adopt a revised constitution or proposals for
11 this state or until the convention is duly adjourned by the
12 delegates.

13 Section 5. (a) There shall be two delegates elected
14 from each House of Representatives district as the districts
15 exist at the time of the delegate election based on the most
16 recent census for a total of 210 delegates. Delegates shall be
17 elected without political affiliation at a special election
18 that shall be held on the first Tuesday after the first Monday
19 in November 2010, on the same date and in the same manner and
20 held by the same officers as the general election provided for
21 in Section 17-14-3 of the Code of Alabama of 1975, as such
22 section has been or may be from time to time amended. The two
23 delegates shall be the top two vote recipients in each House
24 of Representatives district receiving a plurality of votes.

25 (b) A delegate to the convention shall be at least
26 18 years of age prior to the election, a qualified elector of
27 his or her district, a citizen of the State of Alabama for

1 three years, and a resident of his or her district for one
2 year immediately preceding the election, and shall reside in
3 his or her district while serving as a delegate.

4 (c) Candidates for election as delegates shall be
5 qualified by filing a declaration of candidacy with the
6 Secretary of State together with a qualifying fee of fifty
7 dollars (\$50), which fee shall be deposited into the State
8 Treasury to the credit of the Secretary of State to be used in
9 the administration of this election. The date for
10 qualification as determined by the Secretary of State shall be
11 no later than 5:00 p.m., 60 days prior to the first Tuesday
12 after the first Monday in November 2010. All candidates for
13 delegates shall be subject to the Fair Campaign Practices Act
14 and any other laws governing candidates and elections at the
15 time of the qualification and election; provided, however,
16 that the following shall also apply:

17 (1) For purposes of the reporting requirements of
18 the Fair Campaign Practices Act, an individual who has
19 received contributions or made expenditures, or given his or
20 her consent for any other person or persons to receive
21 contributions on his or her behalf, in the amount of one
22 thousand dollars (\$1,000) with a view to bringing about his or
23 her election as a delegate shall be deemed a "candidate," even
24 though that individual has not filed a declaration of
25 candidacy with the Secretary of State.

26 (2) Other than contributions a candidate for
27 delegate makes to his or her own campaign, a candidate is

1 prohibited from accepting a campaign contribution (including
2 any "in-kind" contribution) exceeding one hundred dollars
3 (\$100) from any one source.

4 (3) All contributions, of whatever amount, must be
5 reported pursuant to the procedures prescribed by the Fair
6 Campaign Practices Act.

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

11 (5) Any postelection contribution is prohibited.

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

15 (d) The judge of probate of each county shall
16 prepare and furnish to the election officials of each voting
17 place in the county a sufficient number of official ballots,
18 prepared in the manner provided under existing laws, and
19 containing the names of the persons who have been certified as
20 candidates as provided in this act.

21 Section 6. If a dispute occurs as to the right of
22 any person to sit in the convention as a delegate, the
23 question shall be decided by the convention which shall be the
24 exclusive judge of the election, qualification, and returns of
25 its own members. Any person desiring to contest the election
26 of a person certified as being elected as a delegate to the
27 convention may do so in the same manner as the election of a

1 member of the House of Representatives of the Legislature of
2 Alabama is contested and by giving the same bond. Testimony
3 shall be taken in the same manner.

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

11 Section 8. The delegates to the convention shall be
12 supplied with stationery, books, statutes, reports, and
13 documents in the same manner as members of the Legislature of
14 Alabama. The delegates shall receive for their service the
15 same compensation and expenses from the State Treasury as is
16 allowed to members of the Legislature of Alabama and shall be
17 entitled to a daily rate per diem equal to that rate paid to
18 state employees for overnight per diem, plus mileage at the
19 mileage rate provided for state employees. The expenses of the
20 convention delegates shall be paid in the same manner as
21 provided for members of the Legislature of Alabama. The
22 compensation, per diem, mileage, and other expenses shall be
23 paid on the certificates of the president and the secretary or
24 clerk of the convention, to the state Comptroller, in the same
25 manner that payment of compensation, per diem, and mileage to
26 members of the Legislature of Alabama is by law directed to be
27 made. Notwithstanding the foregoing, no legislative member who

1 is a delegate shall receive additional legislative
2 compensation or per diem if the legislative member is being
3 paid any other payments on the same dates for attendance on
4 other state business. Per diem, mileage, compensation, and
5 other expenses shall not be allowed or paid to any member of
6 the convention for a period of time longer than a maximum of
7 60 meeting days. Such compensation, per diem, mileage, and
8 other expenses shall not be paid for any convention meeting
9 days beyond September 30, 2011, whether or not the maximum 60
10 convention meeting days have occurred.

11 Section 9. For purposes of this act and the
12 constitutional convention, the definition of "lobbying" in
13 Section 36-25-1(17), Code of Alabama 1975, is adopted and also
14 includes the practice of promoting, opposing, or in any manner
15 attempting to influence the introduction, defeat, or enactment
16 of any constitutional provision before the convention or any
17 committee thereof. For purposes of this act and the
18 constitutional convention, the term "lobbyist" as defined in
19 Section 36-25-1(18), Code of Alabama 1975, is adopted and also
20 includes anyone who performs activities included in the
21 foregoing definition of "lobbying." Except to the extent this
22 act establishes more restrictive requirements, the Alabama
23 Code of Ethics shall apply to lobbyists to the same extent it
24 applies to lobbying the Legislature or a regulatory agency.
25 Without limitation of the generality of the foregoing, all
26 lobbyists shall be required to register with the State Ethics
27 Commission as required by Section 36-25-18, Code of Alabama

1 1975, and to file the reports required by that section.
2 Additionally, each lobbyist shall file with the State Ethics
3 Commission on the first day and the fifteenth day of each
4 month, beginning December 2010 and continuing each month
5 thereafter until the convention is duly adjourned and any
6 convention proposal or proposals filed with the Secretary of
7 State have been presented to the voters for ratification in
8 conformity with Amendment 714 of the Constitution of Alabama
9 of 1901, now appearing as Section 286.01 of the Official
10 Recompilation of the Constitution of Alabama of 1901, as
11 amended, 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 of the convention, a
19 correct copy of the constitution or proposals that the
20 convention adopted. The convention shall keep a journal of its
21 proceedings and file it upon adjournment with the Secretary of
22 State.

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

1 Section 12. (a) In the event of the framing of a
2 constitution or proposals by this convention, the Governor,
3 within one week after the filing of the constitution with the
4 Secretary of State, shall issue a proclamation, published in
5 the same manner as the proclamation to assemble this
6 convention. The proclamation shall state that the constitution
7 or proposals have been framed and that a special election will
8 be held on a specific date in the same manner and by the same
9 officers as general elections are required to be held for the
10 purpose of submitting to the qualified voters of this state
11 for ratification or rejection of the constitution or proposals
12 framed by the convention. The special election, in conformity
13 with Amendment 714 of the Constitution of Alabama of 1901, now
14 appearing as Section 286.01 of the Official Recompilation of
15 the Constitution of Alabama 1901, as amended, shall be held at
16 the same time and the same manner as the 2012 general
17 election.

18 (b) At the special election provided for by the
19 preceding subsection, the question of whether to ratify the
20 constitution or proposals adopted by the convention shall be
21 submitted to a vote of the qualified electors of this state.
22 There shall be printed on the official ballots the question to
23 be voted on followed by the words "Yes" and "No," opposite one
24 of which the voter may indicate his or her preference. The
25 returns of this election shall be made in the same manner,
26 within the same time, by the same officers, certified to the

1 same officer, and shall be in the same form as herein provided
2 for the election regarding whether to hold a convention.

3 Section 13. Within 15 days after the day on which
4 the election is held for the ratification or rejection of the
5 constitution or proposals framed by the convention, the
6 Governor, Secretary of State, and the Attorney General shall
7 meet in the office of the Secretary of State to tabulate the
8 votes on the issue of ratification or rejection and the
9 results shall be certified to the Governor by the Secretary of
10 State and the Attorney General. The Governor shall make known
11 to the people of this state the results of the election by
12 proclamation published in the manner herein provided. If a
13 majority of the voters voting on the constitution or proposals
14 framed by the convention at the special election provided for
15 in Section 12(a) voted affirmatively to ratify the
16 constitution or proposals, the Governor shall designate within
17 the proclamation that January 1 of the following year is the
18 effective date the new constitution shall go into effect as
19 the Constitution of the State of Alabama, and shall be binding
20 and obligatory upon all the people of this state.

21 Section 14. If a special election provided for in
22 Section 12(a) is called in the event of the framing of a
23 constitution or proposals by the convention, the judge of
24 probate of each county in the state shall prepare and furnish
25 the official ballots to be voted at such election as is now
26 required under the general election laws of the state which
27 official ballot shall be prepared according to the

1 requirements of Section 2. No ballot other than an official
2 ballot shall be cast and counted in the election, and the
3 election shall be held and conducted as general elections are
4 held, except as otherwise provided by this act.

5 Section 15. This act shall become effective
6 immediately upon its passage by the Legislature.