

1 HB282
2 156573-1
3 By Representatives Beckman and Farley
4 RFD: Constitution, Campaigns and Elections
5 First Read: 16-JAN-14

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SYNOPSIS: This bill would provide for several Class C felony criminal offenses such as threat of assault, mental duress, vandalism, trespass, and threatening behavior relating to the election process pursuant to the Fair Campaign Practices Act.

Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local

1 funds within the meaning of the amendment. However,
2 the bill does not require approval of a local
3 governmental entity or enactment by a 2/3 vote to
4 become effective because it comes within one of the
5 specified exceptions contained in the amendment
6

7 A BILL
8 TO BE ENTITLED
9 AN ACT
10

11 Relating to criminal offenses pursuant to the
12 Alabama Fair Campaign Practices Act; to provide for a new
13 Section 17-5-18.1, Code of Alabama 1975, to prohibit certain
14 actions involving the threat of physical harm or property
15 damage, trespass on property to steal or destroy campaign
16 signs or equipment, threats or actions taken intended to
17 inflict mental duress, and conspiring to commit such acts, and
18 amending Section 17-5-19 to describe a Class C felony for
19 violations; and in connection therewith would have as its
20 purpose or effect the requirement of a new or increased
21 expenditure of local funds within the meaning of Amendment 621
22 of the Constitution of Alabama of 1901, now appearing as
23 Section 111.05 of the Official Recompilation of the
24 Constitution of Alabama of 1901, as amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Section 17-5-18.1 is added to the Code of
27 Alabama 1975, to read as follows:

1 §17-5-18.1.

2 The following actions shall constitute a criminal
3 offense under this chapter that are punishable as provided in
4 Section 17-5-19:

5 (1) Threatening a person with or actually inflicting
6 physical or emotional harm, or threatening to or actually
7 damaging a person's property related to a political race or
8 election.

9 (2) Trespassing on another person's property with
10 intent to steal or actually stealing the other person's
11 political signs.

12 (3) Conspiring to commit any offense described in
13 subdivision (1) or (2).

14 Section 2. Section 17-5-19, Code of Alabama 1975, is
15 amended to read as follows:

16 "§17-5-19.

17 "(a) Except as otherwise provided in this section, a
18 person who intentionally violates any provision of this
19 chapter shall be guilty, upon conviction, of a Class A
20 misdemeanor.

21 "(b) A person who intentionally violates any
22 reporting requirement of Sections 17-5-4, 17-5-5, or 17-5-8
23 shall be guilty, upon conviction, of a Class A misdemeanor. A
24 person's failure to promptly file a required report upon
25 discovering or receiving notice from any person that the
26 report has not been filed, or the failure to promptly correct
27 an omission, error, or other discrepancy in a filed report

1 upon discovering or receiving notice of the discrepancy, shall
2 create a rebuttable presumption of intent to violate the
3 applicable reporting requirement.

4 "(c) (1) Any person who intentionally violates
5 Section 17-5-7 shall be guilty, upon conviction, of a Class B
6 felony.

7 "(2) Any person who intentionally violates Section
8 17-5-18.1 shall be guilty of a Class C felony.

9 "(d) A person who fails to timely or accurately file
10 any report required by this chapter shall be assessed a civil
11 penalty of the greater of three hundred dollars (\$300) or ten
12 percent of the amount not properly reported for a first
13 offense in an election cycle, six hundred dollars (\$600) or 15
14 percent of the amount not properly reported for a second
15 offense in an election cycle, and one thousand two hundred
16 dollars (\$1,200) or 20 percent of the amount not properly
17 reported for a third or subsequent offense in an election
18 cycle. A fourth failure to timely or accurately file a report
19 in an election cycle shall create a rebuttable presumption of
20 intent to violate the reporting requirements of this chapter.
21 Civil penalties shall be paid to the appropriate filing
22 official. All penalties collected by a judge of probate shall
23 be distributed to that county's general fund, and all
24 penalties collected by the Secretary of State shall be
25 distributed to the State General Fund. A person who
26 voluntarily files an amended report to correct an error in an
27 otherwise timely filed report, without being prompted by a

1 filing official shall not be subjected to a civil penalty
2 under this subsection, so long as, in the case of a candidate,
3 the corrected report is filed prior to the election at issue,
4 and so long as, in the case of a political action committee,
5 the corrected report is filed prior to the election which the
6 contribution was given to influence.

7 "(e) The Attorney General or district attorney for
8 the appropriate jurisdiction may prosecute violations of this
9 chapter. Venue for cases involving violations of this chapter
10 shall be in the county in which the violation occurred or the
11 county in which the alleged violator resides or is
12 incorporated. If the alleged violator resides or is
13 incorporated outside of the State of Alabama or if the
14 violation or violations occurred outside the State of Alabama,
15 venue shall be in Montgomery County.

16 "(f) No prosecution for violation of this chapter
17 shall be commenced later than two years after the date of
18 violation. Notwithstanding the foregoing, a prosecution
19 brought pursuant to Section 17-5-7 shall be commenced within
20 four years after the commission of the offense."

21 Section 3. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621 because the
25 bill prescribes the minimum compensation for public officials.

1 Section 4. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.