

1 SB73
2 164810-1
3 By Senators Brewbaker, Sanford, Albritton, Shelnuttt and Melson
4 (Constitutional Amendment)
5 RFD: Constitution, Ethics and Elections
6 First Read: 03-MAR-15

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8 SYNOPSIS: Under existing law, the Constitution of
9 Alabama of 1901 may be amended by the Legislature
10 submitting a proposed constitutional amendment for
11 ratification or rejection by the people which
12 becomes effective upon ratification and
13 proclamation. Laws must be enacted by the
14 Legislature and generally become effective upon
15 enactment or at a later date provided by the
16 statute.

17 This bill would propose an amendment to the
18 Constitution of Alabama of 1901 to provide that the
19 people also may propose the enactment of general
20 laws and constitutional amendments by an initiative
21 measure subject to the same limitations imposed on
22 the Legislature and that the Legislature may offer
23 an alternate proposal.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

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2 To propose an amendment to the Constitution of
3 Alabama of 1901, to provide that the people may initiate the
4 enactment of certain general laws or constitutional amendments
5 by an initiative and that the Legislature may offer an
6 alternate proposal.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. The following amendment to the
9 Constitution of Alabama of 1901, as amended, is proposed and
10 shall become valid as a part thereof when approved by a
11 majority of the qualified electors voting thereon and in
12 accordance with Sections 284, 285, and 287 of the Constitution
13 of Alabama of 1901, now appearing as Sections 284, 285, and
14 287 of the Official Recompilation of the Constitution of
15 Alabama of 1901, as amended:

16 PROPOSED AMENDMENT

17 Part I. (a) The people may propose by the initiative
18 process that a general law be enacted by filing with the
19 Secretary of State a concise summary of the proposal
20 accompanied by a preliminary petition signed by no less than
21 1000 qualified Alabama voters and a filing fee of one thousand
22 dollars (\$1,000). The filing fee shall be refundable, less any
23 administrative expenses incurred, if the initiative is
24 successfully adopted or enacted. The preliminary filing must
25 be in the name of an individual qualified elector who becomes
26 the registered agent for the proposition. The named individual
27 registered agent is the responsible party for any future

1 filings and must file any election reports and disclosures
2 required by the election laws in the same manner as a
3 candidate seeking elected office. The registered agent is
4 subject to any and all other requirements and liabilities as
5 candidates for office. The Secretary of State shall verify
6 that the name and address of each qualified Alabama voter
7 signing the preliminary petition are the same or substantially
8 similar to the name and address that appear on the registered
9 voter list.

10 (b) The Secretary of State shall review the
11 preliminary filing subject to any restrictions and limitations
12 imposed by the Legislature by general law and any
13 administrative rules promulgated by the Secretary of State
14 regarding initiatives. Upon approval, the Secretary of State
15 shall certify to the registered agent the preliminary summary
16 of the proposal for preparation of the full text and official
17 summary of the proposal.

18 (c) Upon the request of the registered agent,
19 accompanied by the certification by the Secretary of State,
20 the Alabama Law Institute shall prepare the full text of the
21 initiative proposal along with an official summary within 90
22 days of the request unless the registered agent agrees in
23 writing to extend the time for preparation. The registered
24 agent must file a copy of the full text and summary as
25 prepared by the Alabama Law Institute with the Secretary of
26 State for registration and publication to seek signatures for
27 the final filing and to proceed for legislative consideration.

1 (d) Upon receipt of the full text and summary of a
2 proposal filed by the registered agent, the Secretary of State
3 shall publish the full text and summary of the proposal on the
4 Secretary of State's website. The full text of each proposal
5 shall remain published on the website for a period of no less
6 than 90 days. The summary of each proposal shall remain
7 published on the website throughout the next regular session
8 of the Legislature.

9 (e) Any proposal properly filed with the Secretary
10 of State's office prior to the first legislative day of any
11 regular session shall be published by the Secretary of State
12 for the review and consideration by the individual members of
13 the Legislature. No later than the third legislative day, the
14 Secretary of State shall prepare and disseminate to all
15 members of the Legislature a complete list of the official
16 summaries of all timely filed proposals. Upon request by any
17 individual member of the Legislature, the Secretary of State
18 shall provide a copy of the full text of the proposal to the
19 member. A member may elect to sponsor the initiative proposal
20 before the Legislature during that regular session in the same
21 manner as any other sponsored legislation.

22 (f) In the event that no member of the Legislature
23 elects to sponsor a proposal, or the registered agent
24 determines that no suitable action was taken by any individual
25 in the Legislature on the proposal, the registered agent may
26 resume the initiative process only after the end of the
27 regular session by proceeding to obtain signatures in a final

1 petition format provided by the Secretary of State for
2 qualifying the full text of the proposal for consideration.
3 The final petition must be signed by qualified Alabama voters
4 in a number that equals at least seven percent of the total
5 votes cast for Governor in the last preceding gubernatorial
6 general election. Each petition shall contain a minimum number
7 of signatures of qualified Alabama voters from each
8 congressional district in the state equal to one percent of
9 the total votes cast for Governor in the last preceding
10 gubernatorial general election within each district. The
11 Secretary of State shall verify that the name and address of
12 each qualified Alabama voter signing the final petition are
13 the same or substantially similar to the name and address that
14 appear on the registered voter list. The 1,000 signatures
15 contained on the preliminary petition may be used towards the
16 total requirement for the final petition.

17 (g) Once the required signatures are obtained, the
18 registered agent shall submit a copy of the full text of the
19 proposal, the summary, and final petition to the Secretary of
20 State. The registered agent has two calendar years from the
21 date of registration of the full text of the proposal and
22 summary to qualify the proposal and summary for final filing
23 and consideration. The Secretary of State shall issue to the
24 registered agent a certification for filing the full text
25 proposal and summary with the Legislature. The registered
26 agent must file the full text proposal and summary with the

1 Legislature within two years and an initiative proposal may
2 only be filed in a Regular Session of the Legislature.

3 (h) A full text proposal and summary for the
4 enactment of a general law shall be submitted by the
5 registered agent with certifying documentation from the
6 Secretary of State, to the Legislature 30 days prior to the
7 first legislative day of the regular session by filing a copy
8 with the Legislative Reference Service and the Legislative
9 Fiscal Office for a constitutional and fiscal analysis
10 respectively. The Secretary of the Senate and the Clerk of the
11 House shall prefile in the respective houses the proposal for
12 a general law and on the first day of the session the proposal
13 shall be introduced by the President Pro Tempore of the Senate
14 and the Speaker Pro Tempore of the House. The proposal shall
15 be presented in bill form and treated in every respect the
16 same as any other bill for a general law except as otherwise
17 provided by this amendment and except that the measure shall
18 not be sent to the Governor nor require the Governor's
19 signature. The Legislature upon considering the proposal for
20 the enactment of a general bill by the initiative may not
21 alter or amend the original proposal; however, the Legislature
22 may offer an alternate proposal to be considered in the same
23 manner. If the Legislature does not enact the proposal by
24 12:01 a.m. of the 30th legislative day, the proposal shall be
25 placed on the ballot by the Secretary of State. If the
26 Legislature approves an alternate proposal, both the original
27 proposal from the initiative process and the alternate

1 legislative proposal shall be placed on the ballot. The
2 question shall be submitted to the qualified voters at the
3 first statewide election held 90 days or more after the
4 Legislature adjourns. No special election may be called solely
5 for the purpose of a voter initiative. "Enact" as used in this
6 amendment means the proposal is considered for a third reading
7 before each body and is voted upon by each house of the
8 Legislature, in its original form as proposed, by the end of
9 the 29th legislative day. The proposal may be a bill for a new
10 statute, a bill to amend an existing statute, or a bill to
11 repeal an existing statute in whole or in part. Upon enactment
12 in the Legislature, the Secretary of the Senate or the Clerk
13 of the House, respectively, shall deliver any enactment by the
14 initiative proposal to the Secretary of State. The time for
15 delivery from the Legislature to the Secretary of State shall
16 be the same as for the Governor pursuant to Section 125 of the
17 Constitution of Alabama of 1901, now appearing as Section 125
18 of the Official Recompilation of the Constitution of Alabama
19 of 1901, as amended, and shall not be subject to veto of any
20 nature. The initiative proposal for a general law enacted by
21 the Legislature shall become law effective upon delivery to
22 the Secretary of State, or upon the terms of the initiative.
23 If two or more proposals including an initiative proposal and
24 a legislative alternative for a general law, proposed
25 separately for the initiative procedure or as an initiative
26 and an alternate legislative proposal, relating to essentially
27 the same subject, appear on the ballot and are adopted, the

1 measure which receives the highest number of affirmative votes
2 shall prevail to the extent of any conflict.

3 (i) No measure proposed as a statutory initiative
4 shall be sent to the Governor, but shall be sent directly to
5 the Legislative Reference Service for preparation of a review
6 and comment, including an official summary of the proposal for
7 use on the ballot. Both the ballot title and the official
8 summary for the ballot shall be impartial and not likely to
9 create prejudice for or against the measure and shall be
10 prepared in consultation with the initiative committee and
11 proponents. The initiative shall be sent to the Secretary of
12 State for inclusion in the appropriate election.

13 (j) No law adopted by the initiative under this
14 section shall be repealed or amended except by vote of the
15 people, unless it is otherwise provided by its terms.

16 Part II. (a) The people may propose a constitutional
17 amendment with statewide application by filing a preliminary
18 petition containing a summary of the proposal with the
19 Secretary of State and proceeding further in the same manner
20 and with the same requirements and following the same
21 procedures as for the petition process and the proposal of a
22 general law outlined in Part I above, including the refund of
23 the filing fee, less any administrative expenses incurred, for
24 an initiative that is successfully adopted; provided, however,
25 the petition must be signed by qualified Alabama voters and
26 verified as outlined in Part I. The total number of signatures
27 on the final petition required for a proposed constitutional

1 amendment must equal at least 10 percent of the total votes
2 cast for Governor in the last preceding gubernatorial general
3 election. Each final petition shall contain a minimum number
4 of signatures of qualified Alabama voters from each
5 congressional district in the state equal to 1.3 percent of
6 the total votes cast for Governor in the last preceding
7 gubernatorial general election within each district. The
8 Legislature may approve an alternative amendment which shall
9 appear on the ballot at the same time following the same
10 procedure as for a general law in Part I above.

11 (b) The proposal and any alternative shall be
12 submitted to the qualified voters at the first statewide
13 election held 90 days or more after the measure qualifies;
14 however, a special election may not be called solely for the
15 purpose of a voter initiative proposal.

16 (c) No measure proposed pursuant to this part of
17 this amendment shall be sent to the Governor, but shall be
18 sent directly to the Legislative Reference Service for
19 preparation of a review and comment, including an official
20 summary of the proposal for use on the ballot. Both the ballot
21 title and the official summary shall be impartial and not
22 likely to create prejudice for or against the measure and
23 shall be prepared in consideration with the initiative
24 committee and proponents. The initiative shall be sent to the
25 Secretary of State for inclusion in the appropriate election.

1 (d) A proposed amendment or the legislative
2 alternative shall become part of the Constitution if approved
3 by a majority of electors voting on the proposal.

4 (e) If two constitutional amendments proposed
5 separately by the initiative procedure, relating to
6 essentially the same subject, appear on the ballot and are
7 adopted, the amendment which receives the highest number of
8 affirmative votes shall prevail to the extent of any conflict
9 and shall be proclaimed upon the date of ratification.

10 (f) No more than two pieces of legislation proposed
11 pursuant to this amendment may be enacted by the Legislature
12 pursuant to this amendment in any legislative session. If more
13 than two pieces of legislation are proposed, the two pieces of
14 legislation which may be enacted or placed on the ballot shall
15 be the two proposals having the greatest number of signatures.
16 If a proposal by initiative, whether a general bill or an
17 amendment to the Constitution of Alabama of 1901, has an
18 alternative proposal made by the Legislature, the ballot
19 language shall be as follows:

20 Do you favor amending general law or proposing a
21 constitutional amendment regarding _____?

22 Yes ___ No ___

23 Which change do you prefer?

24 _____ (A) The change proposed by the initiative
25 process which _____.

26 _____ (B) The change offered as an alternative
27 proposal which _____.

1 Part III. If an initiative proposed by Part I or
2 Part II fails to be adopted or approved pursuant to the
3 process provided in this amendment, an identical initiative
4 may not be resubmitted sooner than two years following the
5 failure of the prior initiative.

6 Section 2. An election upon the proposed amendment
7 shall be held in accordance with Sections 284 and 285 of the
8 Constitution of Alabama of 1901, now appearing as Sections 284
9 and 285 of the Official Recompilation of the Constitution of
10 Alabama of 1901, as amended, and the election laws of this
11 state.

12 Section 3. The appropriate election official shall
13 assign a ballot number for the proposed constitutional
14 amendment on the election ballot and shall set forth the
15 following description of the substance or subject matter of
16 the proposed constitutional amendment:

17 "Proposing an amendment to the Constitution of
18 Alabama of 1901, providing that the people may initiate the
19 enactment of certain general laws or constitutional amendments
20 and that the Legislature may offer an alternative proposal.

21 "Proposed by Act _____."

22 This description shall be followed by the following
23 language:

24 "Yes () No ()."