

1 HB501
2 176461-3
3 By Representatives Ainsworth, Mooney, Wingo, Ledbetter,
4 Crawford, Whorton (R), Holmes (M), Standridge, Henry, Williams
5 (JW), Williams (P), Farley, Treadaway, Harbison, Gaston, Todd,
6 Garrett, Whorton (I), Fincher, Rogers, Wilcox, Moore (B),
7 Morrow, Hill (J), Brown, Hanes, Ford, Butler, Rowe and Fridy
8 (Constitutional Amendment)
9 RFD: Constitution, Campaigns and Elections
10 First Read: 05-APR-16

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8 SYNOPSIS: Under existing law, the Constitution of
9 Alabama of 1901, does not provide for the recall of
10 elected officials.

11 This bill would propose an amendment to the
12 Constitution of Alabama of 1901, to provide for the
13 recall of the Governor, Lieutenant Governor,
14 Attorney General, Secretary of State, State
15 Treasurer, State Auditor, Commissioner of
16 Agriculture and Industries, and members of the
17 Legislature.

18 This bill would provide who may initiate a
19 petition for recall.

20 This bill would specify the grounds for
21 recall, including violation of oath of office;
22 malfeasance, misfeasance, or nonfeasance; moral
23 turpitude; incompetence; and lack of physical or
24 mental fitness.

25 This bill would provide for the content of
26 the recall petition, initiating a recall petition,

1 circulating a recall petition, certification, and
2 time limitations.

3 This bill would provide for the recall
4 election and for the removal of the officer.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT
9

10 To propose an amendment to the Constitution of
11 Alabama of 1901, to provide a procedure for the recall of
12 specified state officers.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. The following amendment to the
15 Constitution of Alabama of 1901, as amended, is proposed and
16 shall become valid as a part thereof when approved by a
17 majority of the qualified electors voting thereon and in
18 accordance with Sections 284, 285, and 287 of the Constitution
19 of Alabama of 1901, as amended:

20 PROPOSED AMENDMENT

21 Section 1. Any of the following state officers may
22 be recalled:

- 23 (1) The Governor.
24 (2) The Lieutenant Governor.
25 (3) The Attorney General.
26 (4) The Secretary of State.
27 (5) The State Treasurer.

1 (6) The State Auditor.

2 (7) The Commissioner of Agriculture and Industries.

3 (8) A member of the Legislature.

4 Section 2. (a) A state officer is subject to recall
5 based only on one or more of the following grounds:

6 (1) Violation of an oath of office.

7 (2) Malfeasance, misfeasance, or nonfeasance.

8 (3) Moral turpitude.

9 (4) Incompetence.

10 (5) Lack of physical or mental fitness.

11 (b) The sufficiency of the grounds for recall is not
12 justiciable.

13 Section 3. (a) Each page of the recall petition must
14 contain all of the following:

15 (1) The name of the state officer whose recall is
16 being sought.

17 (2) The office that the state officer holds and, in
18 the case of a member of the Legislature, the district
19 represented.

20 (3) A short and plain statement of the grounds for
21 recall.

22 (4) A short and plain statement of the facts
23 supporting those grounds.

24 (5) An oath or a affirmation that each person who
25 signs the petition certifies that he or she:

26 a. Understands the content and purpose of the
27 petition.

1 b. Is eligible to vote for the office that the state
2 officer holds.

3 c. Signs the petition of his or her own free will.

4 (6) Space for each person who signs the petition to
5 provide his or her:

6 a. Signature.

7 b. Full name.

8 c. Address of residence.

9 d. Date of birth.

10 (b) A recall petition is not valid and may not be
11 circulated for signatures until it is approved for circulation
12 by the Secretary of State.

13 Section 4. (a) Any 25 or more residents of the State
14 of Alabama may initiate a petition for the recall of a state
15 officer for whom they are qualified to vote. To do so, the
16 petitioners, in the manner and form prescribed by the
17 Secretary of State, shall submit to the Secretary of State all
18 of the following:

19 (1) The proposed petition.

20 (2) Written notice designating no more than three of
21 the petitioners to represent all petitioners in matters
22 relating to the recall.

23 (3) A fee of five hundred dollars (\$500).

24 (b) Upon receiving all required submissions, the
25 Secretary of State shall review the proposed petition, without
26 any consideration given to its merits, for sufficiency and
27 clarity. Once the standards of sufficiency and clarity are

1 satisfied, the Secretary of State shall issue a recall
2 petition to the petitioners. If either standard is not
3 satisfied, the Secretary of State shall notify the
4 petitioners. If, after the petitioners have been given a
5 reasonable amount of time to correct any substantial
6 deficiencies or ambiguities and have not done so, the
7 Secretary of State may refuse to certify the petition.

8 (c) The Secretary of State shall issue or refuse to
9 certify a recall petition within 30 days after receiving all
10 required submissions.

11 Section 5. (a) The petitioners may circulate and
12 collect valid signatures using the recall petition certified
13 by the Secretary of State. To cause a recall election of the
14 state officer named in the petition, the petitioners must do
15 both of the following:

16 (1) Secure the signatures of enough qualified
17 electors to equal at least 30 percent of the total votes cast
18 for the office in the most recent general election.

19 (2) Submit the petition to the Secretary of State
20 for certification.

21 (b) Upon receiving the recall petition, the
22 Secretary of State shall determine whether the signatures of
23 enough qualified electors have been secured. If the correct
24 number has been reached, the Secretary of State shall certify
25 the petition. If the correct number has not been reached, the
26 Secretary of State shall dismiss the petition.

1 (c) A recall petition must be returned to the
2 Secretary of State within 90 days after being issued.

3 Section 6. (a) Unless the election would be held
4 within the last six months of the state officer's term, the
5 Governor shall issue a writ calling for a recall election
6 immediately after the Secretary of State certifies a recall
7 petition. A recall election must be conducted, and the results
8 canvassed and returned, in the manner of other special
9 elections.

10 (b) The question presented to voters on the ballot
11 in the recall election shall be of the following form: "Shall
12 _____ (name) elected to the office of _____ (title) be
13 removed from that office?"

14 (c) If a majority of the votes cast in the recall
15 election favor the removal of the state officer, upon
16 certification of the result, the state officer is removed from
17 office.

18 Section 7. (a) If the recall of the Governor is
19 being sought, the Lieutenant Governor shall call the special
20 election.

21 (b) If the recall of the Secretary of State is being
22 sought, the Attorney General shall perform the duties of the
23 Secretary of State under this amendment.

24 END OF PROPOSED AMENDMENT.

25 Section 2. An election upon the proposed amendment
26 shall be held in accordance with Sections 284 and 285 of the
27 Constitution of Alabama of 1901, now appearing as Sections 284

1 and 285 of the Official Recompilation of the Constitution of
2 Alabama of 1901, as amended, and the election laws of this
3 state.

4 Section 3. The appropriate election official shall
5 assign a ballot number for the proposed constitutional
6 amendment on the election ballot and shall set forth the
7 following description of the substance or subject matter of
8 the proposed constitutional amendment:

9 "Proposing an amendment to the Constitution of
10 Alabama of 1901, to provide a method for the recall of elected
11 state constitutional officers and members of the Legislature.

12 "Proposed by Act _____."

13 This description shall be followed by the following
14 language:

15 "Yes () No ()."