

1 HB544
2 185538-1
3 By Representatives Ainsworth, Davis, Whorton (I), Harbison,
4 Hanes, Mooney, Butler, Williams (JW), Wilcox, Shedd,
5 Wadsworth, Patterson, Williams (P), Ledbetter, Farley,
6 Daniels, Todd, Standridge, Treadaway, Sessions, Weaver, Ford,
7 Fincher, Wingo, Carns, Drake, Morrow, Knight, McCampbell,
8 Beech, Garrett, Givan, Rogers, England, Coleman, Ingram and
9 Fridy (Constitutional Amendment)
10 RFD: Constitution, Campaigns and Elections
11 First Read: 20-APR-17

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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, and Commissioner of
16 Agriculture and Industries.

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

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

24 This bill would provide for the content of
25 the recall petition, initiating a recall petition,
26 circulating a recall petition, certification, and
27 time limitations.

1 This bill would provide for the recall
2 election and for the removal of the officer.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 To propose an amendment to the Constitution of
9 Alabama of 1901, to provide a procedure for the recall of
10 specified state officers.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 PROPOSED AMENDMENT

19 Section 1. Any of the following state officers may
20 be recalled:

- 21 (1) The Governor.
22 (2) The Lieutenant Governor.
23 (3) The Attorney General.
24 (4) The Secretary of State.
25 (5) The State Treasurer.
26 (6) The State Auditor.
27 (7) The Commissioner of Agriculture and Industries.

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

- 3 (1) Violation of an oath of office.
- 4 (2) Malfeasance, misfeasance, or nonfeasance.
- 5 (3) Moral turpitude.
- 6 (4) Incompetence.
- 7 (5) Lack of physical or mental fitness.

8 (b) The sufficiency of the grounds for recall is not
9 justiciable.

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

12 (1) The name of the state officer whose recall is
13 being sought.

14 (2) The office that the state officer holds.

15 (3) A short and plain statement of the grounds for
16 recall.

17 (4) A short and plain statement of the facts
18 supporting those grounds.

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

21 a. Understands the content and purpose of the
22 petition.

23 b. Is eligible to vote for the office that the state
24 officer holds.

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

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

- 1 a. Signature.
- 2 b. Full name.
- 3 c. Address of residence.
- 4 d. Date of birth.

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

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

14 (1) The proposed petition.

15 (2) Written notice designating no more than three of
16 the petitioners to represent all petitioners in matters
17 relating to the recall.

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

19 (b) Upon receiving all required submissions, the
20 Secretary of State shall review the proposed petition, without
21 any consideration given to its merits, for sufficiency and
22 clarity. Once the standards of sufficiency and clarity are
23 satisfied, the Secretary of State shall issue a recall
24 petition to the petitioners. If either standard is not
25 satisfied, the Secretary of State shall notify the
26 petitioners. If, after the petitioners have been given a
27 reasonable amount of time to correct any substantial

1 deficiencies or ambiguities and have not done so, the
2 Secretary of State may refuse to certify the petition.

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

6 Section 5. (a) The petitioners may circulate and
7 collect valid signatures using the recall petition certified
8 by the Secretary of State. To cause a recall election of the
9 state officer named in the petition, the petitioners must do
10 both of the following:

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

14 (2) Submit the petition to the Secretary of State
15 for certification.

16 (b) Upon receiving the recall petition, the
17 Secretary of State shall determine whether the signatures of
18 enough qualified electors have been secured. If the correct
19 number has been reached, the Secretary of State shall certify
20 the petition. If the correct number has not been reached, the
21 Secretary of State shall dismiss the petition.

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

24 Section 6. (a) Unless the election would be held
25 within the last six months of the state officer's term, the
26 Governor shall issue a writ calling for a recall election
27 immediately after the Secretary of State certifies a recall

1 petition. A recall election must be conducted, and the results
2 canvassed and returned, in the manner of other special
3 elections.

4 (b) The question presented to voters on the ballot
5 in the recall election shall be of the following form: "Shall
6 _____ (name) elected to the office of _____ (title) be
7 removed from that office?"

8 (c) If a majority of the votes cast in the recall
9 election favor the removal of the state officer, upon
10 certification of the result, the state officer is removed from
11 office.

12 Section 7. (a) If the recall of the Governor is
13 being sought, the Lieutenant Governor shall call the special
14 election.

15 (b) If the recall of the Secretary of State is being
16 sought, the Attorney General shall perform the duties of the
17 Secretary of State under this amendment.

18 END OF PROPOSED AMENDMENT.

19 Section 2. An election upon the proposed amendment
20 shall be held in accordance with Sections 284 and 285 of the
21 Constitution of Alabama of 1901, now appearing as Sections 284
22 and 285 of the Official Recompilation of the Constitution of
23 Alabama of 1901, as amended, and the election laws of this
24 state.

25 Section 3. The appropriate election official shall
26 assign a ballot number for the proposed constitutional
27 amendment on the election ballot and shall set forth the

1 following description of the substance or subject matter of
2 the proposed constitutional amendment:

3 "Proposing an amendment to the Constitution of
4 Alabama of 1901, to provide a method for the recall of elected
5 state constitutional officers.

6 "Proposed by Act _____."

7 This description shall be followed by the following
8 language:

9 "Yes () No ()."