

1 HB235
2 188710-1
3 By Representative Whorton (I) (Constitutional Amendment)
4 RFD: Constitution, Campaigns and Elections
5 First Read: 16-JAN-18

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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 and ratify or reject statutes and
22 resolutions by referendum subject to the same
23 limitations imposed on the Legislature and that the
24 Legislature may offer an alternate proposal.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 PROPOSED AMENDMENT

19 Part I. (a) The people may propose by the initiative
20 process that a general law be enacted by filing with the
21 Secretary of State a concise summary of the proposal
22 accompanied by a preliminary petition signed by no less than
23 1000 qualified Alabama voters and a filing fee of one thousand
24 dollars (\$1,000). The filing fee shall be refundable within 10
25 days after the election, less any administrative expenses
26 incurred, if the initiative is successfully adopted or
27 enacted. The preliminary filing must be in the name of an

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

12 (b) The Secretary of State shall review the
13 preliminary filing subject to any administrative rules
14 promulgated by the Secretary of State regarding initiatives.
15 Upon approval, the Secretary of State shall forward the
16 preliminary filing to the Attorney General who shall provide
17 an explanation and opinion to the initiative, pertaining to
18 compliance with existing law. The Attorney General, within
19 five days of receiving the preliminary filing from the
20 Secretary of State, shall forward the explanation and opinion
21 to the Secretary of State. Upon the Secretary of State
22 receiving the explanation and opinion from the Attorney
23 General, the Secretary of State, within three days, may do
24 either of the following:

25 (1) If the opinion of the Attorney General states
26 the initiative is in compliance with current state law, the
27 Secretary of State shall certify to the registered agent the

1 preliminary summary of the proposal and provide to the
2 registered agent his or her explanation and opinion for
3 preparation of the full text and official summary of the
4 proposal.

5 (2) If the Attorney General's opinion is
6 noncompliant with existing law, the Secretary of State shall
7 notify by forwarding the Attorney General's explanation and
8 opinion by certified mail to the registered agent. The
9 Secretary of State shall subsequently close this initiative
10 and retain the proposal documents according to state law.

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

23 (d) Upon receipt of the full text and summary of a
24 proposal filed by the registered agent, the Secretary of State
25 shall publish the full text and summary of the proposal on the
26 Secretary of State's website. The full text of each proposal
27 shall remain published on the website for a period of no less

1 than 90 days. The summary of each proposal shall remain
2 published on the website throughout the next regular session
3 of the Legislature.

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

18 (f) In the event that no member of the Legislature
19 elects to sponsor the proposal, or the registered agent
20 determines that no suitable action was taken by any individual
21 in the Legislature on the proposal, the registered agent may
22 resume the initiative process only after the end of the
23 regular session by proceeding to obtain signatures in a final
24 petition format provided by the Secretary of State for
25 qualifying the full text of the proposal for consideration.
26 The final petition must be signed by qualified Alabama voters
27 in a number that equals at least seven percent of the total

1 votes cast for Governor in the last preceding gubernatorial
2 general election. The Secretary of State shall verify that the
3 name and address of each qualified Alabama voter signing the
4 final petition are the same or substantially similar to the
5 name and address that appear on the registered voter list. The
6 1,000 signatures contained on the preliminary petition may be
7 used towards the total requirement for the final petition.

8 (g) Once the required signatures are obtained, the
9 registered agent shall submit a copy of the full text of the
10 proposal, the summary, and final petition to the Secretary of
11 State. The registered agent has two calendar years from the
12 date of registration of the full text of the proposal and
13 summary to qualify the proposal and summary for final filing
14 and consideration. The Secretary of State shall issue to the
15 registered agent a certification for filing the full text
16 proposal and summary with the Legislature. The registered
17 agent must file the full text proposal and summary with the
18 Legislature within two years and an initiative proposal may
19 only be filed in a Regular Session of the Legislature.

20 (h) A full text proposal and summary for the
21 enactment of a general law shall be submitted by the
22 registered agent with certifying documentation from the
23 Secretary of State, to the Legislature 30 days prior to the
24 first legislative day of the regular session by filing a copy
25 with the Legislative Reference Service and the Legislative
26 Fiscal Office for a constitutional and fiscal analysis
27 respectively. The Secretary of the Senate and the Clerk of the

1 House shall prefile in the respective houses the proposal for
2 a general law and on the first day of the session the proposal
3 shall be introduced by the President Pro Tempore of the Senate
4 and the Speaker Pro Tempore of the House. The proposal shall
5 be presented in bill form and treated in every respect the
6 same as any other bill for a general law except as otherwise
7 provided by this amendment and except that the measure shall
8 not be sent to the Governor nor require the Governor's
9 signature. The Legislature upon considering the proposal for
10 the enactment of a general bill by the initiative may not
11 alter or amend the original proposal; however, the Legislature
12 may offer an alternate proposal to be considered in the same
13 manner. If the Legislature does not enact the proposal by
14 12:01 a.m. of the 30th legislative day, the proposal shall be
15 placed on the ballot by the Secretary of State. If the
16 Legislature approves an alternate proposal, both the original
17 proposal from the initiative process and the alternate
18 legislative proposal shall be placed on the ballot. The
19 question shall be submitted to the qualified voters at the
20 first statewide election held 90 days or more after the
21 Legislature adjourns. No special election may be called solely
22 for the purpose of a voter initiative. "Enact" as used in this
23 amendment means the proposal is considered for a third reading
24 before each body and is voted upon by each house of the
25 Legislature, in its original form as proposed, by the end of
26 the 29th legislative day. The proposal may be a bill for a new
27 statute, a bill to amend an existing statute, or a bill to

1 repeal an existing statute or resolution in whole or in part.
2 Upon enactment in the Legislature, the Secretary of the Senate
3 or the Clerk of the House, respectively, shall deliver any
4 enactment by the initiative proposal to the Secretary of
5 State. The time for delivery from the Legislature to the
6 Secretary of State shall be the same as for the Governor
7 pursuant to Section 125 of the Constitution of Alabama of
8 1901, now appearing as Section 125 of the Official
9 Recompilation of the Constitution of Alabama of 1901, as
10 amended, and shall not be subject to veto of any nature. The
11 initiative proposal for a general law enacted by the
12 Legislature shall become law effective upon delivery to the
13 Secretary of State, or upon the terms of the initiative. If
14 two or more proposals including an initiative proposal and a
15 legislative alternative for a general law, proposed separately
16 for the initiative procedure or as an initiative and an
17 alternate legislative proposal, relating to essentially the
18 same subject, appear on the ballot and are adopted, the
19 measure which receives the highest number of affirmative votes
20 shall prevail to the extent of any conflict.

21 (i) No measure proposed as a statutory initiative
22 shall be sent to the Governor, but shall be sent directly to
23 the Legislative Reference Service for preparation of a review
24 and comment, including an official summary of the proposal for
25 use on the ballot. Both the ballot title and the official
26 summary for the ballot shall be impartial and not likely to
27 create prejudice for or against the measure and shall be

1 prepared in consultation with the initiative committee and
2 proponents. The initiative shall be sent to the Secretary of
3 State for inclusion in the appropriate election.

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

7 Part II. (a) The people may propose a constitutional
8 amendment with statewide application by filing a preliminary
9 petition containing a summary of the proposal with the
10 Secretary of State and proceeding further in the same manner
11 and with the same requirements and following the same
12 procedures as for the petition process and the proposal of a
13 general law outlined in Part I above, including the refund of
14 the filing fee, less any administrative expenses incurred, for
15 an initiative that is successfully adopted; provided, however,
16 the petition must be signed by qualified Alabama voters and
17 verified as outlined in Part I. The total number of signatures
18 on the final petition required for a proposed constitutional
19 amendment must equal at least 10 percent of the total votes
20 cast for Governor in the last preceding gubernatorial general
21 election. The Legislature may approve an alternative amendment
22 which shall appear on the ballot at the same time following
23 the same procedure as for a general law in Part I above.

24 (b) The proposal and any alternative shall be
25 submitted to the qualified voters at the first statewide
26 election held 90 days or more after the measure qualifies;

1 however, a special election may not be called solely for the
2 purpose of a voter initiative proposal.

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

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

16 (e) If two constitutional amendments proposed
17 separately by the initiative procedure, relating to
18 essentially the same subject, appear on the ballot and are
19 adopted, the amendment which receives the highest number of
20 affirmative votes shall prevail to the extent of any conflict
21 and shall be proclaimed upon the date of ratification.

22 (f) No more than three initiatives proposed pursuant
23 to this amendment may be enacted by the Legislature pursuant
24 to this amendment in any legislative session. If more than
25 three initiatives are proposed, the three initiatives which
26 may be enacted or placed on the ballot shall be the three
27 proposals having the greatest number of signatures. If a

1 proposal by initiative, whether a general bill or an amendment
2 to the Constitution of Alabama of 1901, has an alternative
3 proposal made by the Legislature, the ballot language shall be
4 as follows:

5 Do you favor amending general law or proposing a
6 constitutional amendment regarding _____?

7 Yes ___ No ___

8 Which change do you prefer?

9 _____ (A) The change proposed by the initiative
10 process which _____.

11 _____ (B) The change offered as an alternative
12 proposal which _____.

13 Part III. If an initiative proposed by Part I or
14 Part II fails to be adopted or approved pursuant to the
15 process provided in this amendment, an identical initiative
16 may not be resubmitted sooner than two years following the
17 failure of the prior initiative.

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

24 Section 3. The appropriate election official shall
25 assign a ballot number for the proposed constitutional
26 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, providing that the people may initiate the
5 enactment of certain general laws or constitutional amendments
6 and that the Legislature may offer an alternative proposal.

7 "Proposed by Act _____."

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

10 "Yes () No ()."