

## **Alabama Citizens for Constitutional Reform Model Resolution for Calling Constitutional Convention**

CALLING FOR A VOTE BY THE PEOPLE OF THE STATE OF ALABAMA ON THE QUESTION OF WHETHER TO HOLD A CONSTITUTIONAL CONVENTION.

BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH HOUSES THEREOF CONCURRING, That on Tuesday, November 5, 2002, there shall be held in the several counties of the state, at the same time as the general election, in the same manner and by the same officers as general elections are required to be held, a separate, special election for the purpose of determining whether or not a convention shall be held to revise and amend the Constitution of Alabama. At such election the question of the holding of a convention shall be submitted to a vote of qualified electors of the state. The Alabama Fair Campaign Practices Act, Sections 17-22A-1 to 17-22A-23, inclusive, Code of Ala.1975 shall apply to such election. If a majority of the voters voting at such election on this question approve the holding of a convention for the purpose stated, the convention shall be held as hereinafter provided.

BE IT FURTHER RESOLVED, That at said election provided for above, every qualified elector who approves of the holding of a convention shall declare such approval by depositing his or her ballot at the voting place where he or she is entitled to vote by making a cross mark before the words "For Convention", written or printed on the ballot. Every qualified elector

who disapproves of the holding of a convention shall deposit his or her ballot, marked with a

cross mark before the words "No Convention" , written or printed on the ballot.

RESOLVED FURTHER, That in the same manner as for matters on the general election ballot, the election officials for each county shall ascertain the number of votes cast "For Convention" and the number of votes cast "No Convention" and shall certify the votes immediately to the Secretary of State.

RESOLVED FURTHER, That on November 12, 2002, the Governor, Secretary of State, and Attorney General, shall assemble in the office of the Secretary of State and canvass the votes which have been cast "For Convention" and "No Convention" as appear from the returns certified to the Secretary of State by the returning boards in the separate counties. If it appears that a majority of all persons voting in such special election on this question voted for the holding of the convention, the governor shall give public notice, by proclamation, that a majority of the electors of the state voting at such election approved the calling of the convention for the purpose above stated. The proclamation shall be published in every county of the state in a newspaper of general circulation in the county in which it is published.

RESOLVED FURTHER, That if the holding of the convention is approved by the qualified electors of this state, an election shall be held to select delegates on the first Tuesday in June, 2003.

RESOLVED FURTHER, That, at such election voters from each Alabama House of

Representatives District shall elect one delegate to the convention from such district as constituted for the 2002 general election. Candidates for election as delegates from districts shall qualify for election with the Secretary of State at least 30 days but no more than 90 days prior to the election, and shall pay a qualifying fee of \$50.00, which fee shall be deposited into the State Treasury to the credit of the Secretary of State to be used in the administration of such election. The names of all candidates shall be printed on the official ballots to be prepared for the election, and such candidates shall not be identified by party affiliation on the official ballots. If no candidate for delegate receives a majority of all votes cast in the election, a run-off election shall be held pursuant to Chapter 16 of Title 17 of the Code of Ala.1975. If in any district only one person files a declaration of candidacy for the office of delegate and that person is certified as qualified by the Secretary of State, only the name of that person shall be printed on the special election ballot under the designation for that office and he or she shall be declared elected to that delegate position by the Secretary of State.

RESOLVED FURTHER, That the Alabama Fair Campaign Practices Act and any other laws governing candidates and elections at the time of the qualification and election shall apply to all candidates and to such election, provided however that the following shall apply even though more restrictive than such laws:

- (a) For purposes of the reporting requirements of the Fair Campaign Practices Act, an individual who has received contributions or made expenditures, or given his or her consent for any other person or persons to receive contributions on his or behalf, in the amount of \$ 1,000 with a view to bringing about his or her election as a delegate shall be deemed a “candidate”,

even though such individual has not yet filed a declaration of candidacy with the Secretary of State.

- (b) Other than contributions a candidate for delegate makes to his or her own campaign, a candidate is prohibited from accepting a campaign contribution (including any “in-kind” contribution) exceeding one hundred dollars (\$100) from any one person, corporation, business, political action committee, limited liability company, partnership, or other entity. For the purpose of this limitation, a run-off election shall be considered a separate election in which a candidate may accept an additional amount not exceeding one hundred dollars (\$100) from a person, corporation, business, political action committee, limited liability company, partnership, or other entity which contributed to such candidate’s campaign in the initial election.
- (c) All contributions, of whatever amount, and even though less than the amount specified by Section 17-22A-8, must be reported pursuant to the procedures prescribed by the Fair Campaign Practices Act.
- (d) No candidate shall accept any contribution after the filing of the report required by Section 17-22A-8, Code of Alabama, 1975, to be filed with the Secretary of State between five and 10 days before the election.
- (e) Any post-election contribution is prohibited.

RESOLVED FURTHER, That (a) all delegates to the convention shall be citizens of the state and all delegates elected pursuant to the foregoing procedure shall be qualified electors of

their respective districts; and, (b) the twelve elected members (six elected by the House of Representatives and six by the Senate) of the Legislative Council of the State of Alabama established by Chapter 6 of Title 29 of the Alabama Code elected at the 2003 Regular Session of the Alabama Legislature shall each serve as a delegate and shall be entitled to the same privileges and be subject to the same responsibilities and duties as elected delegates and shall be entitled to the same compensation, provided he or she foregoes all compensation as a legislator during the time he or she serves as a delegate. No other elected state official (including constitutional officers, district and circuit judges, appellate judges, sheriffs, members of the state board of education, or members of the state legislature other than the twelve elected members of the Legislative Council) shall serve as a delegate.

RESOLVED FURTHER, That in the same manner as for other elections, the election officials for each county shall ascertain the number of votes received by the candidates for delegates for each place in the various districts and shall certify the votes to the Secretary of State. In the event no candidate receives a majority of the votes for delegate in a district, a run-off election shall be held pursuant to Chapter 16 of Title 17 of the Code of Ala. 1975, and following that election the election officials shall again ascertain the number of votes received by the candidates and certify the votes to the Secretary of State.

RESOLVED FURTHER, That one week following the election for delegates (and one week after any run-off election as hereinabove provided), the Governor, Secretary of State and

Attorney General shall assemble in the office of the Secretary of State and canvass the votes and ascertain from the returns which persons were elected as delegates to the convention from each of the several districts, and the Secretary of State shall issue certificates of election to the persons so elected. In the event of an exact tie in the number of votes counted for candidates for the office of delegate in the run-off election, the Governor, in the presence of the Secretary of State and Attorney General, shall decide the tie by lot. The Governor shall call upon the delegates elected to assemble on the first Tuesday in August, 2003 for the purpose herein provided.

RESOLVED FURTHER, That the delegates elected shall convene in the old House of Representatives Chamber in the State Capitol building in the city of Montgomery on the first Tuesday in August, 2003 at 12:00 noon. The Speaker of the Alabama House of Representatives, or in his or her absence, the President Pro Tempore of the Alabama Senate, shall call the convention to order, call the roll of members-elect, administer or cause to be administered the oath called for by this Resolution to the members present, and preside over the convention until a president is elected. The delegates shall organize the convention by the election of a president from among their number, and any other officers, who need not be delegates, as they may deem necessary. The convention shall determine its own rules of procedure, but until it does so Robert's Rules of Order shall apply to its proceedings. The convention shall continue in session until it shall, by careful study and deliberation, frame such proposals as to it may seem necessary or proper for the purpose of altering, amending or revising the existing Constitution. The convention may adjourn to any other place as it may see fit and may recess from time to time.

RESOLVED FURTHER, That before entering upon the discharge of his or her duties as a delegate to the convention, each delegate shall take the following oath which may be administered by the officer calling the convention to order or by any circuit judge or an appellate judge of this state: "I do solemnly swear that I will support the Constitution of the United States, and I will honestly and faithfully perform the duties which are now to devolve on me as a delegate to this convention, so help me God."

RESOLVED FURTHER, That in the event there is any dispute as to the right of any person to sit in the convention as a delegate, the question shall be decided by the convention which shall be the exclusive judge of the election, qualification, and conduct of its members. Any person desiring to contest the election of a person who is certified as being elected as a delegate to the convention may do so in the same manner as a contest of the election of a member of the House of Representatives of the legislature of Alabama.

RESOLVED FURTHER, That in the event of a vacancy in any position of a delegate elected in the manner set forth above, the vacancy may be filled by appointment by the convention. The person appointed to fill the vacancy must meet the same criteria as the elected delegate he or she replaces in the convention.

RESOLVED FURTHER, That the delegates to the convention shall be supplied with stationery, books, statutes, reports, materials and documents in the same manner as members of the legislature of Alabama. The Secretary of the Senate and the Clerk of the House of

Representatives shall provide clerical and administrative assistance necessary to the convention and shall assure that the necessary facilities are made available. The Legislative Reference Service, the Legislative Fiscal Office, and the Alabama Law Institute shall provide professional and technical assistance to the convention. The delegates shall receive for their services the same compensation, per diem, mileage and other expenses from the state treasury as is provided to members of the legislature of Alabama and the other expenses of the convention shall be paid in the same manner as provided for the legislature of Alabama. The compensation, per diem, mileage and other expenses shall be paid on the certificate of the president and secretary or clerk of the convention, to the state comptroller, in the same manner that payment of the compensation to members of the legislature is by law directed to be made. Per diem compensation shall not be allowed or paid to any member of the convention for a period of time longer than 120 calendar days, or if the convention adjourns sine die prior to 120 calendar days, for any period after the date of adjournment.

RESOLVED FURTHER, That the definition of “lobbying” in the Alabama Code of Ethics For Public Officials, Title 13, Chapter 25, Section 1(17) shall be deemed to include the practice of promoting, opposing, or in any manner attempting to influence the introduction, defeat, or enactment of any constitutional provision before the convention or any committee thereof, and the term “lobbyist” in Section 1(18) of said Act shall accordingly include, subject to the exclusions of such Section, anyone who “lobbies” within the foregoing definition of “lobbying.” Except to the extent this Resolution establishes more restrictive requirements, the Alabama Code of Ethics shall apply to such lobbyists to the same extent it applies to lobbying

the legislature or a regulatory agency. Without limitation of the generality of the foregoing, all such lobbyists shall be required to register with the State Ethics Commission, if not already registered, as required by Title 13, Chapter 25, Section 18 and to file the reports required by Title 13, Chapter 25, Section 18. In addition, each such lobbyist shall file with the State Ethics Commission on first and the fifteenth of the month beginning August 15, 2003 and continuing so long until the convention files its proposal or proposals with the Secretary of State, a report, made under oath, setting forth all expenditures made by him or her relative to promoting, opposing, or attempting to influence constitutional provisions. Delegates shall be prohibited from receiving anything of value in association with his or her duties as a delegate.

RESOLVED FURTHER, That, the convention may frame such proposals, to be submitted to the people for ratification, to alter, revise, or amend the existing Constitution, in any form as may seem necessary or proper, including:

- (a) as a unit in the form of a new constitution, with no separate proposals to be voted on individually; or
- (b) in the form of a series of separate proposals for altering or amending the constitution.

The convention shall file with the Secretary of State, within one week after its adjournment, certified by the president and the secretary or clerk of the convention, an accurate and correct copy of its proposal or proposals for the alteration, revision, or amendment of the constitution adopted by the convention for submission to the people. The convention may also prepare a schedule of transitional provisions and fix the date or dates upon which revisions, alterations or

amendments, if adopted by the people, shall take effect. The convention may also prescribe the manner and form of voting on its proposal or proposals, including the form of the ballot to be used. The convention shall keep a journal of its proceedings and shall also file such upon its adjournment with the Secretary of State.

RESOLVED FURTHER, That it shall be the duty of the governor, within one week after the filing with the Secretary of State of the convention's proposal or proposals for the alteration, revision or amendment of the existing Constitution, to issue a proclamation stating that such proposal or proposals have been framed by the convention and that an election will be held in the several counties of the state for the purpose of submitting the convention's proposal or proposals to the qualified voters of the state for ratification or rejection. The governor shall publish a copy of the convention's proposal or proposals at the same time and in the same manner as the proclamation is published. The election shall be called by the governor and shall be held no less than 90 days following adjournment of the convention. The election shall be held in the same manner and by the same election officials as general elections are required to be held. The Fair Campaign Practices Act shall apply to such election.

RESOLVED FURTHER, That the convention may prescribe the manner and form of voting on its proposal or proposals, including the form of the ballot to be used. If the convention omits to do so, then, at the election provided for in the preceding section:

- (a) If the convention has proposed a new constitution as a unit with no separate proposals to be voted on individually, there shall be submitted to the vote of the qualified electors of

this state, the sole question of whether to ratify the new constitution proposed by the convention. That question shall be printed on the official ballots followed by the words “Yes” and “No”, opposite one of which the voter may indicate his or her preference.

- (b) If the convention’s proposal is in the form of separate proposals to alter or amend the constitution, the substance or subject matter of each proposal shall be so printed that the nature thereof is clearly indicated. Each such separate proposal shall be followed by the words “Yes” and “No”, opposite one of which the voter may indicate his or her preference as to that separate proposed amendment.
- (c) The returns of the election shall be made in the same manner, within the same time, by the same officers, certified to the Secretary of State.

RESOLVED FURTHER, That within fifteen days after the day on which the election is held for the ratification or rejection of such constitution or proposals for altering or amending the constitution, the Governor, Secretary of State, and Attorney General shall assemble in the office of the Secretary of State and open the returns of the election. They shall tabulate the votes which have been cast on the question of ratification or rejection of a new constitution and for and against any separate proposals for altering or amending the constitution voted on individually, and the results shall be certified to the governor by the Secretary of State and Attorney General. If a majority of all the qualified electors voting at the election have ratified a proposed new constitution submitted as a unit, or if a majority of all the qualified electors have ratified any separate proposal for altering or amending the constitution voted on individually, the governor shall so proclaim and shall designate within the Proclamation January 1 of the following year as

the time at which the new constitution or other proposals shall become effective, and shall be binding and obligatory upon all people of this state, unless otherwise provided in the ratified constitution or in the schedule of transitional provisions adopted by the convention.

RESOLVED FURTHER, That the Judge of Probate of each county in the state shall prepare and furnish the official ballots to be voted at such election in the same manner as now required under the general election laws of the state. No ballot other than an official ballot shall be cast and counted in the election and the election shall be held and conducted as general elections are held, except as otherwise provided by this Resolution.