

1 HB109
2 79036-2
3 By Representatives Newton (D) and Jackson
4 RFD: Constitution and Elections
5 First Read: 10-JAN-06
6 PFD: 01/05/2006

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8 SYNOPSIS: The current state constitution was ratified
9 in 1901 and requires submitting the question of
10 whether to call a constitutional convention to
11 revise the constitution to the qualified electors
12 of the state.

13 This bill would call for an election to
14 submit the question of whether to call a
15 constitutional convention to the qualified electors
16 of the state. If the majority vote in favor of
17 holding a constitutional convention, it would
18 provide for the election of delegates to the
19 convention, provide for the holding of the
20 convention, and would provide for an election to
21 submit the proposed constitution, once prepared by
22 the convention, to the voters for ratification.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To provide for an election on the issue of calling a
2 constitutional convention to revise and amend the Constitution
3 of Alabama of 1901; and in the event a majority of electors
4 voting favor the convention, to provide for the election of
5 delegates to the convention; to provide for the holding of the
6 convention; and to provide for an election to ratify the
7 proposed constitution.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. The Legislature of Alabama declares and
10 finds the following:

11 (1) That similar to the Legislature of 1900, this
12 Legislature faces an opportunity to change a constitution that
13 is grievously defective and antiquated in that it reflects the
14 conditions, frustrations, and prejudices of a long past
15 century that do not exist today, and similar to the
16 Legislature of 1900, this Legislature desires to provide for
17 an election on the issue of calling a constitutional
18 convention to revise and amend the Constitution of Alabama of
19 1901.

20 (2) That constitutional revision efforts over the
21 past century have been unsuccessful due to a lack of proper
22 authority, i.e., the vote of the people of the State of
23 Alabama.

24 (3) That Alabama's Constitution, as the state's
25 living fundamental law, must closely reflect the values,
26 vision, diversity, and deep faith of its people.

1 (4) That Alabama's Constitution is directly linked
2 to the quality of life experienced daily by the state's
3 citizens of all ages.

4 (5) That Alabama's Constitution must advance
5 justice, compassion, stewardship, trust, reconciliation, and
6 true democracy.

7 (6) That Alabama's current Constitution, as adopted
8 in 1901 under obscure and archaic conditions which prohibited
9 participation by large portions of Alabamians, including
10 minorities, women, and youth, is thus today an unsound
11 document which lacks legal integrity, moral force, and
12 spiritual strength for the forward guidance of Alabama and her
13 people in the 21st Century and beyond.

14 (7) That Alabama's 1901 Constitution, even as
15 currently recompiled, is excessively amended, overly complex,
16 historically petrified, inflexible, inadequate, inefficient,
17 ineffective, the longest in the nation, and practically
18 inaccessible to average citizens seeking a basic voice in
19 their own government.

20 (8) That Alabama's 1901 Constitution now preserves
21 and, tragically, encourages racial division and inequality;
22 perpetuates deep economic injustices; shackles educational
23 advancement and investment; handicaps the development, growth,
24 work market, and public health and safety of local
25 communities, especially in rural areas of the state; enshrines
26 an inefficient, ineffective, and costly system of governance;
27 and signals to international economic centers the continuing

1 failure of the State of Alabama to acknowledge fundamental
2 values of human and divine justice.

3 (9) That Alabama's 1901 Constitution, through its
4 current ballot access barriers and its denial of
5 community-based decision making, reflects today a profound and
6 disturbing mistrust of the citizens of Alabama by over a
7 century of previously elected officials who denied the people
8 of Alabama the right to vote on the issue of a constitutional
9 convention.

10 (10) That Alabama's voters are intelligent,
11 insightful, wise, and spiritual, and thus, totally trustworthy
12 to decide fundamental questions of current and future state
13 policy and law, including and especially the character and
14 content of their own Constitution.

15 (11) That Alabama's 1901 Constitution is today in
16 urgent need of a fresh and open reexamination and revision in
17 a sound public convention process to assure maximum public
18 voices and broad participation, with respect to and with
19 humility by all present state and local elected officials.

20 (12) That Alabama's new Constitution should provide
21 a fundamental law by the people, for the people, and of the
22 people of the great State of Alabama, with an enduring legacy
23 of fundamental rights of liberty and justice for all, firmly
24 developed by the people of the State of Alabama, invoking the
25 favor and the guidance of Almighty God.

26 Section 2. A special statewide election shall be
27 held November 7, 2006, on the same date and in the same manner

1 and by the same officers as a general election required to be
2 held on that date, for the purpose of determining whether a
3 convention shall be held to revise and amend the Constitution
4 of Alabama of 1901. At the election, the question of whether
5 to hold a convention shall be submitted to a vote of the
6 qualified electors of this state. There shall be printed on
7 the official ballots, the question to be voted in the
8 following form:

9 "Do you favor the holding of a constitutional
10 convention for the purpose of revising the Constitution of
11 Alabama of 1901?

12 "Yes () No ()"

13 If a majority of the voters voting at the election
14 shall approve of the holding of a convention for the purpose
15 stated, the election of the delegates for the convention and
16 the holding of the convention shall be held in the manner
17 hereinafter provided.

18 Section 3. In the same manner as for any other
19 general election ballot, the election officials of each county
20 shall ascertain the number of votes "Yes" and the number of
21 votes "No" and shall certify the vote results to the Secretary
22 of State. The Secretary of State shall, as quickly as
23 practicable, certify the statewide results. If it appears that
24 a majority of all persons voting voted for the holding of the
25 convention, the Governor shall give public notice, by
26 proclamation, of the fact that a majority of the electors of
27 the state voting at the election approved the call of the

1 convention for the purpose of revising and amending the
2 Constitution of Alabama of 1901. The proclamation shall be
3 published in every county in a newspaper of general
4 circulation. The courts of the state shall take judicial
5 notice of the proclamation. Additionally, if the holding of
6 the convention is approved by the qualified electors, a
7 supplemental appropriation shall be made at the next regular
8 session of the Legislature for funds necessary to implement
9 this plan.

10 Section 4. If the holding of the convention is
11 approved by the qualified electors of this state, the
12 delegates elected in the manner hereinafter provided shall
13 convene in the historic hall of the old chambers of the House
14 of Representatives in the State Capitol building in the City
15 of Montgomery at 12:00 noon on the first Tuesday following the
16 second Monday in July 2007, and proceed to organize the
17 convention by the election of a president from among
18 themselves, and any other officers, who need not be delegates,
19 as they may deem necessary. The most senior associate justice
20 of the Alabama Supreme Court, or in his or her absence the
21 second most senior associate justice shall call the convention
22 to order and preside over the convention until a president is
23 elected. The convention shall continue in session at times and
24 places designated by the president of the convention until, by
25 careful revision and amendment of the present constitution, it
26 shall frame and adopt a revised constitution for this state

1 but in no event shall the convention continue past May 1,
2 2008.

3 Section 5. (a) There shall be two delegates elected
4 from each House of Representatives district as the districts
5 exist at the time of the delegate election based on the most
6 recent census for a total of 210 delegates. There shall be one
7 male and one female delegate elected from each district.
8 Delegates, who shall be elected without political affiliation,
9 shall be elected at a special election that shall be held on
10 the first Tuesday in April 2007, at the time and places
11 prescribed by Chapter 7 of Title 17 of the Code of Alabama
12 1975, for the conduct and management of elections. If no
13 candidate receives a majority of the votes cast in the
14 election for delegates for which there were two or more
15 candidates, a run-off election shall be held between the two
16 candidates who received the most votes on the last Tuesday in
17 April 2007.

18 (b) A delegate to the convention must be at least 21
19 years of age prior to the election, a qualified elector of his
20 or her district, a citizen of the State of Alabama for three
21 years, and a resident of his or her district for one year
22 immediately preceding the election, and shall reside in his or
23 her district while serving as a delegate.

24 (c) Candidates for election as delegates shall be
25 qualified by filing a declaration of candidacy with the
26 Secretary of State together with a qualifying fee of fifty
27 dollars (\$50), which fee shall be deposited into the State

1 Treasury to the credit of the Secretary of State to be used in
2 the administration of this election. The date for
3 qualification as determined by the Secretary of State shall be
4 no less than 60 days prior to the first Tuesday in April 2007.
5 All candidates for delegates shall be subject to the Fair
6 Campaign Practices Act and any other laws governing candidates
7 and elections at the time of the qualification and election;
8 provided, however, that the following shall also apply:

9 (1) For purposes of the reporting requirements of
10 the Fair Campaign Practices Act, an individual who has
11 received contributions or made expenditures, or given his or
12 her consent for any other person or persons to receive
13 contributions on his or her behalf, in the amount of one
14 thousand dollars (\$1,000) with a view to bringing about his or
15 her election as a delegate shall be deemed a "candidate," even
16 though that individual has not filed a declaration of
17 candidacy with the Secretary of State.

18 (2) Other than contributions a candidate for
19 delegate makes to his or her own campaign, a candidate is
20 prohibited from accepting a campaign contribution (including
21 any "in-kind" contribution) exceeding one hundred dollars
22 (\$100) from any one source. For the purpose of this
23 limitation, a run-off election shall be considered a separate
24 election in which a candidate may accept an additional amount
25 not exceeding one hundred dollars (\$100) from any individual
26 source.

1 (3) All contributions, of whatever amount, must be
2 reported pursuant to the procedures prescribed by the Fair
3 Campaign Practices Act.

4 (4) No candidate shall accept any contribution after
5 the filing of the report required by Section 17-22A-8, Code of
6 Alabama 1975, which shall be filed between five and 10 days
7 before the election.

8 (5) Any postelection contribution is prohibited.

9 (6) Upon election, the delegates shall be subject to
10 the Alabama Ethics Act and any other laws governing elected or
11 appointed state officials.

12 (d) The judge of probate of each county shall
13 prepare and furnish to the election officials of each voting
14 place in the county a sufficient number of official ballots,
15 prepared in the manner provided under existing laws, and
16 containing the names of the persons who have been certified as
17 candidates as provided in this act.

18 Section 6. If a dispute occurs as to the right of
19 any person to sit in the convention as a delegate, the
20 question shall be decided by the convention which shall be the
21 exclusive judge of the election, qualification, and returns of
22 its own members. Any person desiring to contest the election
23 of a person certified as being elected as a delegate to the
24 convention, may do so in the same manner as the election of a
25 member of the House of Representatives of the Legislature of
26 Alabama is contested and by giving the same bond. Testimony
27 shall be taken in the same manner.

1 Section 7. Before entering upon the discharge of his
2 or her duties as a member of the convention, each delegate,
3 before a judge of a circuit court or the Supreme Court of
4 Alabama, shall take the following oath: "I do solemnly swear
5 that I will support the Constitution of the United States, and
6 I will honestly and faithfully perform the duties as a
7 delegate of this convention, so help me God."

8 Section 8. The delegates to the convention shall be
9 supplied with stationery, books, statutes, reports, and
10 documents in the same manner as members of the Legislature of
11 Alabama. The delegates shall receive for their service the
12 same per diem and mileage from the State Treasury as is
13 allowed to members of the Legislature of Alabama. The expenses
14 of the convention shall be paid in the same manner as provided
15 for the members of the Legislature of Alabama. The per diem,
16 mileage, and other expenses shall be paid on the certificates
17 of the president and the secretary or clerk of the convention,
18 to the State Comptroller, in the same manner that payment of
19 the compensation to members of the Legislature of Alabama is
20 by law directed to be made. Notwithstanding the foregoing, no
21 legislative member who is a delegate shall receive additional
22 legislative compensation or per diem if the legislative member
23 is being paid any other payments on the same dates for
24 attendance on other state business. Per diem, mileage,
25 compensation, and other expenses shall not be allowed or paid
26 to any member of the convention for a period of time longer
27 than a maximum of 60 meeting days.

1 Section 9. For purposes of this act and the
2 constitutional convention, the definition of "lobbying" in
3 Section 36-25-1(17), Code of Alabama 1975, is adopted and also
4 includes the practice of promoting, opposing, or in any manner
5 attempting to influence the introduction, defeat, or enactment
6 of any constitutional provision before the convention or any
7 committee thereof. For purposes of this act and the
8 constitutional convention, the term "lobbyist" as defined in
9 Section 36-25-1(18), Code of Alabama 1975, is adopted and also
10 includes anyone who performs activities included in the
11 foregoing definition of "lobbying." Except to the extent this
12 act establishes more restrictive requirements, the Alabama
13 Code of Ethics shall apply to lobbyists to the same extent it
14 applies to lobbying the Legislature or a regulatory agency.
15 Without limitation of the generality of the foregoing, all
16 lobbyists shall be required to register with the State Ethics
17 Commission as required by Section 36-25-18, Code of Alabama
18 1975, and to file the reports required by that section.
19 Additionally, each lobbyist shall file with the State Ethics
20 Commission on the first day and the fifteenth day of each
21 month, beginning May 1, 2007, and continuing until the
22 convention files its proposal or proposals with the Secretary
23 of State, a report, made under oath, setting forth all
24 expenditures made by him or her relative to lobbying
25 activities. Furthermore, delegates shall be prohibited from
26 receiving a thing of value in association with his or her
27 duties as a delegate.

1 Section 10. The convention shall file with the
2 Secretary of State, within one week after its adjournment,
3 certified by the president and secretary or clerk, a correct
4 copy of the constitution that the convention adopted. The
5 convention shall keep a journal of its proceedings and file it
6 upon adjournment with the Secretary of State.

7 Section 11. Except as herein otherwise provided, the
8 general election laws of this state shall apply fully to the
9 elections provided for under this act, including all matters
10 preliminary to the holding of the elections as well as all
11 matters subsequent thereto.

12 Section 12. (a) In the event of the framing of a
13 constitution by this convention, the Governor, within one week
14 after the filing of the constitution with the Secretary of
15 State, shall issue a proclamation, published in the same
16 manner as the proclamation to assemble this convention. The
17 proclamation shall state that the constitution has been framed
18 and that an election will be held on a specific date in the
19 same manner and by the same officers as general elections are
20 required to be held for the purpose of submitting to the
21 qualified voters of this state for ratification or rejection
22 of the constitution. The election shall be held at the same
23 time and the same manner as the 2008 general election.

24 (b) At the election provided for by the preceding
25 section, the question of whether to ratify the constitution
26 proposed by the convention shall be submitted to a vote of the
27 qualified electors of this state. There shall be printed on

1 the official ballots, the question to be voted on followed by
2 the words "Yes" and "No," opposite one of which the voter may
3 indicate his or her preference. The returns of this election
4 shall be made in the same manner, within the same time, by the
5 same officers, certified to the same officer, and shall be in
6 the same form as herein provided for the election regarding
7 whether to hold a convention.

8 Section 13. Within 15 days after the day on which
9 the election is held for the ratification or rejection of the
10 constitution, the Governor, Secretary of State, and Attorney
11 General shall meet in the office of the Secretary of State to
12 tabulate the votes on the issue of ratification or rejection
13 and the results shall be certified to the Governor by the
14 Secretary of State and the Attorney General. The Governor
15 shall make known to the people of this state, the results of
16 the election by proclamation published in the manner herein
17 provided. If a majority of the voters voting at the election
18 voted affirmatively to ratify the constitution, the Governor
19 shall designate within the proclamation that January 1 of the
20 following year is the effective date the new constitution
21 shall go into effect as the Constitution of the State of
22 Alabama, and shall be binding and obligatory upon all the
23 people of this state.

24 Section 14. If an election is called in the event of
25 the framing of a constitution, the judge of probate of each
26 county in the state shall prepare and furnish the official
27 ballots to be voted at such election as is now required under

1 the general election laws of the state which official ballot
2 shall be prepared according to the requirements of Section 3
3 of this act. No ballot other than an official ballot shall be
4 cast and counted in the election, and the election shall be
5 held and conducted as general elections are held, except as
6 otherwise provided by this act.

7 Section 15. This act shall become effective
8 immediately upon its passage by the Legislature.