

1 HB98  
2 88440-2  
3 By Representatives Newton (D), Holmes, Dukes, Dunn, Jackson,  
4 Warren, Gordon, Scott, Knight, Schmitz, Robinson (J), Harper,  
5 Boyd, Todd, Moore (M), Gipson and Hill  
6 RFD: Constitution and Elections  
7 First Read: 06-MAR-07  
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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 voting vote in favor  
17 of 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 in  
23 conformity with Amendment 714 of the Constitution  
24 of Alabama of 1901, now appearing as Section 286.01  
25 of the Official Recompilation of the Constitution  
26 of Alabama of 1901, as amended.

1 A BILL  
2 TO BE ENTITLED  
3 AN ACT  
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5 To provide for an election on the issue of calling a  
6 constitutional convention to revise and amend the Constitution  
7 of Alabama of 1901; and in the event a majority of electors  
8 voting favor the convention, to provide for the election of  
9 delegates to the convention; to provide for the holding of the  
10 convention; and to provide for an election to ratify the  
11 proposed constitution in conformity with Amendment 714 of the  
12 Constitution of Alabama of 1901, now appearing as Section  
13 286.01 of the Official Recompilation of the Constitution of  
14 Alabama 1901, as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. A special statewide election shall be  
17 held in February 2008 on the same date and in the same manner  
18 and by the same officers as the presidential preference  
19 primary election provided for in Section 17-13-100 of the Code  
20 of Alabama of 1975, as such section has been or may be from  
21 time to time amended, for the purpose of determining whether a  
22 convention shall be held to revise and amend the Constitution  
23 of Alabama of 1901. At the election, the question of whether  
24 to hold a convention shall be submitted to a vote of the  
25 qualified electors of this state. There shall be printed on  
26 the official ballots the question to be voted in the following  
27 form:

1           "Do you favor the holding of a constitutional  
2 convention for the purpose of revising the Constitution of  
3 Alabama of 1901?

4           "Yes ( ) No ( )"

5           If a majority of the voters voting at the election  
6 shall approve of the holding of a convention for the purpose  
7 stated, the election of the delegates for the convention and  
8 the holding of the convention shall be held in the manner  
9 hereinafter provided.

10           Section 2. In the same manner as for any other  
11 general election ballot, the election officials of each county  
12 shall ascertain the number of votes "Yes" and the number of  
13 votes "No" and shall certify the vote results to the Secretary  
14 of State. The Secretary of State, as quickly as practicable,  
15 shall certify the statewide results. If it appears that a  
16 majority of all persons voting voted for the holding of the  
17 convention, the Governor shall give public notice, by  
18 proclamation, of the fact that a majority of the electors of  
19 the state voting at the election approved the call of the  
20 convention for the purpose of revising and amending the  
21 Constitution of Alabama of 1901. The proclamation shall be  
22 published in every county in a newspaper of general  
23 circulation. The courts of the state shall take judicial  
24 notice of the proclamation. Additionally, if the holding of  
25 the convention is approved by the qualified electors, a  
26 supplemental appropriation shall be made at the next regular

1 session of the Legislature for funds necessary to implement  
2 this plan.

3 Section 3. The Legislature of Alabama declares and  
4 finds the following:

5 (1) That Alabama's voters are intelligent,  
6 insightful, wise, and spiritual, and thus, totally trustworthy  
7 to decide fundamental questions of current and future state  
8 policy and law, including and especially the character and  
9 content of their own Constitution.

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

15 (3) That Alabama's new Constitution should provide a  
16 fundamental law by the people, for the people, and of the  
17 people of the great State of Alabama, with an enduring legacy  
18 of fundamental rights of liberty and justice for all, firmly  
19 developed by the people of the State of Alabama, invoking the  
20 favor and the guidance of Almighty God.

21 Section 4. If the holding of the convention is  
22 approved by the qualified electors of this state, the  
23 delegates elected in the manner hereinafter provided shall  
24 convene in the historic hall of the old chambers of the House  
25 of Representatives in the State Capitol building in the City  
26 of Montgomery at 12:00 noon on the first Monday in October  
27 2008, and proceed to organize the convention by the election

1 of a president from among themselves, and any other officers,  
2 who need not be delegates, as they may deem necessary. The  
3 most senior associate justice of the Alabama Supreme Court, or  
4 in his or her absence the second most senior associate  
5 justice, shall call the convention to order and preside over  
6 the convention until a president is elected. The convention  
7 shall continue in session at times and places designated by  
8 the president of the convention until, by careful revision and  
9 amendment of the present constitution, it shall frame and  
10 adopt a revised constitution for this state but in no event  
11 shall the convention continue past July 1, 2009.

12 Section 5. (a) There shall be two delegates elected  
13 from each House of Representatives district as the districts  
14 exist at the time of the delegate election based on the most  
15 recent census for a total of 210 delegates. There shall be one  
16 male and one female delegate elected from each district.  
17 Delegates, who shall be elected without political affiliation,  
18 at a special election that shall be held on the first Tuesday  
19 in June 2008, on the same date and in the same manner and held  
20 by the same officers as the political party primary election  
21 provided for in Section 17-13-3 of the Code of Alabama of  
22 1975, as such section has been or may be from time to time  
23 amended. If no candidate receives a majority of the votes cast  
24 in the election for delegates for which there were two or more  
25 candidates, a run-off election shall be held between the two  
26 candidates who received the most votes on the same date and in  
27 the same manner and by the same officers as provided in

1 Section 17-13-3 of the Code of Alabama of 1975 for second or  
2 run-off primary elections.

3 (b) A delegate to the convention shall be at least  
4 18 years of age prior to the election, a qualified elector of  
5 his or her district, a citizen of the State of Alabama for  
6 three years, and a resident of his or her district for one  
7 year immediately preceding the election, and shall reside in  
8 his or her district while serving as a delegate.

9 (c) Candidates for election as delegates shall be  
10 qualified by filing a declaration of candidacy with the  
11 Secretary of State together with a qualifying fee of fifty  
12 dollars (\$50), which fee shall be deposited into the State  
13 Treasury to the credit of the Secretary of State to be used in  
14 the administration of this election. The date for  
15 qualification as determined by the Secretary of State shall be  
16 no less than 60 days prior to the first Tuesday in April 2008.  
17 All candidates for delegates shall be subject to the Fair  
18 Campaign Practices Act and any other laws governing candidates  
19 and elections at the time of the qualification and election;  
20 provided, however, that the following shall also apply:

21 (1) For purposes of the reporting requirements of  
22 the Fair Campaign Practices Act, an individual who has  
23 received contributions or made expenditures, or given his or  
24 her consent for any other person or persons to receive  
25 contributions on his or her behalf, in the amount of one  
26 thousand dollars (\$1,000) with a view to bringing about his or  
27 her election as a delegate shall be deemed a "candidate," even

1       though that individual has not filed a declaration of  
2       candidacy with the Secretary of State.

3               (2) Other than contributions a candidate for  
4       delegate makes to his or her own campaign, a candidate is  
5       prohibited from accepting a campaign contribution (including  
6       any "in-kind" contribution) exceeding one hundred dollars  
7       (\$100) from any one source. For the purpose of this  
8       limitation, a run-off election shall be considered a separate  
9       election in which a candidate may accept an additional amount  
10      not exceeding one hundred dollars (\$100) from any individual  
11      source.

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

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

19              (5) Any postelection contribution is prohibited.

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

23              (d) The judge of probate of each county shall  
24      prepare and furnish to the election officials of each voting  
25      place in the county a sufficient number of official ballots,  
26      prepared in the manner provided under existing laws, and

1 containing the names of the persons who have been certified as  
2 candidates as provided in this act.

3 Section 6. If a dispute occurs as to the right of  
4 any person to sit in the convention as a delegate, the  
5 question shall be decided by the convention which shall be the  
6 exclusive judge of the election, qualification, and returns of  
7 its own members. Any person desiring to contest the election  
8 of a person certified as being elected as a delegate to the  
9 convention may do so in the same manner as the election of a  
10 member of the House of Representatives of the Legislature of  
11 Alabama is contested and by giving the same bond. Testimony  
12 shall be taken in the same manner.

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

20 Section 8. The delegates to the convention shall be  
21 supplied with stationery, books, statutes, reports, and  
22 documents in the same manner as members of the Legislature of  
23 Alabama. The delegates shall receive for their service the  
24 same compensation from the State Treasury as is allowed to  
25 members of the Legislature of Alabama and shall be entitled to  
26 a daily rate per diem equal to that rate paid to state  
27 employees for overnight per diem, plus mileage at the mileage

1 rate provided for state employees. The expenses of the  
2 convention shall be paid in the same manner as provided for  
3 members of the Legislature of Alabama. The compensation, per  
4 diem, mileage, and other expenses shall be paid on the  
5 certificates of the president and the secretary or clerk of  
6 the convention, to the state Comptroller, in the same manner  
7 that payment of compensation, per diem, and mileage to members  
8 of the Legislature of Alabama is by law directed to be made.  
9 Notwithstanding the foregoing, no legislative member who is a  
10 delegate shall receive additional legislative compensation or  
11 per diem if the legislative member is being paid any other  
12 payments on the same dates for attendance on other state  
13 business. Per diem, mileage, compensation, and other expenses  
14 shall not be allowed or paid to any member of the convention  
15 for a period of time longer than a maximum of 60 meeting days.

16 Section 9. For purposes of this act and the  
17 constitutional convention, the definition of "lobbying" in  
18 Section 36-25-1(17), Code of Alabama 1975, is adopted and also  
19 includes the practice of promoting, opposing, or in any manner  
20 attempting to influence the introduction, defeat, or enactment  
21 of any constitutional provision before the convention or any  
22 committee thereof. For purposes of this act and the  
23 constitutional convention, the term "lobbyist" as defined in  
24 Section 36-25-1(18), Code of Alabama 1975, is adopted and also  
25 includes anyone who performs activities included in the  
26 foregoing definition of "lobbying." Except to the extent this  
27 act establishes more restrictive requirements, the Alabama

1 Code of Ethics shall apply to lobbyists to the same extent it  
2 applies to lobbying the Legislature or a regulatory agency.  
3 Without limitation of the generality of the foregoing, all  
4 lobbyists shall be required to register with the State Ethics  
5 Commission as required by Section 36-25-18, Code of Alabama  
6 1975, and to file the reports required by that section.  
7 Additionally, each lobbyist shall file with the State Ethics  
8 Commission on the first day and the fifteenth day of each  
9 month, beginning August 1, 2008, and continuing until the  
10 convention files its proposal or proposals with the Secretary  
11 of State, a report, made under oath, setting forth all  
12 expenditures made by him or her relative to lobbying  
13 activities. Furthermore, delegates shall be prohibited from  
14 receiving a thing of value in association with his or her  
15 duties as a delegate.

16 Section 10. The convention shall file with the  
17 Secretary of State, within one week after its adjournment,  
18 certified by the president and secretary or clerk, a correct  
19 copy of the constitution that the convention adopted. The  
20 convention shall keep a journal of its proceedings and file it  
21 upon adjournment with the Secretary of State.

22 Section 11. Except as herein otherwise provided, the  
23 general election laws of this state shall apply fully to the  
24 elections provided for under this act, including all matters  
25 preliminary to the holding of the elections as well as all  
26 matters subsequent thereto.

1           Section 12. (a) In the event of the framing of a  
2 constitution by this convention, the Governor, within one week  
3 after the filing of the constitution with the Secretary of  
4 State, shall issue a proclamation, published in the same  
5 manner as the proclamation to assemble this convention. The  
6 proclamation shall state that the constitution has been framed  
7 and that an election will be held on a specific date in the  
8 same manner and by the same officers as general elections are  
9 required to be held for the purpose of submitting to the  
10 qualified voters of this state for ratification or rejection  
11 of the constitution. The election shall be held at the same  
12 time and the same manner as the 2010 general election.

13           (b) At the election provided for by the preceding  
14 subsection, the question of whether to ratify the constitution  
15 proposed by the convention shall be submitted to a vote of the  
16 qualified electors of this state. There shall be printed on  
17 the official ballots the question to be voted on followed by  
18 the words "Yes" and "No," opposite one of which the voter may  
19 indicate his or her preference. The returns of this election  
20 shall be made in the same manner, within the same time, by the  
21 same officers, certified to the same officer, and shall be in  
22 the same form as herein provided for the election regarding  
23 whether to hold a convention.

24           Section 13. Within 15 days after the day on which  
25 the election is held for the ratification or rejection of the  
26 constitution, the Governor, Secretary of State, and the  
27 Attorney General shall meet in the office of the Secretary of

1 State to tabulate the votes on the issue of ratification or  
2 rejection and the results shall be certified to the Governor  
3 by the Secretary of State and the Attorney General. The  
4 Governor shall make known to the people of this state the  
5 results of the election by proclamation published in the  
6 manner herein provided. If a majority of the voters voting at  
7 the election voted affirmatively to ratify the constitution,  
8 the Governor shall designate within the proclamation that  
9 January 1 of the following year is the effective date the new  
10 constitution shall go into effect as the Constitution of the  
11 State of Alabama, and shall be binding and obligatory upon all  
12 the people of this state.

13 Section 14. If an election is called in the event of  
14 the framing of a constitution, the judge of probate of each  
15 county in the state shall prepare and furnish the official  
16 ballots to be voted at such election as is now required under  
17 the general election laws of the state which official ballot  
18 shall be prepared according to the requirements of Section 2.  
19 No ballot other than an official ballot shall be cast and  
20 counted in the election, and the election shall be held and  
21 conducted as general elections are held, except as otherwise  
22 provided by this act.

23 Section 15. This act shall become effective  
24 immediately upon its passage by the Legislature.