

1 SB23
2 125661-1
3 By Senator Ward (Constitutional Amendment)
4 RFD: Judiciary
5 First Read: 01-MAR-11
6 PFD: 02/03/2011

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8 SYNOPSIS: Under the Constitution of Alabama of 1901,
9 portions of Article XII relate to private
10 corporations and railroads and canals. This bill
11 would propose an amendment to the Constitution
12 which would rewrite certain sections of Article XII
13 as generally described herein and would repeal
14 other sections.

15 This bill would amend Section 229, as
16 amended by Amendment 27 of the Constitution of
17 Alabama of 1901, now appearing as Section 229 of
18 the Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, by replacing current
20 language with language specifying that the
21 Legislature, by general law only, may pass laws
22 under which corporations and other entities may be
23 organized, dissolved, and regulated and that the
24 Legislature shall provide for the payment of a tax
25 on the privilege of doing business or being
26 organized, incorporated, qualified, or registered
27 under the laws of Alabama. This bill would also

1 amend Section 240 of the Constitution of Alabama of
2 1901, now appearing as Section 240 of the Official
3 Recompilation of the Constitution of Alabama of
4 1901, as amended, by adding language formerly found
5 in Section 236, which this bill would repeal,
6 specifying that a stockholder in a corporation
7 cannot be individually liable for more than the
8 unpaid stock owned by that stockholder.

9 This bill would also repeal the following
10 sections of Article XII relating to private
11 corporations and railroads and canals: Section 230
12 of the Constitution of Alabama of 1901, now
13 appearing as Section 230 of the Official
14 Recompilation of the Constitution of Alabama of
15 1901, as amended, relating to the cancellation of
16 certain corporate charters; Section 231 of the
17 Constitution of Alabama of 1901, now appearing as
18 Section 231 of the Official Recompilation of the
19 Constitution of Alabama of 1901, as amended,
20 relating to limitation on remitting forfeiture of
21 corporate charters; Section 232, as amended, by
22 Amendment 473 of the Constitution of Alabama of
23 1901, now appearing as Section 232 of the Official
24 Recompilation of the Constitution of Alabama of
25 1901, as amended, relating to foreign corporations
26 doing business in the state; Section 233 of the
27 Constitution of Alabama of 1901, now appearing as

1 Section 233 of the Official Recompilation of the
2 Constitution of Alabama of 1901, as amended,
3 relating to corporations being restricted to
4 business authorized by the charter; Section 234 of
5 the Constitution of Alabama of 1901, now appearing
6 as Section 234 of the Official Recompilation of the
7 Constitution of Alabama of 1901, as amended,
8 relating to restrictions on the issuance of
9 corporate stocks and bonds; Section 236 of the
10 Constitution of Alabama of 1901, now appearing as
11 Section 236 of the Official Recompilation of the
12 Constitution of Alabama of 1901, as amended,
13 relating to security for dues from private
14 corporations and liability of stockholders; Section
15 237 of the Constitution of Alabama of 1901, now
16 appearing as Section 237 of the Official
17 Recompilation of the Constitution of Alabama of
18 1901, as amended, relating to issuance of preferred
19 stock by corporations; Section 243 of the
20 Constitution of Alabama of 1901, now appearing as
21 Section 243 of the Official Recompilation of the
22 Constitution of Alabama of 1901, as amended,
23 specifying that the regulation of railroad
24 companies is vested in the Legislature; Section 244
25 of the Constitution of Alabama of 1901, now
26 appearing as Section 244 of the Official
27 Recompilation of the Constitution of Alabama of

1 1901, as amended, relating to prohibiting the
2 giving of free passes or discount tickets to
3 members of the Legislature or officers exercising
4 judicial functions; Section 245 of the Constitution
5 of Alabama of 1901, now appearing as Section 245 of
6 the Official Recompilation of the Constitution of
7 Alabama of 1901, as amended, relating to railroads
8 not giving rebates or bonuses, and deceiving or
9 misleading the public as to rates; and Section 246
10 of the Constitution of Alabama of 1901, now
11 appearing as Section 246 of the Official
12 Recompilation of the Constitution of Alabama of
13 1901, as amended, relating to acceptance of article
14 as a prerequisite to benefits of future
15 legislation.

16 Section 235 of the Constitution of Alabama
17 of 1901, now appearing as Section 235 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, relating to the taking
20 of property for public use by municipal and other
21 corporations would not be changed. Section 238 of
22 the Constitution of Alabama of 1901, now appearing
23 as Section 238 of the Official Recompilation of the
24 Constitution of Alabama of 1901, as amended,
25 relating to the authority of the Legislature to
26 revoke charters of incorporation would not be
27 changed. Section 239 of the Constitution of Alabama

1 of 1901, now appearing as Section 239 of the
2 Official Recompilation of the Constitution of
3 Alabama of 1901, as amended, relating to the
4 regulation of telephone and telegraph companies
5 would not be changed. Section 241 of the
6 Constitution of Alabama of 1901, now appearing as
7 Section 241 of the Official Recompilation of the
8 Constitution of Alabama of 1901, as amended,
9 relating to the definition of a corporation would
10 not be changed. Section 242 of the Constitution of
11 Alabama of 1901, now appearing as Section 242 of
12 the Official Recompilation of the Constitution of
13 Alabama of 1901, as amended, relating to when
14 railroads and canals are deemed public highways and
15 relating to railroad and canal companies, common
16 carriers, and rights of railroad companies
17 generally would not be changed.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 Proposing an amendment to the Constitution of
24 Alabama of 1901, relating to corporations; to amend Section
25 229, as amended by Amendment 27 of the Constitution of Alabama
26 of 1901, now appearing as Section 229 of the Official
27 Recompilation of the Constitution of Alabama of 1901, as

1 amended, relating to the authority of the Legislature to pass
2 general laws pertaining to corporations and other entities; to
3 amend Section 240 of the Constitution of Alabama of 1901, now
4 appearing as Section 240 of the Official Recompilation of the
5 Constitution of Alabama of 1901, as amended, relating to the
6 ability of corporations to sue and be sued like natural
7 persons; and to repeal Sections 230, 231, 232 as amended by
8 Amendment 473, 233, 234, 236, 237, 243, 244, 245, and 246 of
9 the Constitution of Alabama of 1901, now appearing as Sections
10 230, 231, 232, 233, 234, 236, 237, 243, 244, 245, and 246,
11 respectively, of the Official Recompilation of the
12 Constitution of Alabama of 1901, as amended, relating to
13 private corporations and railroads and canals.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

21 PROPOSED AMENDMENT

22 1. Section 229 of the Constitution of Alabama of
23 1901, as amended by Amendment 27, is amended to read as
24 follows:

25 "~~Section 229. The legislature shall pass no special~~
26 ~~act conferring corporate powers, but it shall pass general~~
27 ~~laws under which corporations may be organized and corporate~~

1 powers obtained, subject, nevertheless, to repeal at the will
2 of the legislature; and shall pass general laws under which
3 charters may be altered or amended. The legislature shall, by
4 general laws, provide for the payment to the state of Alabama
5 of a franchise tax by corporations organized under the laws of
6 this state which shall be in proportion to the amount of
7 capital stock; but strictly benevolent, educational or
8 religious corporations or federal building and loan
9 associations organized pursuant to an act of congress known as
10 the Home Owners' Loan Act of 1933, as amended, and as the same
11 may hereafter be amended, or building and loan associations
12 organized under or authorized to do business by the laws of
13 Alabama shall not be required to pay such a tax on their
14 withdrawable or repurchasable shares. The charter of any
15 corporation shall be subject to amendment, alteration, or
16 repeal under general laws. Exemption of the shares of building
17 and loan associations from franchise taxes heretofore provided
18 by statute is ratified.

19 "The Legislature shall pass general laws under which
20 corporations and other entities may be organized, authorized
21 to do business or conduct their affairs, operated, dissolved,
22 and regulated; such laws, now existing or hereafter passed,
23 shall be subject to amendment or repeal by general law. The
24 Legislature, by general law, shall provide for the payment to
25 the State of Alabama of a tax on the privilege of doing
26 business in Alabama or being organized, incorporated,
27 qualified, or registered under the laws of Alabama. Strictly

1 benevolent, educational, or religious corporations shall not
2 be required to pay such tax on their withdrawable or
3 repurchasable shares to the extent they have such shares."

4 2. Section 240 of the Constitution of Alabama of
5 1901, is amended to read as follows:

6 "Section 240. All corporations shall have the right
7 to sue, and shall be subject to be sued, in all courts in like
8 cases as natural persons. Dues from private corporations shall
9 be secured by such means as may be prescribed by law; but in
10 no case shall any stockholder be individually liable otherwise
11 than for the unpaid stock owned by him or her."

12 "3. The following sections of the Constitution of
13 Alabama of 1901, relating to private corporations and
14 railroads and canals are repealed: Section 230, relating to
15 the cancellation of certain corporate charters; Section 231,
16 relating to limitation on remitting forfeiture of corporate
17 charters; Section 232, as amended by Amendment 473, relating
18 to foreign corporations doing business in the state; Section
19 233, relating to corporations being restricted to business
20 authorized by the charter; Section 234, relating to
21 restrictions on the issuance of corporate stocks and bonds;
22 Section 236, relating to security for dues from private
23 corporations and liability of stockholders; Section 237,
24 relating to issuance of preferred stock by corporations;
25 Section 243, specifying that the regulation of railroad
26 companies is vested in the Legislature; Section 244, relating
27 to prohibiting the giving of free passes or discount tickets

1 to members of the Legislature or officers exercising judicial
2 functions; Section 245, relating to railroads not giving
3 rebates or bonuses and deceiving or misleading the public as
4 to rates; and Section 246, relating to acceptance of article
5 as a prerequisite to benefits to future legislation."

6 Section 2. An election upon the proposed amendment
7 shall be held in accordance with Sections 284 and 285 of the
8 Constitution of Alabama of 1901, now appearing as Sections 284
9 and 285 of the Official Recompilation of the Constitution of
10 Alabama of 1901, as amended, and the election laws of this
11 state.

12 Section 3. The appropriate election official shall
13 assign a ballot number for the proposed constitutional
14 amendment on the election ballot and shall set forth the
15 following description of the substance or subject matter of
16 the proposed constitutional amendment:

17 "Proposing an amendment to the private corporation
18 provisions of Article 12 of the Constitution of Alabama of
19 1901, to continue the authority of the Legislature to pass
20 general laws pertaining to corporations and other entities; to
21 continue the authority of the Legislature to regulate and
22 impose a business privilege tax on corporations and other
23 entities; and to repeal various provisions concerning private
24 corporations, railroads, and canals.

25 "Proposed by Act _____."

26 This description shall be followed by the following
27 language:

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"Yes () No ()."