

1 HB434  
2 116514-2  
3 By Representatives DeMarco, Canfield and McMillan  
4 (Constitutional Amendment)  
5 RFD: Constitution and Elections  
6 First Read: 26-JAN-10

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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:

1

"Yes ( ) No ( )."