

1 HB123  
2 188504-1  
3 By Representative Gaston (Constitutional Amendment)  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 09-JAN-18

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8 SYNOPSIS: Under the Constitution of Alabama of 1901, a  
9 vacancy in either the Alabama House of  
10 Representatives or Senate is filled by a special  
11 election called by the Governor.

12 This bill would propose an amendment to the  
13 Constitution to provide a vacancy in either the  
14 House of Representatives or the Senate that occurs  
15 with less than two years remaining in the term  
16 would be filled by a person qualified to hold the  
17 office and appointed by the Governor. The amendment  
18 also would provide that a person appointed to the  
19 vacancy is not eligible to run for the office in  
20 the election for the next full term for the office.

21  
22 A BILL  
23 TO BE ENTITLED  
24 AN ACT

25  
26 Proposing an amendment to the Constitution of  
27 Alabama of 1901; to provide that a vacancy in either house of

1 the Legislature occurring with less than two years remaining  
2 in the term would be filled by appointment by the Governor  
3 rather than by a special election and to prohibit a person  
4 appointed to fill the vacancy from running for election to the  
5 office for the next full term of office.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. The following amendment to the  
8 Constitution of Alabama of 1901, as amended, is proposed and  
9 shall become valid as a part thereof when approved by a  
10 majority of the qualified electors voting thereon and in  
11 accordance with Sections 284, 285, and 287 of the Constitution  
12 of Alabama of 1901, as amended:

13 PROPOSED AMENDMENT

14 Part 1. Section 46 of the Constitution of Alabama of  
15 1901, and Amendment 97 to the Constitution of Alabama of 1901,  
16 both now appearing as Section 46 of the Official Recompilation  
17 of the Constitution of Alabama of 1901, are repealed.

18 Part 2. Section 46 is added to the Constitution of  
19 Alabama of 1901, to read as follows:

20 Section 46.

21 (a) Senators and representatives shall be elected by  
22 the qualified electors on the first Tuesday after the first  
23 Monday in November unless the Legislature shall change the  
24 time of holding elections and in every fourth year thereafter.  
25 The terms of office of the senators and representatives shall  
26 commence on the day after the general election at which they  
27 are elected, and expire on the day after the general election

1 held in the fourth year after their election, except as  
2 otherwise provided in this Constitution. At the general  
3 election in the year nineteen hundred and two all the  
4 representatives, together with the senators for the even  
5 numbered districts and for the thirty-fifth district, shall be  
6 elected. The terms of those senators who represent the odd  
7 numbered districts under the law in force prior to the  
8 ratification of this Constitution, are hereby extended until  
9 the day after the general election in the year nineteen  
10 hundred and six; and until the expiration of his or her term  
11 as hereinbefore extended, each such senator shall represent  
12 the district established by this Constitution, bearing the  
13 number corresponding with that for which he or she was  
14 elected. In the year nineteen hundred and six, and in every  
15 fourth year thereafter, all the senators and representatives  
16 shall be elected.

17 (b) When a vacancy occurs in either house of the  
18 Legislature, the Governor shall issue a writ of election to  
19 fill the vacancy for the remainder of the term. However, if  
20 the Secretary of State determines that a legally qualified  
21 candidate for election to the vacancy is unopposed when the  
22 last date for filing certificates of nomination has passed,  
23 the election shall not be held. The Secretary of State shall  
24 issue a certificate of election to the candidate, the same as  
25 if an election had been held, and the certificate shall be  
26 accepted by the house in which the vacancy occurred as  
27 evidence of the unopposed candidate's right to fill the

1 position created by the vacancy. In the event an election is  
2 held, all the costs and expenses incurred thereby shall be  
3 paid out of any funds in the State Treasury not otherwise  
4 appropriated.

5 (c) When a vacancy occurs in either house of the  
6 Legislature with less than two years remaining in the term,  
7 the Governor shall appoint a person qualified to hold the  
8 office for the remainder of the term. A person so appointed  
9 may not run for election to the office at the election for the  
10 next full term of office for the office.

11 Section 2. An election upon the proposed amendment  
12 shall be held in accordance with Sections 284 and 285 of the  
13 Constitution of Alabama of 1901, now appearing as Sections 284  
14 and 285 of the Official Recompilation of the Constitution of  
15 Alabama of 1901, as amended, and the election laws of this  
16 state.

17 Section 3. The appropriate election official shall  
18 assign a ballot number for the proposed constitutional  
19 amendment on the election ballot and shall set forth the  
20 following description of the substance or subject matter of  
21 the proposed constitutional amendment:

22 "Proposing an amendment to the Constitution of  
23 Alabama of 1901, to provide that a vacancy in either house of  
24 the Legislature occurring with less than two years remaining  
25 in the term would be filled by appointment by the Governor  
26 rather than by a special election and to prohibit a person

1 appointed to fill the vacancy from running for election to the  
2 office for the next full term of office.

3 "Proposed by Act \_\_\_\_\_."

4 This description shall be followed by the following  
5 language:

6 "Yes ( ) No ( )."