

1 HB375  
2 207724-1  
3 By Representative Sorrell  
4 RFD: State Government  
5 First Read: 09-FEB-21

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8       SYNOPSIS:               This bill would prohibit a public official  
9                               or public employee from expending public funds to  
10                              advocate in favor of or against statewide and local  
11                              ballot measures.

12                             Amendment 621 of the Constitution of Alabama  
13                             of 1901, as amended by Amendment 890, now appearing  
14                             as Section 111.05 of the Official Recompilation of  
15                             the Constitution of Alabama of 1901, as amended,  
16                             prohibits a general law whose purpose or effect  
17                             would be to require a new or increased expenditure  
18                             of local funds from becoming effective with regard  
19                             to a local governmental entity without enactment by  
20                             a 2/3 vote unless: it comes within one of a number  
21                             of specified exceptions; it is approved by the  
22                             affected entity; or the Legislature appropriates  
23                             funds, or provides a local source of revenue, to  
24                             the entity for the purpose.

25                             The purpose or effect of this bill would be  
26                             to require a new or increased expenditure of local  
27                             funds within the meaning of the amendment. If this

1 bill is not enacted by a 2/3 vote, it will not  
2 become effective with regard to a local entity  
3 unless approved by the local entity or until, and  
4 only as long as, the Legislature appropriates funds  
5 or provides for a local source of revenue.

6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to public funds; to prohibit any public  
12 official or public employee from expending public funds to  
13 advocate in favor of or against statewide and local ballot  
14 measures; and in connection therewith to have as its purpose  
15 or effect the requirement of a new or increased expenditure of  
16 local funds within the meaning of Amendment 621 of the  
17 Constitution of Alabama of 1901, as amended by Amendment 890,  
18 now appearing as Section 111.05 of the Official Recompilation  
19 of the Constitution of Alabama of 1901, as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. (a) For the purposes of this section, the  
22 following terms have the following meanings:

23 (1) GOVERNMENTAL BODY. Any department, agency,  
24 board, commission, or authority of the state or political  
25 subdivision, or any public corporation, authority, agency,  
26 board, commission, or other governmental body controlled by  
27 the state or political subdivision, including a public

1 institution of higher education, local board of education, or  
2 any school under the jurisdiction of a local board of  
3 education.

4 (2) PUBLIC EMPLOYEE. The meaning ascribed in Section  
5 36-25-1, Code of Alabama 1975.

6 (3) PUBLIC OFFICIAL. The meaning ascribed in Section  
7 36-25-1, Code of Alabama 1975.

8 (b) (1) Any provision of law to the contrary  
9 notwithstanding, a public official or public employee may not  
10 expend any public funds from any source for activities to  
11 advocate in favor of or against a statewide or local ballot  
12 measure, even if the public official or public employee has  
13 determined that the expenditure serves a public purpose.

14 (2) For the purposes of this subsection, the  
15 activities prohibited are those enumerated in subdivision (1)  
16 of subsection (b) of Section 17-17-5, Code of Alabama 1975,  
17 including the presentation or distribution of any political  
18 literature or the placement of any sign, banner, marker, or  
19 other political poster on the property of a governmental body,  
20 if the purpose is to advocate in favor of or against a  
21 statewide or local ballot measure.

22 (c) Providing an objective analysis or factual  
23 information on a ballot measure which does not advocate a  
24 specific position is not a prohibited activity under  
25 subsection (b).

1           (d) Any public official or public employee who  
2 violates this section shall be guilty, upon conviction, of a  
3 Class A misdemeanor.

4           (e) Nothing in this section shall prevent a  
5 contribution or dues payment to a trade association of which  
6 the public employee is a member.

7           (f) Nothing in this section shall be interpreted as  
8 prohibiting any student, faculty member, or other employee or  
9 official of a school or institution of higher education from  
10 discussing political topics, including referendums, while on  
11 campus.

12           (g) Nothing in this section shall be interpreted as  
13 prohibiting a public official or public employee from  
14 promoting or opposing a referendum in his or her capacity as a  
15 private citizen and while not engaged in official duties as  
16 long as the activities of the public official or public  
17 employee do not violate Section 36-25-5, Code of Alabama 1975.

18           Section 2. The purpose or effect of this bill would  
19 be to require a new or increased expenditure of local funds  
20 within the meaning of Amendment 621 of the Constitution of  
21 Alabama of 1901, as amended by Amendment 890, now appearing as  
22 Section 111.05 of the Official Recompilation of the  
23 Constitution of Alabama of 1901, as amended. If this bill is  
24 not enacted by a 2/3 vote, it will not become effective with  
25 regard to a local entity unless approved by the local entity  
26 or until, and only as long as, the Legislature appropriates  
27 funds or provides for a local source of revenue.

1                   Section 3. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.