

1 HB64  
2 164409-1  
3 By Representative Polizos (Constitutional Amendment)  
4 RFD: Constitution, Campaigns and Elections  
5 First Read: 03-MAR-15

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8 SYNOPSIS: Under existing law, a special election is  
9 held to fill a vacant position in the Alabama House  
10 of Representatives and the Alabama Senate.

11 This bill would provide for an amendment to  
12 Section 46 of the Constitution of Alabama of 1901,  
13 as amended by Amendment 97, now appearing as  
14 Section 46 of the Official Recompilation of the  
15 Constitution of Alabama of 1901, as amended, to  
16 provide that a vacancy in the House of  
17 Representatives or the Senate occurring after the  
18 end of the third regular session of a legislative  
19 quadrennium shall be filled by appointment by the  
20 Governor for the remainder of the unexpired term of  
21 the office.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           Proposing an amendment to Section 46 of the  
2           Constitution of Alabama of 1901, as amended by Amendment 97,  
3           now appearing as Section 46 of the Official Recompilation of  
4           the Constitution of Alabama of 1901, as amended, to provide  
5           that a vacancy in the House of Representatives or Senate  
6           occurring after the end of the third regular session of a  
7           legislative quadrennium shall be filled by appointment by the  
8           Governor for the remainder of the unexpired term of the  
9           office.

10          BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

17                                 PROPOSED AMENDMENT

18                 "Section 46.

19                 "(a) Senators and representatives shall be elected  
20           by the qualified electors on the first Tuesday after the first  
21           Monday in November unless the legislature shall change the  
22           time of holding elections and in every fourth year thereafter.  
23           The terms of office of the senators and representatives shall  
24           commence on the day after the general election at which they  
25           are elected, and expire on the day after the general election  
26           held in the fourth year after their election, except as  
27           otherwise provided in this Constitution. At the general

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

14 " (b) (1) Whenever a vacancy occurs in either house of  
15 the legislature prior to the end of the third regular session  
16 of a legislative quadrennium, the governor shall issue a writ  
17 of election to fill such vacancy for the remainder of the  
18 term. However, if the secretary of state determines that a  
19 legally qualified candidate for election to the vacancy is  
20 unopposed when the last date for filing certificates of  
21 nomination has passed, the election shall not be held. The  
22 secretary of state shall issue a certificate of election to  
23 the candidate, the same as if an election had been held, and  
24 the certificate shall be accepted by the house in which the  
25 vacancy occurred as evidence of the unopposed candidate's  
26 right to fill the position created by the vacancy. In the  
27 event an election is held, all the costs and expenses incurred

1       thereby shall be paid out of any funds in the state treasury  
2       not otherwise appropriated.

3               "(2) Whenever a vacancy occurs in either house of  
4       the Legislature after the end of the third regular session of  
5       a legislative quadrennium, the vacancy shall be filled by  
6       appointment by the Governor as follows:

7               "a. A vacancy occurring in the office of senator or  
8       representative in the Legislature after the last day of the  
9       third regular session in any quadrennium shall be filled by  
10       the Governor within 60 calendar days following the first day  
11       of the vacancy. The appointment to fill the vacancy for the  
12       unexpired term shall be made from a list of three prospective  
13       appointees submitted to the Governor by the same political  
14       party as the vacating member within 30 calendar days following  
15       the first day of the vacancy. At the time of his or her  
16       appointment and for at least six months immediately prior to  
17       the appointment, the appointee shall have been a member of the  
18       same political party and a resident of the same legislative  
19       district as the vacating member.

20               "b. If the vacating member was not a member of any  
21       political party, the Governor, within 60 calendar days  
22       following the first day of the vacancy, shall appoint a person  
23       who is at the time of appointment a resident of the same  
24       legislative district as the vacating member and who is not,  
25       and has not been for at least six months prior to the  
26       appointment, a member of any political party.

1           "c. The person appointed by the Governor to fill the  
2           legislative vacancy may not run as a candidate in the next  
3           general election following his or her appointment."

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

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

15                 "Proposing an amendment to the Constitution of  
16                 Alabama of 1901, to amend Section 46 of the Constitution of  
17                 Alabama of 1901, now appearing as Section 46 of the Official  
18                 Recompilation of the Constitution of Alabama of 1901, as  
19                 amended, to provide for the filling of a vacancy in any  
20                 legislative office that occurs after the end of the third  
21                 regular session of a legislative quadrennium.

22                 "Proposed by Act \_\_\_\_\_."

23                 This description shall be followed by the following  
24                 language:

25                 "Yes ( ) No ( )."