

1 SB26
2 163387-1
3 By Senator Albritton (Constitutional Amendment)
4 RFD: Constitution, Ethics and Elections
5 First Read: 03-MAR-15
6 PFD: 02/09/2015

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8 SYNOPSIS: Article VII of the Constitution of Alabama
9 of 1901, provides for impeachments in Alabama.

10 This bill would propose an amendment to the
11 Constitution of Alabama of 1901, to repeal the
12 existing Article VII and to readopt Article VII to
13 make nonsubstantive technical amendments, including
14 renumbering sections, capitalization, and gender
15 neutral references, throughout the article and to
16 make all of the following substantive changes:

17 Section 173. The rewritten section would
18 remove the State Superintendent of Education and
19 include the members of the State Board of Education
20 as officers who are subject to impeachment, would
21 require a two-thirds vote of the Senate, sitting as
22 a court of impeachment, for conviction, and would
23 delete the requirement that members of the
24 Legislature be summoned to the capitol for
25 impeachment proceedings by publication in a
26 newspaper.

1 Section 174. The rewritten section would
2 delete the outdated reference to chancellors, would
3 include district court judges as officers subject
4 to impeachment, and would substitute the term
5 district attorney for the outdated term solicitor.

6 Section 175. The rewritten section would
7 provide that all county and municipal officers are
8 subject to impeachment.

9
10 A BILL

11 TO BE ENTITLED

12 AN ACT

13
14 To repeal existing Article VII of the Constitution
15 of Alabama of 1901, relating to impeachments, and to add a new
16 Article VII, relating to impeachments.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

24 PROPOSED AMENDMENT

25 I. Article VII of the Constitution of Alabama of
26 1901, is repealed.

1 II. Article VII is added to the Constitution of
2 Alabama of 1901, to read as follows:

3 Article VII. Impeachments.

4 Section 173.

5 (a) The Governor, Lieutenant Governor, Attorney
6 General, State Auditor, Secretary of State, State Treasurer,
7 members of the State Board of Education, Commissioner of
8 Agriculture and Industries, and justices of the supreme court
9 may be removed from office for willful neglect of duty,
10 corruption in office, incompetency, or intemperance in the use
11 of intoxicating liquors or narcotics to such an extent, in
12 view of the dignity of the office and importance of its
13 duties, as unfits the officer for the discharge of such duties
14 for any offense involving moral turpitude while in office, or
15 committed under color thereof, or connected therewith.

16 (b) The House of Representatives shall present
17 articles or charges of impeachment against those persons
18 identified in subsection (a), specifying the cause to the
19 Senate.

20 (c) The Senate, sitting as a court of impeachment,
21 shall take testimony under oath on articles or charges
22 preferred by the House of Representatives.

23 (d) The Lieutenant Governor shall preside over the
24 Senate when sitting as a court of impeachment, provided,
25 however, that if the Governor or Lieutenant Governor is
26 impeached, the Chief Justice, or if the Chief Justice be
27 absent or disqualified, then one of the associate justices of

1 the supreme court, to be selected by the court, shall preside
2 over the Senate when sitting as a court of impeachment. No
3 person may be convicted by the Senate sitting as a court of
4 impeachment without the concurrence of two-thirds of the
5 members present.

6 (e) If at any time when the Legislature is not in
7 session, a majority of all the members elected to the House of
8 Representatives shall certify in writing to the Secretary of
9 State their desire to meet to consider the impeachment of the
10 Governor, Lieutenant Governor, or other officer administering
11 the office of Governor, it shall be the duty of the Secretary
12 of State immediately to notify the Speaker of the House who,
13 within 10 days after receipt of the notice, shall summon the
14 members of the House to assemble at the capitol on a day to be
15 fixed by the Speaker, but not later than 15 days after receipt
16 of the notice by the Speaker from the Secretary of State, to
17 consider the impeachment of the Governor, Lieutenant Governor,
18 or other officer administering the office of Governor.

19 (f) If the House of Representatives prefers articles
20 of impeachment, the Speaker of the House shall forthwith
21 notify the Lieutenant Governor, unless he or she is the
22 officer impeached, in which event the President Pro Tempore of
23 the Senate shall be notified, who shall summon the members of
24 the Senate to assemble at the capitol on a specified day not
25 later than 10 days after receipt of the notice from the
26 Speaker of the House, for the purpose of hearing and trying
27 the articles of impeachment against the Governor, Lieutenant

1 Governor, or other officer administering the office of
2 Governor, as may be preferred by the House of Representatives.

3 Section 174.

4 The judges of the district and circuit courts,
5 judges of the probate courts, and judges of other courts from
6 which an appeal may be taken directly to the supreme court,
7 district attorneys, and sheriffs, may be removed from office
8 for any of the causes specified in Section 173 or elsewhere in
9 this constitution, by the supreme court, or under such
10 regulations as may be prescribed by rule of the Supreme Court
11 of Alabama or law. The Legislature may provide for the
12 impeachment or removal of other officers than those named in
13 this article.

14 Section 175.

15 A county officer and officer of an incorporated city
16 or town may be tried for impeachment for any of the causes
17 specified in Section 173 and upon conviction be removed from
18 office by a court having jurisdiction to try felony cases in
19 the county or circuit in which the officer holds his or her
20 office. The Legislature shall provide by law the method of
21 proceeding under this section, provided the right to trial by
22 jury and appeal in such cases shall be secured.

23 Section 176.

24 The penalties in cases arising under this article
25 does not extend beyond removal from office, and
26 disqualifications from holding office, under the authority of
27 this state, for the term for which the officer was elected or

1 appointed; but the accused shall be liable to indictment and
2 punishment as prescribed by law.

3 III. This amendment shall become operative on
4 January 1, 2017.

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

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

16 "Proposing an amendment to the Constitution of
17 Alabama of 1901, to become operative January 1, 2017, to
18 repeal and replace Article VII, Impeachments.

19 "Proposed by Act _____."

20 This description shall be followed by the following
21 language:

22 "Yes () No ()."