

1 SB13
2 170826-1
3 By Senator Allen (Constitutional Amendment)
4 RFD: Finance and Taxation General Fund
5 First Read: 13-JUL-15

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SYNOPSIS: This bill would propose an amendment to the
Constitution of Alabama of 1901, to create the
Alabama Legacy Trust Fund.

 The proposed amendment would require the
Alabama Trust Fund Board of Trustees to administer
the fund.

 The proposed amendment provides for the
distribution of certain payments received by the
state from settlements and other monies.

 The proposed amendment also provides that
trust capital be held in perpetual trust and
provides for the distribution of trust income.

 The proposed amendment would require the
Legislature to enact legislation creating an
authority to issue revenue bonds using any
Deepwater Horizon Oil Spill Disaster Settlement to
fund the bond payments.

 A BILL
 TO BE ENTITLED

1 AN ACT

2
3 Proposing an amendment to the Constitution of
4 Alabama of 1901, to create the Alabama Legacy Trust Fund; to
5 provide for the distribution of payments from settlements and
6 other monies; to provide for the holding of trust capital in
7 perpetual trust; and to provide for the distribution of trust
8 income.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 PROPOSED AMENDMENT

19 Section I. For the continuing benefit of the State
20 of Alabama and the citizens of the state, there is hereby
21 created the Alabama Legacy Trust Fund, an irrevocable
22 permanent trust fund, funded and administered in accordance
23 with this amendment.

24 Section II. For the purposes of this amendment, the
25 following terms shall have the following meanings:

26 (a) BOARD. The Board of Trustees of the Alabama
27 Trust Fund.

1 (b) DEEPWATER HORIZON OIL SPILL DISASTER SETTLEMENT.
2 Any payment allocated to the state pursuant to any settlement
3 of the Deepwater Horizon Oil Spill Disaster Lawsuit associated
4 with the oil spill disaster in the Gulf of Mexico on April 20,
5 2010, that is not otherwise dedicated under federal law, court
6 order, or settlement agreement.

7 (c) FISCAL YEAR. The fiscal year of the state as may
8 from time to time be provided by law.

9 (d) STATE. The State of Alabama.

10 (e) SETTLEMENT PROCEEDS. Any payment of \$2,000,000
11 or more received by the state or any agency of the state
12 pursuant to any court order or a negotiated settlement where
13 the state or agency thereof is a party. The term shall also
14 mean any payments that would have previously been distributed
15 pursuant to Section 36-15-4.2, Code of Alabama, 1975.

16 (f) TRUST CAPITAL. All assets of the trust fund
17 other than trust income.

18 (g) TRUSTEE. A member of the Board of Trustees of
19 the Alabama Trust Fund.

20 (h) TRUST FUND. The Alabama Legacy Trust Fund.

21 (i) TRUST INCOME. The net income received by the
22 state from the investment and reinvestment of assets of the
23 trust fund, determined in accordance with this amendment.

24 Section III. The trust fund shall be under the
25 management and control of the Board and all powers necessary
26 or appropriate for the management and control of the trust
27 fund shall be solely vested in the Board. All powers and

1 duties granted to the Board for the investment of monies in
2 the Alabama Trust Fund shall also apply to investment of
3 monies in the Legacy Trust Fund.

4 Section IV. (a) Any Deepwater Horizon Oil Spill
5 Disaster Settlement shall be obligated to fund the issuance
6 and debt service of revenue bonds issued pursuant to Section
7 VII. Proceeds from the bond issuance provided for in Section
8 VII shall first be used to repay the Alabama Trust Fund Rainy
9 Day Account for the \$161,565,874 transferred to the State
10 General Fund in fiscal year 2010 pursuant to Amendment 803 of
11 the Constitution of Alabama of 1901 and to repay the Alabama
12 Trust Fund for the \$437,390,829 transferred to the State
13 General Fund over fiscal years 2013, 2014 and 2015 pursuant to
14 Amendment 856 of the Constitution of Alabama of 1901. Any bond
15 proceeds remaining after these repayments shall be deposited
16 into the Alabama Legacy Trust Fund.

17 (b) Any other settlement proceeds shall first be
18 used to repay the Alabama Trust Fund Rainy Day Account and the
19 Alabama Trust Fund as stated in subsection (a), if these
20 repayments have not yet been made. Any settlement proceeds
21 remaining after these repayments shall be deposited into the
22 Alabama Legacy Trust Fund.

23 (c) The trust fund shall be augmented by (1) other
24 moneys or assets as the Legislature may by law appropriate and
25 transfer to the trust fund as a permanent part thereof; (2)
26 other moneys or assets as may be contributed to the trust fund

1 from any source; and (3) trust income reinvested in the trust
2 fund as provided in Section V of this amendment.

3 Section V. (a) Assets in the Fund shall be held in
4 perpetual trust and shall not be appropriated by the
5 Legislature or expended or disbursed for any purpose other
6 than to acquire eligible investments in accordance with this
7 amendment. All eligible investments acquired, in whole or in
8 part, with moneys constituting part of the trust capital shall
9 to the extent of such moneys constitute part of the trust
10 capital. Beginning the first year the receipts are deposited
11 into the fund, five percent of the market value of invested
12 assets shall be used for distribution. The first year after
13 the receipts are deposited into the fund, five percent of the
14 average of the market value of the initial investment and the
15 prior year's invested assets shall be used for distribution.
16 The second year after the receipts are deposited into the
17 fund, five percent of the average of the market value of the
18 initial investment and two prior year's invested assets shall
19 be used for distribution. Beginning the third year after
20 receipts are deposited into the funds, and each fiscal year
21 thereafter, five percent (5%) of the average market value of
22 invested assets of the Legacy Trust Fund as of the end of the
23 three fiscal years ending one, two, and three years prior to
24 the beginning of the fiscal year for which the distribution is
25 being made shall be used for distribution. Distribution shall
26 be as follows: 80 percent of 5% of the average market value
27 invested shall be transferred to the State General Fund, 10

1 percent shall be distributed to the Alabama Capital
2 Improvement Trust Fund as set out in Section 219.04 of the
3 Constitution of Alabama of 1901, (Amendment 666), and 10
4 percent shall remain in the Alabama Legacy Trust Fund.

5 (b) To the extent appropriate and not at the time
6 prohibited by law, the Board shall use the facilities of the
7 State Treasurer in the administration of the trust fund,
8 including, but not limited to, the keeping of records, the
9 management of bank accounts, the transfer of funds, and the
10 safekeeping of securities evidencing investments.

11 (c) An annual audit of the trust fund shall be
12 performed for each fiscal year by the Department of Examiners
13 of Public Accounts, or, in the discretion of the Board, by an
14 independent certified public accounting firm. A report of each
15 audit shall be prepared in accordance with applicable
16 accounting principles. The Board shall prepare and publicize
17 financial and other information concerning the trust fund as
18 may be provided by law. In the absence of any law directing
19 the preparation and publication of reports, the Board shall
20 prepare or cause to be prepared and publicize, within 30 days
21 after the end of each quarterly period in each fiscal year, a
22 report containing all of the following:

23 (1) A statement of the trust capital then held in
24 the trust fund showing any changes since the last quarterly
25 report.

26 (2) A statement of the trust income received during
27 the quarterly period in question.

1 (3) A statement of the investments then held in the
2 trust fund including descriptions and respective values.

3 (4) A statement of the trust income received to date
4 during the current fiscal year.

5 (5) Any other information determined by the Board to
6 reflect a full and complete disclosure of the financial
7 operations of the trust fund.

8 Section VI. No trustee shall be personally liable
9 for any liability, loss, or expense suffered by the trust fund
10 unless the liability, loss, or expense results from the
11 willful misconduct or wrongdoing of the trustee.

12 Section VII. The Legislature shall enact appropriate
13 legislation creating an authority to issue revenue bonds from
14 which the sources of payment of the bonds shall be any
15 Deepwater Horizon Oil Spill Disaster Settlement. The principal
16 amount of authority obligations shall not exceed the total
17 amount of the Deepwater Horizon Oil Spill Disaster Settlement.
18 The proceeds from such bond issuance shall be used to pay the
19 costs of issuing the bonds and as specified in Section IV.
20 Bonds issued by the authority shall be solely and exclusively
21 an obligation of the authority and shall not create an
22 obligation or debt of the state. The Legislature may further
23 enact legislation implementing the provisions of this
24 amendment.

25 Section VIII. This amendment shall be
26 self-executing. The Legislature may enact laws supplemental to
27 this amendment that are in furtherance of the purposes and

1 objectives of this amendment and not inconsistent with this
2 amendment.

3 Section IX. All laws or parts of laws in conflict
4 with this amendment are repealed, including, without
5 limitation, Section 36-15-4.2, Code of Alabama 1975, as
6 amended.

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

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

18 "Proposing an amendment to the Constitution of
19 Alabama of 1901, to create the Alabama Legacy Trust Fund and
20 to provide for the distribution of certain settlement proceeds
21 by the state to be deposited into the trust fund, to be held
22 in perpetual trust for the benefit of the State of Alabama and
23 its citizens, and to pledge the Deepwater Horizon Oil Spill
24 Disaster Settlement as debt service for the issuance of
25 revenue bonds to repay the Alabama Trust Fund Rainy Day
26 Account and the Alabama Trust Fund.

27 "Proposed by Act _____."

1 This description shall be followed by the following
2 language:
3 "Yes () No ()."