

1 SB382  
2 145602-3  
3 By Senator Brewbaker (Constitutional Amendment)  
4 RFD: Constitution, Campaign Finance, Ethics, and Elections  
5 First Read: 04-APR-13

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8 SYNOPSIS: Under existing law, the Constitution of  
9 Alabama of 1901 may be amended by the Legislature  
10 submitting a proposed constitutional amendment for  
11 ratification or rejection by the people which  
12 becomes effective upon ratification and  
13 proclamation. Laws must be enacted by the  
14 Legislature and generally become effective upon  
15 enactment or at a later date provided by the  
16 statute.

17 This bill would propose an amendment to the  
18 Constitution of Alabama of 1901 to provide that the  
19 people also may propose the enactment of general  
20 laws and constitutional amendments by an initiative  
21 measure subject to the same limitations imposed on  
22 the Legislature and that the Legislature may offer  
23 an alternate proposal.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

1  
2 To propose an amendment to the Constitution of  
3 Alabama of 1901, to provide that the people may initiate the  
4 enactment of certain general laws or constitutional amendments  
5 by an initiative and that the Legislature may offer an  
6 alternate proposal.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 PROPOSED AMENDMENT

17 Part I. (a) The people may propose by the initiative  
18 process that a general law be enacted by filing with the  
19 Secretary of State a concise summary of the proposal  
20 accompanied by a preliminary petition signed by no less than  
21 1000 qualified Alabama voters and a filing fee of one thousand  
22 dollars (\$1,000). The filing fee shall be refundable, less any  
23 administrative expenses incurred, if the initiative is  
24 successfully adopted or enacted. The preliminary filing must  
25 be in the name of an individual qualified elector who becomes  
26 the registered agent for the proposition. The named individual  
27 registered agent is the responsible party for any future

1 filings and must file any election reports and disclosures  
2 required by the election laws in the same manner as a  
3 candidate seeking elected office. The registered agent is  
4 subject to any and all other requirements and liabilities as  
5 candidates for office. The Secretary of State shall verify  
6 that the name and address of each qualified Alabama voter  
7 signing the preliminary petition are the same or substantially  
8 similar to the name and address that appear on the registered  
9 voter list.

10 (b) The Secretary of State shall review the  
11 preliminary filing subject to any restrictions and limitations  
12 imposed by the Legislature by general law and any  
13 administrative rules promulgated by the Secretary of State  
14 regarding initiatives. Upon approval, the Secretary of State  
15 shall certify to the registered agent the preliminary summary  
16 of the proposal for preparation of the full text and official  
17 summary of the proposal.

18 (c) Upon the request of the registered agent,  
19 accompanied by the certification by the Secretary of State,  
20 the Alabama Law Institute shall prepare the full text of the  
21 initiative proposal along with an official summary within 90  
22 days of the request unless the registered agent agrees in  
23 writing to extend the time for preparation. The registered  
24 agent must file a copy of the full text and summary as  
25 prepared by the Alabama Law Institute with the Secretary of  
26 State for registration and publication to seek signatures for  
27 the final filing and to proceed for legislative consideration.

1 (d) Upon receipt of the full text and summary of a  
2 proposal filed by the registered agent, the Secretary of State  
3 shall publish the full text and summary of the proposal on the  
4 Secretary of State's website. The full text of each proposal  
5 shall remain published on the website for a period of no less  
6 than 90 days. The summary of each proposal shall remain  
7 published on the website throughout the next regular session  
8 of the Legislature.

9 (e) Any proposal properly filed with the Secretary  
10 of State's office prior to the first legislative day of any  
11 regular session shall be published by the Secretary of State  
12 for the review and consideration by the individual members of  
13 the Legislature. No later than the third legislative day, the  
14 Secretary of State shall prepare and disseminate to all  
15 members of the Legislature a complete list of the official  
16 summaries of all timely filed proposals. Upon request by any  
17 individual member of the Legislature, the Secretary of State  
18 shall provide a copy of the full text of the proposal to the  
19 member. A member may elect to sponsor the initiative proposal  
20 before the Legislature during that regular session in the same  
21 manner as any other sponsored legislation.

22 (f) In the event that no member of the Legislature  
23 elects to sponsor a proposal, or the registered agent  
24 determines that no suitable action was taken by any individual  
25 in the Legislature on the proposal, the registered agent may  
26 resume the initiative process only after the end of the  
27 regular session by proceeding to obtain signatures in a final

1 petition format provided by the Secretary of State for  
2 qualifying the full text of the proposal for consideration.  
3 The final petition must be signed by qualified Alabama voters  
4 in a number that equals at least seven percent of the total  
5 votes cast for Governor in the last preceding gubernatorial  
6 general election. Each petition shall contain a minimum number  
7 of signatures of qualified Alabama voters from each  
8 congressional district in the state equal to one percent of  
9 the total votes cast for Governor in the last preceding  
10 gubernatorial general election within each district. The  
11 Secretary of State shall verify that the name and address of  
12 each qualified Alabama voter signing the final petition are  
13 the same or substantially similar to the name and address that  
14 appear on the registered voter list. The 1,000 signatures  
15 contained on the preliminary petition may be used towards the  
16 total requirement for the final petition.

17 (g) Once the required signatures are obtained, the  
18 registered agent shall submit a copy of the full text of the  
19 proposal, the summary, and final petition to the Secretary of  
20 State. The registered agent has two calendar years from the  
21 date of registration of the full text of the proposal and  
22 summary to qualify the proposal and summary for final filing  
23 and consideration. The Secretary of State shall issue to the  
24 registered agent a certification for filing the full text  
25 proposal and summary with the Legislature. The registered  
26 agent must file the full text proposal and summary with the

1 Legislature within two years and an initiative proposal may  
2 only be filed in a Regular Session of the Legislature.

3 (h) A full text proposal and summary for the  
4 enactment of a general law shall be submitted by the  
5 registered agent with certifying documentation from the  
6 Secretary of State, to the Legislature 30 days prior to the  
7 first legislative day of the regular session by filing a copy  
8 with the Legislative Reference Service and the Legislative  
9 Fiscal Office for a constitutional and fiscal analysis  
10 respectively. The Secretary of the Senate and the Clerk of the  
11 House shall prefile in the respective houses the proposal for  
12 a general law and on the first day of the session the proposal  
13 shall be introduced by the President Pro Tempore of the Senate  
14 and the Speaker Pro Tempore of the House. The proposal shall  
15 be presented in bill form and treated in every respect the  
16 same as any other bill for a general law except as otherwise  
17 provided by this amendment and except that the measure shall  
18 not be sent to the Governor nor require the Governor's  
19 signature. The Legislature upon considering the proposal for  
20 the enactment of a general bill by the initiative may not  
21 alter or amend the original proposal; however, the Legislature  
22 may offer an alternate proposal to be considered in the same  
23 manner. If the Legislature does not enact the proposal by  
24 12:01 a.m. of the 30th legislative day, the proposal shall be  
25 placed on the ballot by the Secretary of State. If the  
26 Legislature approves an alternate proposal, both the original  
27 proposal from the initiative process and the alternate

1 legislative proposal shall be placed on the ballot. The  
2 question shall be submitted to the qualified voters at the  
3 first statewide election held 90 days or more after the  
4 Legislature adjourns. No special election may be called solely  
5 for the purpose of a voter initiative. "Enact" as used in this  
6 amendment means the proposal is considered for a third reading  
7 before each body and is voted upon by each house of the  
8 Legislature, in its original form as proposed, by the end of  
9 the 29th legislative day. The proposal may be a bill for a new  
10 statute, a bill to amend an existing statute, or a bill to  
11 repeal an existing statute in whole or in part. Upon enactment  
12 in the Legislature, the Secretary of the Senate or the Clerk  
13 of the House, respectively, shall deliver any enactment by the  
14 initiative proposal to the Secretary of State. The time for  
15 delivery from the Legislature to the Secretary of State shall  
16 be the same as for the Governor pursuant to Section 125 of the  
17 Constitution of Alabama of 1901, now appearing as Section 125  
18 of the Official Recompilation of the Constitution of Alabama  
19 of 1901, as amended, and shall not be subject to veto of any  
20 nature. The initiative proposal for a general law enacted by  
21 the Legislature shall become law effective upon delivery to  
22 the Secretary of State, or upon the terms of the initiative.  
23 If two or more proposals including an initiative proposal and  
24 a legislative alternative for a general law, proposed  
25 separately for the initiative procedure or as an initiative  
26 and an alternate legislative proposal, relating to essentially  
27 the same subject, appear on the ballot and are adopted, the



1 measure which receives the highest number of affirmative votes  
2 shall prevail to the extent of any conflict.

3 (i) No measure proposed as a statutory initiative  
4 shall be sent to the Governor, but shall be sent directly to  
5 the Legislative Reference Service for preparation of a review  
6 and comment, including an official summary of the proposal for  
7 use on the ballot. Both the ballot title and the official  
8 summary for the ballot shall be impartial and not likely to  
9 create prejudice for or against the measure and shall be  
10 prepared in consultation with the initiative committee and  
11 proponents. The initiative shall be sent to the Secretary of  
12 State for inclusion in the appropriate election.

13 (j) No law adopted by the initiative under this  
14 section shall be repealed or amended except by vote of the  
15 people, unless it is otherwise provided by its terms.

16 Part II. (a) The people may propose a constitutional  
17 amendment with statewide application by filing a preliminary  
18 petition containing a summary of the proposal with the  
19 Secretary of State and proceeding further in the same manner  
20 and with the same requirements and following the same  
21 procedures as for the petition process and the proposal of a  
22 general law outlined in Part I above, including the refund of  
23 the filing fee, less any administrative expenses incurred, for  
24 an initiative that is successfully adopted; provided, however,  
25 the petition must be signed by qualified Alabama voters and  
26 verified as outlined in Part I. The total number of signatures  
27 on the final petition required for a proposed constitutional

1 amendment must equal at least 10 percent of the total votes  
2 cast for Governor in the last preceding gubernatorial general  
3 election. Each final petition shall contain a minimum number  
4 of signatures of qualified Alabama voters from each  
5 congressional district in the state equal to 1.3 percent of  
6 the total votes cast for Governor in the last preceding  
7 gubernatorial general election within each district. The  
8 Legislature may approve an alternative amendment which shall  
9 appear on the ballot at the same time following the same  
10 procedure as for a general law in Part I above.

11 (b) The proposal and any alternative shall be  
12 submitted to the qualified voters at the first statewide  
13 election held 90 days or more after the measure qualifies;  
14 however, a special election may not be called solely for the  
15 purpose of a voter initiative proposal.

16 (c) No measure proposed pursuant to this part of  
17 this amendment shall be sent to the Governor, but shall be  
18 sent directly to the Legislative Reference Service for  
19 preparation of a review and comment, including an official  
20 summary of the proposal for use on the ballot. Both the ballot  
21 title and the official summary shall be impartial and not  
22 likely to create prejudice for or against the measure and  
23 shall be prepared in consideration with the initiative  
24 committee and proponents. The initiative shall be sent to the  
25 Secretary of State for inclusion in the appropriate election.

1 (d) A proposed amendment or the legislative  
2 alternative shall become part of the Constitution if approved  
3 by a majority of electors voting on the proposal.

4 (e) If two constitutional amendments proposed  
5 separately by the initiative procedure, relating to  
6 essentially the same subject, appear on the ballot and are  
7 adopted, the amendment which receives the highest number of  
8 affirmative votes shall prevail to the extent of any conflict  
9 and shall be proclaimed upon the date of ratification.

10 (f) No more than two pieces of legislation proposed  
11 pursuant to this amendment may be enacted by the Legislature  
12 pursuant to this amendment in any legislative session. If more  
13 than two pieces of legislation are proposed, the two pieces of  
14 legislation which may be enacted or placed on the ballot shall  
15 be the two proposals having the greatest number of signatures.  
16 If a proposal by initiative, whether a general bill or an  
17 amendment to the Constitution of Alabama of 1901, has an  
18 alternative proposal made by the Legislature, the ballot  
19 language shall be as follows:

20 Do you favor amending general law or proposing a  
21 constitutional amendment regarding \_\_\_\_\_?

22 Yes \_\_\_ No \_\_\_

23 Which change do you prefer?

24 \_\_\_\_\_ (A) The change proposed by the initiative  
25 process which \_\_\_\_\_.

26 \_\_\_\_\_ (B) The change offered as an alternative  
27 proposal which \_\_\_\_\_.

1           Part III. If an initiative proposed by Part I or  
2 Part II fails to be adopted or approved pursuant to the  
3 process provided in this amendment, an identical initiative  
4 may not be resubmitted sooner than two years following the  
5 failure of the prior initiative.

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

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

17           "Proposing an amendment to the Constitution of  
18 Alabama of 1901, providing that the people may initiate the  
19 enactment of certain general laws or constitutional amendments  
20 and that the Legislature may offer an alternative proposal.

21           "Proposed by Act \_\_\_\_\_."

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

24           "Yes ( ) No ( )."