

1 HB311
2 136804-1
3 By Representative Melton (Constitutional Amendment)
4 RFD: Constitution, Campaigns and Elections
5 First Read: 14-FEB-12

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8 SYNOPSIS: This bill would propose an amendment to the
9 Constitution of Alabama of 1901, to provide a
10 procedure for qualified electors to petition for
11 the recall of incumbent elected officers.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT

16
17 Relating to elections; to propose an amendment to
18 the Constitution of Alabama of 1901, to provide a procedure
19 for qualified electors to petition for the recall of incumbent
20 elected officers.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

1 PROPOSED AMENDMENT

2 The qualified electors of the state, of any
3 congressional, judicial, or legislative district, or of any
4 county or municipality may petition for the recall of any
5 incumbent elective officer after the first year of the term
6 for which the incumbent was elected, by filing a petition with
7 the filing officer with whom the nomination petition to the
8 office in the primary is filed, demanding the recall of the
9 incumbent.

10 (1) The recall petition shall be signed by electors
11 equalling at least 25 percent of the vote cast for the office
12 of Governor at the last preceding election, in the state,
13 county, municipality, or district which the incumbent
14 represents.

15 (2) The filing officer with whom the recall petition
16 is filed shall call a recall election for the Tuesday of the
17 6th week after the date of filing the petition or, if that
18 Tuesday is a legal holiday, on the first day after that
19 Tuesday which is not a legal holiday.

20 (3) The incumbent shall continue to perform the
21 duties of the office until the recall election results are
22 officially declared.

23 (4) Unless the incumbent declines within 10 days
24 after the filing of the petition, the incumbent shall without
25 filing be deemed to have filed for the recall election. Other
26 candidates may file for the office in the manner provided by

1 law for special elections. For the purpose of conducting
2 elections under this amendment:

3 a. When more than two persons compete for a
4 nonpartisan office, a recall primary shall be held. The two
5 persons receiving the highest number of votes in the recall
6 primary shall be the two candidates in the recall election,
7 except that if any candidate receives a majority of the total
8 number of votes cast in the recall primary, that candidate
9 shall assume the office for the remainder of the term and a
10 recall election shall not be held.

11 b. For any partisan office, a recall primary shall
12 be held for each political party which is by law entitled to a
13 separate ballot and from which more than one candidate
14 competes for the party's nomination in the recall election.
15 The person receiving the highest number of votes in the recall
16 primary for each political party shall be that party's
17 candidate in the recall election. Independent candidates and
18 candidates representing political parties not entitled by law
19 to a separate ballot shall be shown on the ballot for the
20 recall election only.

21 c. When a recall primary is required, the date
22 specified under subdivision (2) shall be the date of the
23 recall primary and the recall election shall be held on the
24 Tuesday of the 4th week after the recall primary or, if that
25 Tuesday is a legal holiday, on the first day after that
26 Tuesday which is not a legal holiday.

1 (5) The person who receives the highest number of
2 votes in the recall election shall be elected for the
3 remainder of the term.

4 (6) After one such petition and recall election, no
5 further recall petition shall be filed against the same
6 officer during the term for which he or she was elected.

7 (7) This amendment shall be self-executing and
8 mandatory. Laws may be enacted to facilitate its operation but
9 no law shall be enacted to hamper, restrict, or impair the
10 right of recall.

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

17 Section 3. The appropriate election official shall
18 assign a ballot number for the proposed constitutional
19 amendment on the election ballot and shall set forth the
20 following description of the substance or subject matter of
21 the proposed constitutional amendment:

22 "Proposing an amendment to the Constitution of
23 Alabama of 1901, to provide a procedure for qualified electors
24 to petition for the recall of an incumbent elective officer.

25 "Proposed by Act _____."

26 This description shall be followed by the following
27 language:

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"Yes () No ()."