

1 SB54
2 126131-1
3 By Senators Irons and Orr
4 RFD: Judiciary
5 First Read: 01-MAR-11
6 PFD: 02/28/2011

8 SYNOPSIS: Under existing law, there are distinctions
9 between notaries public commissioned to serve a
10 specific county and notaries public commissioned to
11 serve the state at large.

12 This bill would eliminate the distinction
13 between county and at-large notaries public while
14 preserving the functions, powers, and commissions
15 of existing notaries public.

16 Amendment 621 of the Constitution of Alabama
17 of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, prohibits a general
20 law whose purpose or effect would be to require a
21 new or increased expenditure of local funds from
22 becoming effective with regard to a local
23 governmental entity without enactment by a 2/3 vote
24 unless: it comes within one of a number of
25 specified exceptions; it is approved by the
26 affected entity; or the Legislature appropriates

funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the amendment. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the amendment.

A BILL

TO BE ENTITLED

AN ACT

Relating to notaries public; to add Article 4, commencing with Section 36-20-70, to Chapter 20, Title 36, Code of Alabama 1975, to eliminate the distinction between county and at-large notaries public; to preserve the functions, powers, and commissions of existing notaries public; to repeal Article 1, commencing with Section 36-20-1, Chapter 20, Title 36, Code of Alabama 1975, relating to the employment of notaries public by counties, and Article 2, commencing with Section 36-20-30, Chapter 20, Title 36, Code of Alabama 1975, relating to the employment of notaries public for the state at large; and in connection therewith to have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621

of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Article 4, commencing with Section 36-20-70, is added to Chapter 20 of Title 36 of the Code of Alabama 1975, to read as follows:

§36-20-70.

(a) A competent number of notaries public for the state at large shall be appointed and commissioned by the judges of probate of the several counties of the state and shall hold office for four years from the date of their commission. Such notaries public shall perform all the acts and exercise all authority under the general laws of the State of Alabama. The jurisdiction of such notaries public shall not be limited to the counties of their residence and shall extend to any county of the state. The judges of probate shall collect a fee of ten dollars (\$10) for each notary commission issued. The judges of probate shall also report to the Secretary of State the name, county of residence, date of issuance, and date of expiration of the commission of each notary public appointed and commissioned under this subsection.

(b) All existing notaries public functioning on the effective date of this article shall continue to function pursuant to their existing authority for the remainder of their existing commission.

§36-20-71.

(a) Notaries public shall give bond with sureties, to be approved by the judge of probate of the county of their residence, in the sum of twenty-five thousand dollars (\$25,000), payable to the State of Alabama and conditioned to faithfully discharge the duties of such office so long as they may continue therein or discharge any of the duties thereof. Such bond shall be executed, approved, filed, and recorded in the office of the judge of probate of the county of their residence, before they enter on the duties of such office.

(b) All existing notaries public functioning on the effective date of this article shall continue to function pursuant to their existing bond for the remainder of their existing commission.

§36-20-72.

For the authentication of his or her official acts, each notary shall provide a seal of office, which shall present, by its impression or stamp, the name, office, and the state for which he or she was appointed.

§36-20-73.

Notaries public may do all of the following:

(1) Administer oaths in all matters incident to the exercise of their office.

(2) Take the acknowledgment or proof of instruments of writing relating to commerce or navigation and certify the same and all other of their official acts under their seal of office.

(3) Demand acceptance and payment of bills of exchange, promissory notes, and all other writings which are governed by the commercial law as to days of grace, demand, and notice of nonpayment and protest the same for nonacceptance or nonpayment and to give notice thereof as required by law.

(4) Exercise such other powers, according to commercial usage or the laws of this state, as may belong to notaries public.

§36-20-74.

Notaries public are entitled to the sum of one dollar (\$1) for carrying out any of the enumerated powers in Section 36-20-73.

§36-20-75.

Any person who, having been a notary, willfully performs or assumes the authority to perform a notarial act after his or her commission expires, with knowledge that his or her commission has expired, or any person who without a notary's commission assumes the authority and performs a notarial act shall be guilty of a Class C misdemeanor.

Section 2. All laws or parts of laws which conflict with this act are repealed. Specifically, Article 1, consisting of Sections 36-20-1 to 36-20-11, inclusive, of Chapter 20 of Title 36, Code of Alabama 1975, relating to the employment of notaries public by counties, and Article 2, consisting of Sections 36-20-30 to 36-20-32, inclusive, of Chapter 20 of Title 36, Code of Alabama 1975, relating to the

1 employment of notaries public for the state at large, are
2 repealed.

3 Section 3. Although this bill would have as its
4 purpose or effect the requirement of a new or increased
5 expenditure of local funds, the bill is excluded from further
6 requirements and application under Amendment 621, now
7 appearing as Section 111.05 of the Official Recompilation of
8 the Constitution of Alabama of 1901, as amended, because the
9 bill defines a new crime or amends the definition of an
10 existing crime.

11 Section 4. This act shall become effective on
12 January 1, 2012, following its passage and approval by the
13 Governor, or its otherwise becoming law.