

1                   HB337  
2                   125936-1  
3                   By Representative Ball (Constitutional Amendment)  
4                   RFD: Constitution, Campaigns and Elections  
5                   First Read: 24-MAR-11

1 125936-1:n:02/10/2011:MCS/tj LRS2011-572

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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

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

## PROPOSED AMENDMENT

Part I. (a) The people may propose by the initiative process that a general law be enacted by filing with the Secretary of State a concise summary of the proposal accompanied by a preliminary petition signed by no less than 1000 qualified Alabama voters and a filing fee of one thousand dollars (\$1,000) to cover the administrative costs of processing the initiative. The preliminary filing must be in the name of an individual qualified elector who becomes the registered agent for the proposition. The named individual registered agent is the responsible party for any future filings and must file any election reports and disclosures

1 required by the election laws in the same manner as a  
2 candidate seeking elected office. The registered agent is  
3 subject to any and all other requirements and liabilities as  
4 candidates for office. The name and address of each qualified  
5 Alabama voter signing the preliminary petition must appear the  
6 same as that information appears on the registered voter list.

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

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

25 (d) Upon receipt of the full text and summary of a  
26 proposal filed by the registered agent, the Secretary of State  
27 shall publish the full text and summary of the proposal on the

Secretary of State's website. The full text of each proposal shall remain published on the website for a period of no less than 90 days. The summary of each proposal shall remain published on the website throughout the next regular session of the Legislature.

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

(f) In the event that no member of the Legislature elects to sponsor a proposal, or the registered agent determines that no suitable action was taken by any individual in the Legislature on the proposal, the registered agent may resume the initiative process only after the end of the regular session by proceeding to obtain signatures in a final petition format provided by the Secretary of State for qualifying the full text of the proposal for consideration. The final petition must be signed by qualified Alabama voters

1 in a number that equals at least seven percent of the total  
2 votes cast for Governor in the last preceding gubernatorial  
3 general election. Each petition shall contain a minimum number  
4 of signatures of qualified Alabama voters from each  
5 congressional district in the state equal to one percent of  
6 the total votes cast for Governor in the last preceding  
7 gubernatorial general election within each district. The name  
8 and address of each qualified Alabama voter signing the final  
9 petition must appear the same as that information appears on  
10 the registered voter list. The 1,000 signatures contained on  
11 the preliminary petition may be used towards the total  
12 requirement for the final petition.

13 (g) Once the required signatures are obtained, the  
14 registered agent shall submit a copy of the full text of the  
15 proposal, the summary, and final petition to the Secretary of  
16 State. The registered agent has two calendar years from the  
17 date of registration of the full text of the proposal and  
18 summary to qualify the proposal and summary for final filing  
19 and consideration. The Secretary of State shall issue to the  
20 registered agent a certification for filing the full text  
21 proposal and summary with the Legislature. The registered  
22 agent must file the full text proposal and summary with the  
23 Legislature within two years and an initiative proposal may  
24 only be filed in a Regular Session of the Legislature.

25 (h) A full text proposal and summary for the  
26 enactment of a general law shall be submitted by the  
27 registered agent with certifying documentation from the

1 Secretary of State, to the Legislature 30 days prior to the  
2 first legislative day of the regular session by filing a copy  
3 with the Legislative Reference Service and the Legislative  
4 Fiscal Office for a constitutional and fiscal analysis  
5 respectively. The Secretary of the Senate and the Clerk of the  
6 House shall prefile in the respective houses the proposal for  
7 a general law and on the first day of the session the proposal  
8 shall be introduced by the President Pro Tempore of the Senate  
9 and the Speaker Pro Tempore of the House. The proposal shall  
10 be presented in bill form and treated in every respect the  
11 same as any other bill for a general law except as otherwise  
12 provided by this amendment and except that the measure shall  
13 not be sent to the Governor nor require the Governor's  
14 signature. The Legislature upon considering the proposal for  
15 the enactment of a general bill by the initiative may not  
16 alter or amend the original proposal; however, the Legislature  
17 may offer an alternate proposal to be considered in the same  
18 manner. If the Legislature does not enact the proposal by  
19 12:01 a.m. of the 30th legislative day, the proposal shall be  
20 placed on the ballot by the Secretary of State. If the  
21 Legislature approves an alternate proposal, both the original  
22 proposal from the initiative process and the alternate  
23 legislative proposal shall be placed on the ballot. The  
24 question shall be submitted to the qualified voters at the  
25 first statewide election held 90 days or more after the  
26 Legislature adjourns. No special election may be called solely  
27 for the purpose of a voter initiative. "Enact" as used in this

amendment means the proposal is considered for a third reading before each body and is voted upon by each house of the Legislature, in its original form as proposed, by the end of the 29th legislative day. The proposal may be a bill for a new statute, a bill to amend an existing statute, or a bill to repeal an existing statute in whole or in part. Upon enactment in the Legislature, the Secretary of the Senate or the Clerk of the House, respectively, shall deliver any enactment by the initiative proposal to the Secretary of State. The time for delivery from the Legislature to the Secretary of State shall be the same as for the Governor pursuant to Section 125 of the Constitution of Alabama of 1901, now appearing as Section 125 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, and shall not be subject to veto of any nature. The initiative proposal for a general law enacted by the Legislature shall become law effective upon delivery to the Secretary of State, or upon the terms of the initiative. If two or more proposals including an initiative proposal and a legislative alternative for a general law, proposed separately for the initiative procedure or as an initiative and an alternate legislative proposal, relating to essentially the same subject, appear on the ballot and are adopted, the measure which receives the highest number of affirmative votes shall prevail to the extent of any conflict.

(i) No measure proposed as a statutory initiative shall be sent to the Governor, but shall be sent directly to the Legislative Reference Service for preparation of a review

1 and comment, including an official summary of the proposal for  
2 use on the ballot. Both the ballot title and the official  
3 summary for the ballot shall be impartial and not likely to  
4 create prejudice for or against the measure and may be  
5 prepared in consultation with the initiative committee and  
6 proponents. The initiative shall be sent to the Secretary of  
7 State for inclusion in the appropriate election.

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

11 Part II. (a) The people may propose a constitutional  
12 amendment with statewide application by filing a preliminary  
13 petition containing a summary of the proposal with the  
14 Secretary of State and proceeding further in the same manner  
15 and with the same requirements and following the same  
16 procedures as for the proposal of a general law outlined in I.  
17 above; provided, however, the total number of signatures on  
18 the final petition required for a proposed constitutional  
19 amendment must equal at least 10 percent of the total votes  
20 cast for Governor in the last preceding gubernatorial general  
21 election. The Legislature may approve an alternative amendment  
22 which shall appear on the ballot at the same time following  
23 the same procedure as for a general law in I. above.

24 (b) The proposal and any alternative shall be  
25 submitted to the qualified voters at the first statewide  
26 election held 90 days or more after the measure qualifies;

1 however, a special election may not be called solely for the  
2 purpose of a voter initiative proposal.

3 (c) No measure proposed pursuant to this part of  
4 this amendment shall be sent to the Governor, but shall be  
5 sent directly to the Legislative Reference Service for  
6 preparation of a review and comment, including an official  
7 summary of the proposal for use on the ballot. Both the ballot  
8 title and the official summary shall be impartial and not  
9 likely to create prejudice for or against the measure and may  
10 be prepared in consideration 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 (d) A proposed amendment or the legislative  
14 alternative shall become part of the Constitution if approved  
15 by a majority of electors voting on the proposal.

16 (e) If two constitutional amendments proposed  
17 separately by the initiative procedure, relating to  
18 essentially the same subject, appear on the ballot and are  
19 adopted, the amendment which receives the highest number of  
20 affirmative votes shall prevail to the extent of any conflict  
21 and shall be proclaimed upon the date of ratification.

22 (f) No more than two pieces of legislation proposed  
23 pursuant to this amendment may be enacted by the Legislature  
24 pursuant to this amendment in any legislative session. If more  
25 than two pieces of legislation are proposed, the two pieces of  
26 legislation which may be enacted or placed on the ballot shall  
27 be the two proposals having the greatest number of signatures.

1       If a proposal by initiative, whether a general bill or an  
2       amendment to the Constitution of Alabama of 1901, has an  
3       alternative proposal made by the Legislature, the ballot  
4       language shall be as follows:

5                   Do you favor amending general law or proposing a  
6       constitutional amendment regarding \_\_\_\_?

7                   Yes \_\_\_\_ No \_\_\_\_

8                   Which change do you prefer?

9                   \_\_\_\_ (A) The change proposed by the initiative  
10       process which \_\_\_\_.

11                   \_\_\_\_ (B) The change offered as an alternative  
12       proposal which \_\_\_\_.

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

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

24                   "Proposing an amendment to the Constitution of  
25       Alabama of 1901, providing that the people may initiate the  
26       enactment of certain general laws or constitutional amendments  
27       and that the Legislature may offer an alternative proposal.

1                   "Proposed by Act \_\_\_\_\_."

2                   This description shall be followed by the following

3                   language:

4                   "Yes ( )    No ( ) ."