

1 SB313
2 214881-1
3 By Senator Orr
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 15-MAR-22

SYNOPSIS: This bill would prohibit a public official or public employee from expending public funds to advocate in favor of or against statewide and local ballot measures.

Amendment 621 of the Constitution of Alabama of 1901, as amended by Amendment 890, now appearing as Section 111.05 of the Official ReCompilation of the Constitution of Alabama of 1901, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the 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,

1 the bill does not require approval of a local
2 governmental entity or enactment by a 2/3 vote to
3 become effective because it comes within one of the
4 specified exceptions contained in the amendment.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 Relating to public funds; to prohibit any public
11 official or public employee from expending public funds to
12 advocate in favor of or against statewide and local ballot
13 measures; and in connection therewith would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds within the meaning of Amendment 621
16 of the Constitution of Alabama of 1901, as amended by
17 Amendment 890, now appearing as Section 111.05 of the Official
18 Recompilation of the Constitution of Alabama of 1901, as
19 amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. (a) For the purposes of this section, the
22 following terms have the following meanings:

23 (1) GOVERNMENTAL BODY. Any department, agency,
24 board, commission, or authority of the state or political
25 subdivision, or any public corporation, authority, agency,
26 board, commission, or other governmental body controlled by
27 the state or political subdivision, including a public

1 institution of higher education, local board of education, or
2 any school under the jurisdiction of a local board of
3 education.

4 (2) PUBLIC EMPLOYEE. The meaning ascribed in Section
5 36-25-1, Code of Alabama 1975.

6 (3) PUBLIC OFFICIAL. The meaning ascribed in Section
7 36-25-1, Code of Alabama 1975.

8 (b)(1) Any provision of law to the contrary
9 notwithstanding, a public official or public employee may not
10 expend any public funds from any source for activities to
11 advocate in favor of or against a statewide or local ballot
12 measure, even if the public official or public employee has
13 determined that the expenditure serves a public purpose.

14 (2) For the purposes of this subsection, the
15 activities prohibited are those enumerated in subdivision
16 (b)(1) of Section 17-17-5, Code of Alabama 1975, including the
17 presentation or distribution of any political literature or
18 the placement of any sign, banner, marker, or other political
19 poster on the property of a governmental body, if the purpose
20 is to advocate in favor of or against a statewide or local
21 ballot measure.

22 (c) Providing an objective analysis or factual
23 information on a ballot measure which does not advocate a
24 specific position is not a prohibited activity under
25 subsection (b).

1 (d) Any public official or public employee who
2 violates this section shall be guilty, upon conviction, of a
3 Class A misdemeanor.

4 (e) Nothing in this section shall prevent a
5 contribution or dues payment to a trade association of which
6 the public employee is a member.

7 (f) Nothing in this section shall be interpreted as
8 prohibiting any student, faculty member, or other employee or
9 official of a school or institution of higher education from
10 discussing political topics, including referendums, while on
11 campus.

12 (g) Nothing in this section shall be interpreted as
13 prohibiting a public official or public employee from
14 promoting or opposing a referendum in his or her capacity as a
15 private citizen and while not engaged in official duties as
16 long as the activities of the public official or public
17 employee do not violate Section 36-25-5, Code of Alabama 1975.

18 Section 2. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, as amended
22 by Amendment 890, now appearing as Section 111.05 of the
23 Official Recompilation of the Constitution of Alabama of 1901,
24 as amended, because the bill defines a new crime or amends the
25 definition of an existing crime.

1 Section 3. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.