

1 SJR42
2 116285-1
3 By Senators Little (T), Dunn, Bedford, Sanders, Figures,
4 Means, Mitchem, Ross, Denton, Singleton, Little (Z), Marsh,
5 Mitchell, Smitherman, Coleman, Keahay, Penn and Benefield
6 RFD:
7 First Read: 02-FEB-10

8 TO CALL FOR A SPECIAL ELECTION ON THE ISSUE OF
9 CALLING A CONSTITUTIONAL CONVENTION TO REVISE AND AMEND THE
10 CONSTITUTION OF ALABAMA OF 1901; IN THE EVENT A MAJORITY OF
11 ELECTORS VOTING ON THE ISSUE IN THE SPECIAL ELECTION FAVOR A
12 CONVENTION, TO PROVIDE FOR THE ELECTION OF DELEGATES TO THE
13 CONVENTION; TO PROVIDE FOR THE HOLDING OF THE CONVENTION; AND
14 TO PROVIDE FOR A SPECIAL ELECTION TO RATIFY THE PROPOSED
15 CONSTITUTION OF ALABAMA PURSUANT TO AMENDMENT 714 OF THE
16 CONSTITUTION OF ALABAMA OF 1901, NOW APPEARING AS SECTION
17 286.01 OF THE OFFICIAL RECOMPILED EDITION OF THE CONSTITUTION OF
18 ALABAMA OF 1901, AS AMENDED.

19
20 BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH
21 HOUSES THEREOF CONCURRING:

22 (1) That a special statewide election shall be held
23 in November 2010 on the same date and in the same manner and
24 by the same officers as the general election provided for in
25 Section 17-14-3 of the Code of Alabama of 1975, as such
26 section has been or may be from time to time amended, for the
27 purpose of determining whether a convention shall be held to

1 revise and amend the Constitution of Alabama of 1901. At the
2 election, the question of whether to hold a convention shall
3 be submitted to a vote of the qualified electors of this
4 state. There shall be printed on the official ballots the
5 question to be voted in the following form:

6 "Do you favor the holding of a constitutional
7 convention for the purpose of revising the Constitution of
8 Alabama of 1901?

9 "Yes () No ()"

10 If a majority of the voters voting on the question
11 at the special statewide election shall approve of the holding
12 of a convention for the purpose stated, the election of the
13 delegates for the convention and the holding of the convention
14 shall be held in the manner hereinafter provided.

15 (2) That in the same manner as for any other general
16 election ballot, the election officials of each county shall
17 ascertain the number of votes "Yes" and the number of votes
18 "No" and shall certify the vote results to the Secretary of
19 State. The Secretary of State, as quickly as practicable,
20 shall certify the statewide results. If it appears that a
21 majority of all persons voting on the question at the special
22 election voted for the holding of the convention, the Governor
23 shall give public notice, by proclamation, of the fact that a
24 majority of the electors of the state voting on the question
25 at the special election approved the call of the convention
26 for the purpose of revising and amending the Constitution of
27 Alabama of 1901. The proclamation shall be published in every

1 county in a newspaper of general circulation. The courts of
2 the state shall take judicial notice of the proclamation.

3 Additionally, if the holding of the convention is approved by
4 the qualified electors, a supplemental appropriation shall be
5 made during the next special or regular session of the
6 Legislature for funds necessary to implement this plan.

7 (3) That the Legislature of Alabama declares and
8 finds the following:

9 (a) That Alabama's voters are intelligent,
10 insightful, wise, and spiritual, and thus, totally trustworthy
11 to decide fundamental questions of current and future state
12 policy and law, including and especially the character and
13 content of their own Constitution.

14 (b) That Alabama's 1901 Constitution is today in
15 urgent of need of a fresh and open reexamination and revision
16 in a sound public convention process to assure maximum public
17 voices and broad participation, with respect to and with
18 humility by all present state and local elected officials.

19 (c) That Alabama's new Constitution should provide a
20 fundamental law by the people, for the people, and of the
21 people of the great State of Alabama, with an enduring legacy
22 of fundamental rights of liberty and justice for all, firmly
23 developed by the people of the State of Alabama, invoking the
24 favor and the guidance of Almighty God.

25 (4) That if the holding of the convention is
26 approved by the qualified electors of this state, the
27 delegates elected in the manner hereinafter provided shall

convene in the historic hall of the old chambers of the House of Representatives in the State Capitol building in the City of Montgomery at 12:00 noon on the first Monday in October 2012, and proceed to organize the convention by the election of a president and any other officers, from among themselves, as they may deem necessary. The most senior associate justice of the Alabama Supreme Court, or in his or her absence the second most senior associate justice, shall call the convention to order and preside over the convention until a president is elected. The convention shall continue in session at times and places designated by the convention until, by careful revision and amendment of the present constitution, it shall frame and adopt a revised constitution or proposals for this state or until the convention is duly adjourned by the delegates.

(5) (a) That there shall be two delegates elected from each House of Representatives district as the districts exist at the time of the delegate election based on the most recent census for a total of 210 delegates. Delegates shall be elected without political affiliation at a special election that shall be held in June 2012, on the same date and in the same manner and held by the same officers as the political party primary election provided for in Section 17-13-3 of the Code of Alabama of 1975, as such section has been or may be from time to time amended. The two delegates shall be the two top vote recipients in each House of Representatives district receiving a plurality of votes.

(b) That a delegate to the convention shall be at least 18 years of age prior to the election, a qualified elector of his or her district, a citizen of the State of Alabama for three years, and a resident of his or her district for one year immediately preceding the election, and shall reside in his or her district while serving as a delegate.

(c) That candidates for election as delegates shall be qualified by filing a declaration of candidacy with the Secretary of State together with a qualifying fee of fifty dollars (\$50), which fee shall be deposited into the State Treasury to the credit of the Secretary of State to be used in the administration of this election. The date for qualification as determined by the Secretary of State shall be no later than 5:00 p.m., 60 days prior to the date of the political party primary in June 2012. Except to the extent this resolution establishes more restrictive requirements, all candidates for delegates shall be subject to the Fair Campaign Practices Act and any other laws governing candidates and elections at the time of the qualification and election; provided, however, that the following shall also apply:

1. For purposes of the reporting requirements of the Fair Campaign Practices Act, an individual who has received contributions or made expenditures, or given his or her consent for any other person or persons to receive contributions on his or her behalf, in the amount of one thousand dollars (\$1,000) with a view to bringing about his or her election as a delegate shall be deemed a "candidate," even

1 though that individual has not filed a declaration of
2 candidacy with the Secretary of State.

3 2. Other than contributions a candidate for delegate
4 makes to his or her own campaign, a candidate is prohibited
5 from accepting a campaign contribution (including any
6 "in-kind" contribution) exceeding one hundred dollars (\$100)
7 from any one source, which source shall be limited to only
8 citizens of the State of Alabama.

9 3. All contributions, of whatever amount, must be
10 reported pursuant to the procedures prescribed by the Fair
11 Campaign Practices Act.

12 4. No candidate shall accept any contribution after
13 the filing of the report required by Section 17-5-8, Code of
14 Alabama 1975, which shall be filed between five and 10 days
15 before the election.

16 5. Any postelection contribution is prohibited.

17 6. Upon election, the delegates shall be subject to
18 the Alabama Ethics Act and any other laws governing elected or
19 appointed state officials.

20 (d) That the judge of probate of each county shall
21 prepare and furnish to the election officials of each voting
22 place in the county a sufficient number of official ballots,
23 prepared in the manner provided under existing laws, and
24 containing the names of the persons who have been certified as
25 candidates as provided in this resolution.

26 (6) If a dispute occurs as to the right of any
27 person to sit in the convention as a delegate, the question

1 shall be decided by the convention which shall be the
2 exclusive judge of the election, qualification, and returns of
3 its own members. Any person desiring to contest the election
4 of a person certified as being elected as a delegate to the
5 convention may do so in the same manner as the election of a
6 member of the House of Representatives of the Legislature of
7 Alabama is contested and by giving the same bond. Testimony
8 shall be taken in the same manner.

9 (7) That before entering upon the discharge of his
10 or her duties as a member of the convention, each delegate,
11 before a judge of a circuit court or the Supreme Court of
12 Alabama, shall take the following oath: "I do solemnly swear
13 that I will support the Constitution of the United States, and
14 I will honestly and faithfully perform the duties as a
15 delegate of this convention, so help me God."

16 (8) That the delegates to the convention shall be
17 supplied with stationery, books, statutes, reports, and
18 documents in the same manner as members of the Legislature of
19 Alabama. The delegates shall receive for their service the
20 same compensation and expenses from the State Treasury as are
21 allowed to members of the Legislature of Alabama and shall be
22 entitled to a daily rate per diem equal to that rate paid to
23 state employees for overnight per diem, plus mileage at the
24 mileage rate provided for state employees. The expenses of the
25 convention delegates shall be paid in the same manner as
26 provided for members of the Legislature of Alabama. The
27 compensation, per diem, mileage, and other expenses shall be

1 paid on the certificates of the president and the secretary or
2 clerk of the convention, to the state Comptroller, in the same
3 manner that payment of compensation, per diem, and mileage to
4 members of the Legislature of Alabama is by law directed to be
5 made. Notwithstanding the foregoing, no legislative member who
6 is a delegate shall receive additional legislative
7 compensation or per diem if the legislative member is being
8 paid any other payments on the same dates for attendance on
9 other state business. Per diem, mileage, compensation, and
10 other expenses shall not be allowed or paid to any member of
11 the convention for a period of time longer than a maximum of
12 60 meeting days. Such compensation, per diem, mileage, and
13 other expenses shall not be paid for any convention meeting
14 days beyond September 30, 2013.

15 (9) That for purposes of this resolution and the
16 constitutional convention, the definition of "lobbying" in
17 Section 36-25-1(17), Code of Alabama 1975, is adopted and also
18 includes the practice of promoting, opposing, or in any manner
19 attempting to influence the introduction, defeat, or enactment
20 of any constitutional provision before the convention or any
21 committee thereof. For purposes of this resolution and the
22 constitutional convention, the term "lobbyist" as defined in
23 Section 36-25-1(18), Code of Alabama 1975, is adopted and also
24 includes anyone who performs activities included in the
25 foregoing definition of "lobbying." Except to the extent this
26 resolution establishes more restrictive requirements, the
27 Alabama Code of Ethics shall apply to lobbyists to the same

1 extent it applies to lobbying the Legislature or a regulatory
2 agency. Without limitation of the generality of the foregoing,
3 all lobbyists shall be required to register with the State
4 Ethics Commission as required by Section 36-25-18, Code of
5 Alabama 1975, and to file the reports required by that
6 section. Additionally, each lobbyist shall file with the State
7 Ethics Commission on the first day and the fifteenth day of
8 each month, beginning July 1, 2012, and continuing each month
9 thereafter until the convention is duly adjourned and any
10 convention proposal or proposals filed with the Secretary of
11 State have been presented to the voters for ratification in
12 conformity with Amendment 714 of the Constitution of Alabama
13 of 1901, now appearing as Section 286.01 of the Official
14 Recompilation of the Constitution of Alabama of 1901, as
15 amended, a report, made under oath, setting forth all
16 expenditures made by him or her relative to lobbying
17 activities. Furthermore, delegates shall be prohibited from
18 receiving a thing of value in association with his or her
19 duties as a delegate.

20 (10) That the convention shall file with the
21 Secretary of State, within one week after its adjournment,
22 certified by the president and secretary of the convention, a
23 correct copy of the constitution or proposals that the
24 convention adopted. The convention shall keep a journal of its
25 proceedings and file it upon adjournment with the Secretary of
26 State.

(11) That except as herein otherwise provided, the general election laws of this state shall apply fully to the elections provided for under this resolution, including all matters preliminary to the holding of the elections as well as all matters subsequent thereto.

(12) (a) That in the event of the framing of a constitution or proposals by this convention, the Governor, within one week after the filing of the constitution or proposals adopted by the convention with the Secretary of State, shall issue a proclamation, published in the same manner as the proclamation to assemble this convention. The proclamation shall state that the constitution or proposals have been framed and that a special election will be held on a specific date in the same manner and by the same officers as general elections are required to be held for the purpose of submitting to the qualified voters of this state for ratification or rejection of the constitution or proposals framed by the convention. The special election, in conformity with Amendment 714 of the Constitution of Alabama of 1901, now appearing as Section 286.01 of the Official Recompilation of the Constitution of Alabama 1901, as amended, shall be held at the same time and the same manner as the 2014 general election.

(b) That at the special election provided for by the preceding subsection, the question of whether to ratify the constitution or proposals adopted by the convention shall be submitted to a vote of the qualified electors of this state.

1 There shall be printed on the official ballots the question to
2 be voted on followed by the words "Yes" and "No," opposite one
3 of which the voter may indicate his or her preference. The
4 returns of this election shall be made in the same manner,
5 within the same time, by the same officers, certified to the
6 same officer, and shall be in the same form as herein provided
7 for the election regarding whether to hold a convention.

8 (13) That within 15 days after the day on which the
9 election is held for the ratification or rejection of the
10 constitution or proposals framed by the convention, the
11 Governor, Secretary of State, and the Attorney General shall
12 meet in the office of the Secretary of State to tabulate the
13 votes on the issue of ratification or rejection and the
14 results shall be certified to the Governor by the Secretary of
15 State and the Attorney General. The Governor shall make known
16 to the people of this state the results of the election by
17 proclamation published in the manner herein provided. If a
18 majority of the voters voting on the constitution or proposals
19 framed by the convention at the special election provided for
20 in item (12) (a) voted affirmatively to ratify the constitution
21 or proposals, the Governor shall designate within the
22 proclamation that January 1 of the following year is the
23 effective date the new constitution shall go into effect as
24 the Constitution of the State of Alabama, and shall be binding
25 and obligatory upon all the people of this state.

26 (14) That if a special election provided for in item
27 (12) (a) is called in the event of the framing of a

1 constitution or proposals by the convention, the judge of
2 probate of each county in the state shall prepare and furnish
3 the official ballots to be voted at such election as is now
4 required under the general election laws of the state which
5 official ballot shall be prepared according to the
6 requirements of item (2). No ballot other than an official
7 ballot shall be cast and counted in the election, and the
8 election shall be held and conducted as general elections are
9 held, except as otherwise provided by this resolution.

10 (15) This resolution shall become effective
11 immediately upon its passage by the Legislature.