

1 HJR91
2 105903-1
3 By Representatives Newton (D), Salaam, Mitchell, Gipson, Hall,
4 Irons, Faust, Dukes, Grantland, Dunn, Todd, Sherer, Coleman,
5 Robinson (O), England, Fields, Black, Hilliard, Hinshaw,
6 Harper, Warren, Hill, Fite, Guin, Robinson (J) and McLaughlin
7 RFD: Rules
8 First Read: 10-FEB-09

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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 RECOMPLIATION OF THE CONSTITUTION OF
18 ALABAMA OF 1901, AS AMENDED.

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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 June 2010 on the same date and in the same manner and by
24 the same officers as the political party primary election
25 provided for in Section 17-13-3 of the Code of Alabama of
26 1975, as such section has been or may be from time to time
27 amended, for the purpose of determining whether a convention

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

1 convene in the historic hall of the old chambers of the House
2 of Representatives in the State Capitol building in the City
3 of Montgomery at 12:00 noon on the first Monday in June 2011,
4 and proceed to organize the convention by the election of a
5 president and any other officers, from among themselves, as
6 they may deem necessary. The most senior associate justice of
7 the Alabama Supreme Court, or in his or her absence the second
8 most senior associate justice, shall call the convention to
9 order and preside over the convention until a president is
10 elected. The convention shall continue in session at times and
11 places designated by the president of the convention until, by
12 careful revision and amendment of the present constitution, it
13 shall frame and adopt a revised constitution or proposals for
14 this state or until the convention is duly adjourned by the
15 delegates.

16 (5) (a) That there shall be two delegates elected
17 from each House of Representatives district as the districts
18 exist at the time of the delegate election based on the most
19 recent census for a total of 210 delegates. Delegates shall be
20 elected without political affiliation at a special election
21 that shall be held on the first Tuesday after the first Monday
22 in November 2010, on the same date and in the same manner and
23 held by the same officers as the general election provided for
24 in Section 17-14-3 of the Code of Alabama of 1975, as such
25 section has been or may be from time to time amended. The two
26 delegates shall be the two top vote recipients in each House
27 of Representatives district receiving a plurality of votes.

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

7 (c) That candidates for election as delegates shall
8 be qualified by filing a declaration of candidacy with the
9 Secretary of State together with a qualifying fee of fifty
10 dollars (\$50), which fee shall be deposited into the State
11 Treasury to the credit of the Secretary of State to be used in
12 the administration of this election. The date for
13 qualification as determined by the Secretary of State shall be
14 no later than 5:00 p.m., 60 days prior to the first Tuesday
15 after the first Monday in November 2010. All candidates for
16 delegates shall be subject to the Fair Campaign Practices Act
17 and any other laws governing candidates and elections at the
18 time of the qualification and election; provided, however,
19 that the following shall also apply:

20 1. For purposes of the reporting requirements of the
21 Fair Campaign Practices Act, an individual who has received
22 contributions or made expenditures, or given his or her
23 consent for any other person or persons to receive
24 contributions on his or her behalf, in the amount of one
25 thousand dollars (\$1,000) with a view to bringing about his or
26 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.

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

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

15 5. Any postelection contribution is prohibited.

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

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

25 (6) If a dispute occurs as to the right of any
26 person to sit in the convention as a delegate, the question
27 shall be decided by the convention which shall be the

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

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

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

1 clerk of the convention, to the state Comptroller, in the same
2 manner that payment of compensation, per diem, and mileage to
3 members of the Legislature of Alabama is by law directed to be
4 made. Notwithstanding the foregoing, no legislative member who
5 is a delegate shall receive additional legislative
6 compensation or per diem if the legislative member is being
7 paid any other payments on the same dates for attendance on
8 other state business. Per diem, mileage, compensation, and
9 other expenses shall not be allowed or paid to any member of
10 the convention for a period of time longer than a maximum of
11 60 meeting days. Such compensation, per diem, mileage, and
12 other expenses shall not be paid for any convention meeting
13 days beyond September 30, 2011, whether or not the maximum 60
14 convention meeting days have occurred.

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 December 2010 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.

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

6 (12) (a) That in the event of the framing of a
7 constitution or proposals by this convention, the Governor,
8 within one week after the filing of the constitution with the
9 Secretary of State, shall issue a proclamation, published in
10 the same manner as the proclamation to assemble this
11 convention. The proclamation shall state that the constitution
12 or proposals have been framed and that a special election will
13 be held on a specific date in the same manner and by the same
14 officers as general elections are required to be held for the
15 purpose of submitting to the qualified voters of this state
16 for ratification or rejection of the constitution or proposals
17 framed by the convention. The special election, in conformity
18 with Amendment 714 of the Constitution of Alabama of 1901, now
19 appearing as Section 286.01 of the Official Recompilation of
20 the Constitution of Alabama 1901, as amended, shall be held at
21 the same time and the same manner as the 2012 general
22 election.

23 (b) That at the special election provided for by the
24 preceding subsection, the question of whether to ratify the
25 constitution or proposals adopted by the convention shall be
26 submitted to a vote of the qualified electors of this state.
27 There shall be printed on the official ballots the question to

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

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

25 (14) That if a special election provided for in item
26 (12) (a) is called in the event of the framing of a
27 constitution or proposals by the convention, the judge of

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

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