



**STATEWIDE CONSTITUTIONAL AMENDMENTS**  
**TUESDAY, NOVEMBER 6, 2012**

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**Statewide Amendment 1**

*“Proposing an amendment to the Constitution of Alabama of 1901, relating to the Forever Wild Land Trust, to reauthorize the trust for a 20-year period.” (Proposed by [Act 2011-315](#).)*

Yes ( ) No ( )

**Explanation**

This constitutional amendment, also known as the “Forever Wild Amendment, would reauthorize the Forever Wild Land Trust for a 20-year period from fiscal year 2012-2013 to fiscal year 2031-2032, ending September 30, 2032.

The Alabama Forever Wild Land Trust is a state conservation land acquisition program. A Constitutional Amendment established it in 1992 with 83% voter support. For the last twenty years it has been funded by a distribution of up to 10 percent of trust income earned from the Alabama Trust Fund (ATF) not to exceed \$15 million per year. The 2010 funding was \$10 million.

Since it was authorized, Forever Wild has acquired 91 tracts of land totaling 227,000 acres spread throughout the state. This is approximately one half of one percent of the land base in Alabama. The lands are open to the public for outdoor recreation activities such as fishing, wildlife viewing, camping, and hunting and hiking, biking and water based activities. With the addition of these acres, Alabama still has the lowest percentage of public lands among southeastern states.

Forever Wild can only purchase lands from willing sellers and does not pay more than the appraised value for the lands it has purchased. Forever Wild requires that 15% of the purchase price of each tract be placed in a separate stewardship fund to care for the purchase. Stewardship funds cannot be used for land purchases.

### **What will happen if this amendment is passed?**

If Amendment 1 (Forever Wild) passes, the Forever Wild Land Trust would receive 10 percent of the money distributed annually from the ATF under the new procedures approved in the September 18, 2012, amendment. The Forever Wild Land Trust would continue to purchase lands and maintain them for public recreation. The distribution would again be limited to \$15 million per fiscal year, and would end after September 30, 2032.

### **What will happen if this amendment fails?**

If this amendment fails, 1% (up to \$1 million) of the money distributed from the ATF using the formula authorized by the September 18, 2012 Trust Fund amendment will be paid to the Forever Wild Trust Stewardship Account, but no new lands will be acquired. Any other money that would have been distributed to Forever Wild will be returned to the Alabama Trust Fund.

## **Statewide Amendment 2**

*“Proposing an amendment to the Constitution of Alabama of 1901, as amended, to allow issuance by the State from time to time of general obligation bonds under the authority of Section 219.04 and Section 219.041 to the Constitution of Alabama of 1901, as amended, so long as the aggregate principal amount of all such general obligation bonds at any time outstanding is not in excess of \$750 million. This amendment would replace the maximum aggregate principal limitations currently contained in said Sections 219.04 and 219.041. The proposed amendment would also allow issuance by the State of general obligation refunding bonds under the authority of Sections 219.04 and 219.041 to the Constitution of Alabama of 1901, as amended, subject to certain minimum savings thresholds and limitations of maximum average maturity.” (Proposed by [Act 2012-567](#))*

Yes ( ) No ( )

### **Explanation**

The proposed amendment refers to general obligations bonds and pre-refunded (aka refunding) bonds. General obligation bonds represent a promise by the issuer to levy enough taxes as necessary to make full and timely payments to investors. Pre-refunded bonds result from the advance of bonds that are not currently redeemable. Once issued, the proceeds are placed in an escrow account set up to generate enough cash flow to pay interest and principal at the first call date. The escrow account is most often funded with U.S. Treasuries (although other instruments are sometimes used), in which case the pre-refunded bonds are considered relatively safe. (Source: <https://www.fidelity.com/bonds/municipal-bonds>).

The proposed amendment authorizes the Bond Commission, which currently has the authority to issue up to \$750 million in general obligation bonds for economic development and infrastructure costs, to issue refunding bonds. When states reach a debt limit, they often create new entities that are quasi-public entities that do not get counted in the budget of the state. Local governments do the same, e.g., the water system and sewer system become free standing entities that are not “owned” by the city, but have a close relationship with the government. The debt service issued by the Alabama Bond Commission depends on oil and gas royalty payments deposited into the Capitol Improvement Trust Fund.

### **What will happen if this amendment is passed?**

- The Amendment would ease the potentially negative impacts that constitutionally set state debt limits create. Pre-refunding bonds will not count toward the debt limit since they are a way to pay off existing bonds. Counting them toward a limit would be like double counting. The new bonds are escrowed monies.
- The refunding or refunded bonds: (1) carry little possibility of default on the principal, (2) tend to receive the highest credit ratings, and (3) reduce borrowing costs.
- Passage would potentially increase transparency by making creation of off-budget or special purpose entities less likely.
- Financial decisions would still have to consider debt levels, helping to prevent overextension of financial resources.

**What will happen if this amendment fails?**

- The Constitution’s language related to the issuance of bonds would remain as currently written.
- The new amendment would circumvent debt limits currently addressed in the Alabama Constitution through the use of pre-refunded bonds.

**Statewide Amendment 3**

*“Relating to Baldwin County, proposing an amendment to the Constitution of Alabama of 1901, to define the Stockton Landmark District within the county, and to prohibit the annexation by local law any property within the district into any municipality.” (Proposed by [Act 2011-316](#))*

Yes ( ) No ( )

**Explanation**

This proposed amendment was written exclusively for Stockton to attain the designation of "Landmark District," with the boundary lines of this district as determined and set by the state legislature. Since Baldwin County has had no such classification, but the state does, this amendment would allow the area to be independent and protected from involuntary annexation. This amendment would not affect taxation or services in this area or any Alabama area, it does not place any land restrictions on land use, and it does not involve any kind of zoning restrictions. The necessity of having the statewide electorate vote on this measure is the result of the lack of home rule under the Constitution of Alabama of 1901.

According to Section 555 of the Alabama Constitution, “If the proposed amendment is submitted in a statewide referendum, it shall not become effective unless approved at a referendum by a majority of the qualified voters of the affected county voting on the proposition and the affected political subdivision voting on the proposition, if it affects less than the whole county.” Therefore, the amendment must be passed by voters at all three levels: the state, Baldwin County, and the municipality of Stockton.

**What will happen if this amendment is passed?**

If passed, this amendment would grant protection to the state-defined Stockton Historic and Heritage District, allowing the residents and voters who live within the boundaries of the Landmark District to be protected from involuntary annexation without a majority of the voters electing to do so. This amendment would not affect taxes or services in this area or any Alabama

area. It does not place any land restrictions on land use. It does not involve any kind of zoning restrictions. Stockton would be free to incorporate as Stockton voters see fit.

#### **What will happen if this amendment fails?**

If not passed, the unincorporated Stockton area could be annexed at any time by any nearby municipality without the consent of Stockton voters. The residents would lose direct local control of Stockton, including decisions over taxes and services, if a municipal government has annexed it.

### **Statewide Amendment 4**

*“Proposing an amendment to the Constitution of Alabama of 1901, repealing portions of Amendment 111, now appearing as Section 256 of the Official Compilation of the Constitution of Alabama of 1901, as amended, relating to separation of schools by race, and to repeal Section 259, Amendment 90 and Amendment 109, relating to the poll tax.” (Proposed by [Act 2011-353](#).)*

Yes ( ) No ( )

#### **Explanation**

The purpose of this proposed amendment is to clean up outmoded provisions in the constitution.

Amendment 111 to the state constitution included the following language:

“To avoid confusion and disorder and to promote effective and economical planning for education, the legislature may authorize the parents or guardians of minors, who desire that such minors shall attend schools provided for their own race, to make election to that end, such election to be effective for such period and to such extent as the legislature may provide.”

Although this provision is no longer enforced, because it violates the 14th amendment to the US Constitution, the language remains in place. This amendment would repeal this language.

Section 259 provides that poll taxes shall be used to support schools, Amendment 90 exempted veterans of World War I and World War II from payment of poll taxes, and Amendment 109 exempted the deaf and blind from payment of poll taxes. Poll taxes have been ruled unconstitutional by the US Supreme Court, and the constitutional provision that established the poll tax, Section 194, was repealed in 1996, so these provisions are irrelevant.

#### **What will happen if this amendment is passed?**

- Unenforced and outmoded provisions of the Constitution will be repealed. Those provisions have been superseded by federal action.
- Perception of racism in the state by potential business investment and the media may be improved.
- Concern has been expressed by some groups, including the Alabama Education Association, that passage of this amendment to Section 111 would reinforce the remaining provisions of Section 111, including a provision that states that there is no right to public education. The entire Section was invalidated several years ago by a State circuit court judge, although, when the case in which the ruling came was dismissed, no higher court had an opportunity to rule on it and the precedent is in question.

### **What will happen if this amendment fails?**

- Since the provisions are unenforceable already, there is no practical effect; however, there is some concern that retention of this language in the Alabama Constitution may harm business investment in the state by maintaining the perception of racism in the state.
- Similarly, the press may continue to depict the state as racist and backward.
- In addition, this facet of Constitutional revision would have to go back to the Alabama Constitutional Revision Commission, and begin the legislative process again. If this and/or other amendments related to Constitutional Revision fail, the process of revision may be jeopardized.
- With no further amendment of Section 111, the possible invalidity of Section 111's denial of a right to public education remains a stronger argument.

### **Statewide Amendment 5**

*“Proposing an amendment to the Constitution of Alabama of 1901, to provide for the transfer of the assets and liabilities of the Water Works and Sewer Board of the City of Prichard to the Board of Water and Sewer Commissioners of the City of Mobile, presently known as the Mobile Area Water Sewer System.” (Proposed by [Act 2011-543](#).)*

Yes ( ) No ( )

#### **Explanation**

The “Water Board Amendment” would dissolve the Water Works and Sewer Board of the City of Prichard and transfer all its assets and liabilities to the Mobile Area Water and Sewer System (MAWSS). This action would take an independent entity and give it to another one. The MAWSS would be prohibited from increasing its rates to existing customers “for reasons related to the acquisition or maintenance of the assets, liabilities, or infrastructure of the Water Works and Sewer Board of the City of Prichard”.

This amendment must be approved, on November 6, 2012, by all of the following three sets of voters to take effect:

1. The majority of voters in the state-wide election
2. The voters in precincts served by MAWSS
3. The voters in precincts served by the Water Works and Sewer Board of the City of Prichard.

Importantly, if the Prichard voters do not approve the measure, then it will not pass, regardless of votes cast statewide and in precincts served by MAWSS.

### **What will happen if this amendment is passed?**

The effects of the passage of this amendment are subject to controversy. For many citizens, the most immediate concern is cost: will rates go up? The answer is unclear. Currently the Prichard Water Board buys water from Mobile and bills its customers for their water at a higher rate than Mobile customers pay. However, improvements in the overall water and wastewater infrastructure in Prichard as well as the system's contract with Severn Trent Management Company contribute to this additional cost; the debts incurred by structural improvements and the

use of the contracted management company must be paid whether or not Prichard's assets are transferred to Mobile.

It is our understanding that MAWSS plans to keep two sets of books: one for its customers in Mobile and the other for Prichard customers, in order to demonstrate where moneys are being spent. There will likewise be two separate rates, one for Prichard and another for Mobile. Rates in Mobile have been going up to pay for structural improvements and other fixed costs; MAWSS contends that these rate increases have nothing to do with the acquisition of Prichard and they will continue.

In addition to concerns about the lack of Prichard representation on the MAWSS board, some Prichard citizens have expressed concern about the projected closure of the water board office in Prichard, effectively removing one accessible location for payment of bills. Even though bills can be paid at other locations in the community, these locations charge a fee for accepting such payments.

Advocates for the passage of the amendment believe that Prichard customers will have lower rates because the management contract will disappear when its terms end, reducing some of the costs of service. In addition, they believe that Mobile customers' already scheduled rate increases will over time be less than they would be without the acquisition of Prichard customers.

Oponents believe that the Prichard rates could increase to offset costs of Mobile improvements, since there is no specific language protecting the Prichard rates (as there is for Mobile). They believe that in the best case, the rates for Prichard customers will remain the same because the underlying costs will still need to be paid.

Oponents of the amendment are further concerned by the loss of jobs that the acquisition of the Prichard Water Board would allow. They believe the acquisition would reduce the work force by half. Pension benefits would also be in limbo if this acquisition occurs. A final concern is with the governing body of the utility. Some opponents of the amendment argue that Prichard citizens would not have any representative on this governing body unless it is reconstituted. Currently the MAWSS board is representative of areas outside of Prichard.

### **What will happen if this amendment fails?**

This amendment will fail unless it is passed by all the following three entities: by the statewide vote, by the voters in Prichard, and by voters in precincts served by MAWSS. If the amendment fails, Prichard residents' water rates may continue to be higher than those of Mobile to pay for contracted improvements in the overall water and wastewater infrastructure in Prichard and the system's contract with Severn Trent Management Company. The debts incurred by structural improvements and the use of the contracted management company must be paid whether or not Prichard's assets are transferred to Mobile.

## **Statewide Amendment 6**

*"Proposing an amendment to the Constitution of Alabama of 1901, to prohibit any person, employer, or health care provider from being compelled to participate in any health care system."  
(Proposed by [Act 2011-617](#))*

Yes ( ) No ( )

### **Explanation**

The proposed amendment represents a state's rights stand relative to the mandates in the federal health care legislation that were upheld by the U.S. Supreme Court. It would apply to all Alabama residents and has the following provisions:

1. No person, employer, or health care provider could be compelled to participate in any health care system.
2. A person or employer would be able to pay directly for health care services and not be required to pay penalties or fines for paying directly for lawful health care services.
3. Health care provider could accept direct payment for lawful health care services and not be required to pay penalties or fines for accepting such direct payments.
4. The purchase or sale of health insurance in private health care systems shall not be prohibited by law or rule.

State Representative Phil Williams commented: "We want the people of Alabama to know that if we're going to join a program like that we're going to have it on a ballot and you and me and everyone will be able to vote and decide if we want to join a national health plan or not." (Refer to [http://ballotpedia.org/wiki/index.php/Alabama\\_2012\\_ballot\\_measures](http://ballotpedia.org/wiki/index.php/Alabama_2012_ballot_measures).)

#### **What will happen if this amendment is passed?**

If passed, this amendment would place restrictions on the Affordable Care Act in Alabama, based on support of the 10th Amendment of the United States Constitution's provision of the rights of states, in what has been a traditional area of state responsibility. Potentially, though, this amendment could reach beyond recent federal health care legislation to include other programs such as Medicare.

#### **What will happen if this amendment fails?**

The restrictions proposed by this amendment on the provisions of the Affordable Care Act would not go into effect. Decisions by federal courts and the U.S. Congress will decide the issue of control over health care decisions.

### **Statewide Amendment 7**

*"Proposing an amendment to the Constitution of Alabama of 1901, to amend Amendment 579 to the Constitution of Alabama of 1901, now appearing as Section 177 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, to provide that the right of individuals to vote for public office, public votes on referenda, or votes of employee representation by secret ballot is fundamental." (Proposed by [Act 2011-656](#).)*

Yes ( ) No ( )

#### **Explanation**

Section 177 relates to Suffrage and Elections. This amendment adds a provision that guarantees the right to vote by secret ballot in elections for employee representation (such as in union elections). This amendment would not affect elections for public office or public votes on referenda, which are already in effect.

#### **What will happen if this amendment is passed?**

The right to secret ballot in elections for public office and on public referenda is already in place. This provision would eliminate the practice of "employee check-offs" to choose union

representation, and would require that such designation be made only by secret ballot. This process would make union organizing or changing union representation more difficult.

### **What will happen if this amendment fails?**

The right to secret ballot in elections for public office and on public referenda would not be affected. Unions would be able to continue to use “employee check-offs” to facilitate union organizing.

## **Statewide Amendment 8**

*“Proposing an amendment to the Constitution of Alabama of 1901, to repeal the existing provisions for legislative compensation and expenses and establish the basic compensation of the Legislature at the median household income in Alabama; to require legislators to submit signed vouchers for reimbursement for expenses; and to prohibit the Legislature from increasing the compensation or expenses payable to its members.” (Proposed by Act 2012-269.)*

Yes ( ) No ( )

### **Explanation**

This proposed amendment would remove the power of determining legislative compensation and travel reimbursement from the Legislature. Legislators believe this would enhance public trust. The amendment would repeal existing laws providing for compensation for legislators, providing a new compensation amount based on the median Alabama household income, beginning after the 2014 statewide elections (which will include the Alabama legislature). Projections are that the average legislative compensation would be reduced by approximately \$7,208 per member, and by approximately \$7,418 for the Speaker of the House and for the Lieutenant Governor. Reimbursement for certain expenses, such as travel, are listed.

### **U.S. Census definitions:**

**Median household income** includes the income of the householder and all other individuals 15 years old and over in the household, whether they are related to the householder or not. Because many households consist of only one person, average household income is usually less than average family income. It is the most widely used measure of income levels.

**Median:** The median divides the income distribution into two equal parts: one-half of the cases falling below the median income and one-half above. For households and families, the median is based on the distribution of the total number of households and families including those with no income. (Definitions from [http://quickfacts.census.gov/qfd/meta/long\\_INC110210.htm](http://quickfacts.census.gov/qfd/meta/long_INC110210.htm).)

### **What will happen if this amendment is passed?**

- The median family income will be determined yearly by the State Personnel Board which will also oversee the rules and procedures for travel compensation.
- Since household incomes rise and fall with economic conditions, so too will legislative pay. Legislators argue this will focus attention on policies designed to generate economic growth.
- Legislative travel compensation will follow the same basic rules set for state employees with a few specific limitations added in the amendment.



- Passage of this amendment should reduce, if not end, internal legislative charges of discriminatory travel reimbursements based on party, ideology, favoritism, etc. and thereby reduce internal discord.
- On the negative side, these changes would move the legislature closer to a citizen legislature rather than a professional legislature because of the reduced compensation. Lowering legislative compensation and making it hard to earn income through most jobs/professionals also makes it more difficult for anyone who is not independently wealthy or does not have a very flexible work situation to serve in the legislature.

**What will happen if this amendment fails?**

- The current system of reimbursement to Alabama legislators, the Speaker of the House, and the Lieutenant Governor would not be changed from the status quo.
- Currently members receive a salary of \$10 per day for 105 days during the regular session. They also receive \$50 per diem expense allowance for 45 days, a monthly allowance of \$4,174 per month, and \$0.10 per mile for one round trip to and from Montgomery.
- The Speaker and Lieutenant Governor currently receive a \$12 salary per day for 105 days and an additional \$1,500 in monthly expenses.

**Statewide Amendment 9**

*“Proposing an amendment to the private corporation provisions of Article 12 of the Constitution of Alabama or 1901, to become effective January 1, 2014, to continue the authority of the Legislature to pass general laws pertaining to corporations and other entities; to continue the authority of the Legislature to regulate and impose a business privilege tax on corporations and other entities; and to repeal various provisions concerning private corporations, railroads, and canals.” (Proposed by [Act 2012-275](#).)*

Yes ( ) No ( )

**Explanation**

The proposed amendment would revise Article XII of the 1901 Alabama Constitution, which concerns private corporations and similar entities, to eliminate antiquated and irrelevant provisions and to update other sections to reflect current practices. It allows the legislature to pass general laws under which corporations and other entities may be organized, authorized to do business or conduct their affairs, operated dissolved and regulated. It eliminates language giving legislative power and payment to the state of a franchise tax, but the legislature by general law shall provide for the payment to the state of Alabama a tax on the privilege of doing business in Alabama.

Among the sections that would be repealed is a section providing that charitable entities cannot be taxed on their share, because such institutions no longer have shares. Also, the section dealing with foreign corporations in Alabama would be repealed because the necessary provisions are dealt with in Title 10A of the Alabama Code. The section granting free railroad passes to individuals or businesses would also be eliminated. A section would remove outdated language about the consolidation of telegraph and telephone companies would

**What will happen if this amendment is passed?**

Elimination of the antiquated, redundant, and repealed sections currently found in Article XII, would allow this portion of the 1901 Alabama Constitution to reflect current practices with regard to private corporations.

**What will happen if this amendment fails?**

- If this proposed amendment fails at the polls, the antiquated, redundant, and repealed sections pertaining to private corporations currently found in the Article XII of the 1901 Constitutional would remain as is.
- In addition, this facet of Constitutional revision would have to go back to the Alabama Constitutional Revision Commission, and begin the legislative process again. If this and/or other amendments related to Constitutional Revision fail, the process of revision may be jeopardized.

**Statewide Amendment 10**

*“Proposing an amendment to the Constitution of Alabama of 1901, effective January 1, 2014, to amend Section 247 relating to the authority of the Legislature concerning banks and banking; to repeal various other provisions of Article XII concerning banks and banking; and to repeal Amendment 154 to the Constitution of Alabama of 1901, now appearing as Section 255.01 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, subject to the contingency that a new Article XII of the state constitution is adopted that repeals existing Section 232 of the state constitution, and subject to the contingency that Sections 10A-2-15.01 and 10A-2-15.02, Code of Alabama 1975, are repealed.” (Proposed by [Act 2012-276](#).)*

Yes ( ) No ( )

**Explanation**

This proposed amendment would condense Article XII of the current Alabama Constitution that deals with banks and banking. It would repeal antiquated language and sections made irrelevant by repeals, and will combine other sections into one article. For example, the current section concerning interest rates would be repealed because banking is now regulated by state and federal laws and regulations. Similarly, the proposed amendment would repeal the obsolete language regarding bills or notes issued as money being redeemable as gold or silver.

**What will happen if this amendment is passed?**

- Passage of this proposed amendment would condense the various sections of the current Alabama Constitution regarding banks and banking into a new Article XII, while repealing antiquated and irrelevant sections.
- Accessing information regarding the authority of the legislature and banking in Alabama would become more cohesive and easier to access.

**What will happen if this amendment fails?**

- If this proposed amendment fails at the polls, the sections pertaining to banks and banking scattered throughout the current Alabama constitution will remain as is, including the antiquated and irrelevant sections such as those mentioned in the explanation.
- This amendment was developed by the Alabama Constitutional Revision Commission. If this facet of Constitutional revision fails, it would have to go back to the Alabama Constitutional Revision Commission to begin the legislative process again. If this and/or

other amendments related to Constitutional Revision fail, the process of revision itself may be jeopardized.

### **Statewide Amendment 11**

*“Relating to Lawrence County, proposing an amendment to the Constitution of Alabama of 1901, to prohibit any municipality located entirely outside of Lawrence County from imposing any municipal ordinance or regulation, including, but not limited to, any tax, zoning, planning, or sanitation regulations, and any inspection service in its police jurisdiction located in Lawrence County and to provide that a municipality prohibited from imposing any tax or regulation under this amendment shall not provide any regulatory function or police or fire protection services in its police jurisdiction located in Lawrence County, other than public safety mutual aid.” (Proposed by [Act 2012-308](#))*

Yes ( ) No ( )

**This proposed amendment was not analyzed by the League of Women Voters of Alabama. It will be on all ballots statewide and is included here as voter information.**