

HB78

By Representatives Ball and Hill (M)
RFD Constitution, Campaigns and Elections
Rd 1 03-MAR-15

SYNOPSIS: Under existing law, the Constitution of Alabama of 1901 may be amended by the Legislature submitting a proposed constitutional amendment for ratification or rejection by the people which becomes effective upon ratification and proclamation. Laws must be enacted by the Legislature and generally become effective upon enactment or at a later date provided by the statute.

This bill would propose an amendment to the Constitution of Alabama of 1901 to provide that the people also may propose the enactment of general laws and constitutional amendments by an initiative measure subject to the same limitations imposed on the Legislature and that the Legislature may offer an alternate proposal.

A BILL
TO BE ENTITLED
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). The filing fee shall be refundable, less any administrative expenses incurred, if the initiative is successfully adopted or enacted. 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 required by the election laws in the same manner as a candidate seeking elected office. The registered agent is subject to any and all other requirements and liabilities as candidates for office. The Secretary of State shall verify that the name and address of each qualified Alabama voter signing the preliminary petition are the same or substantially similar to the name and address that appear on the registered voter list.

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

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

(d) Upon receipt of the full text and summary of a proposal filed by the registered agent, the Secretary of State 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 in a number that equals at least seven percent of the total votes cast for Governor in the last preceding gubernatorial general election. Each petition shall contain a minimum number of signatures of qualified Alabama voters from each congressional district in the state equal to one percent of the total votes cast for Governor in the last preceding gubernatorial general election within each district. The Secretary of State shall verify that the name and address of each qualified Alabama voter signing the final petition are the same or substantially similar to the name and address that appear on the registered voter list. The 1,000 signatures contained on the preliminary petition may be used towards the total requirement for the final petition.

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

(h) A full text proposal and summary for the enactment of a general law shall be submitted by the registered agent with certifying documentation from the Secretary of State, to the Legislature 30 days prior to the first legislative day of the regular session by filing a copy with the Legislative Reference Service and the Legislative Fiscal Office for a constitutional and fiscal analysis respectively. The Secretary of the Senate and the Clerk of the House shall prefile in the respective houses the proposal for a general law and on the first day of the session the proposal shall be introduced by the President Pro Tempore of the Senate and the Speaker

Pro Tempore of the House. The proposal shall be presented in bill form and treated in every respect the same as any other bill for a general law except as otherwise provided by this amendment and except that the measure shall not be sent to the Governor nor require the Governor's signature. The Legislature upon considering the proposal for the enactment of a general bill by the initiative may not alter or amend the original proposal; however, the Legislature may offer an alternate proposal to be considered in the same manner. If the Legislature does not enact the proposal by 12:01 a.m. of the 30th legislative day, the proposal shall be placed on the ballot by the Secretary of State. If the Legislature approves an alternate proposal, both the original proposal from the initiative process and the alternate legislative proposal shall be placed on the ballot. The question shall be submitted to the qualified voters at the first statewide election held 90 days or more after the Legislature adjourns. No special election may be called solely 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 and comment, including an official summary of the proposal for use on the ballot. Both the ballot title and the official summary for the ballot shall be impartial and not likely to create prejudice for or against the measure and shall be prepared in consultation with the initiative committee and proponents. The initiative shall be sent to the Secretary of State for inclusion in the appropriate election.

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

Part II. (a) The people may propose a constitutional amendment with statewide application by filing a preliminary petition containing a summary of the proposal with the Secretary of State and proceeding further in the same manner and with the same requirements and following the same procedures as for the petition process and the proposal of a general law outlined in Part I above, including the refund of the filing fee, less any administrative expenses incurred, for an initiative that is successfully adopted; provided, however, the petition must be signed by qualified Alabama voters and verified as outlined in Part I. The total number of signatures on the final petition required for a proposed constitutional amendment must equal at least 10 percent of the total votes cast for Governor in the last preceding gubernatorial general election. Each final petition shall contain a minimum number of signatures of qualified Alabama voters from each congressional district in the state equal to 1.3 percent of the total votes cast for Governor in the last preceding gubernatorial general election within each district. The Legislature may approve an alternative amendment which shall appear on the ballot at the same time following the same procedure as for a general law in Part I above.

(b) The proposal and any alternative shall be submitted to the qualified voters at the first statewide election held 90 days or more after the measure qualifies; however, a special election may not be called solely for the purpose of a voter initiative proposal.

(c) No measure proposed pursuant to this part of this amendment shall be sent to the Governor, but shall be sent directly to the Legislative Reference Service for preparation of a review and comment, including an official summary of the proposal for use on the ballot. Both the ballot title and the official summary shall be impartial and not likely to create prejudice for or against the measure and shall be prepared in consideration with the initiative committee and proponents. The initiative shall be sent to the Secretary of State for inclusion in the appropriate election.

(d) A proposed amendment or the legislative alternative shall become part of the Constitution if approved by a majority of electors voting on the proposal.

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

(f) No more than two pieces of legislation proposed pursuant to this amendment may be enacted by the Legislature pursuant to this amendment in any legislative session. If more than two pieces of legislation are proposed, the two pieces of legislation which may be enacted or placed on the ballot shall be the two proposals having the greatest number of signatures. If a proposal by initiative, whether a general bill or an amendment to the Constitution of Alabama of 1901, has an alternative proposal made by the Legislature, the ballot language shall be as follows:

Do you favor amending general law or proposing a constitutional amendment regarding _____?

Yes ___ No ___

Which change do you prefer?

___ (A) The change proposed by the initiative process which _____.

___ (B) The change offered as an alternative proposal which _____.

Part III. If an initiative proposed by Part I or Part II fails to be adopted or approved pursuant to the process provided in this amendment, an identical initiative may not be resubmitted sooner than two years following the failure of the prior initiative.

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

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

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

"Proposed by Act _____."

This description shall be followed by the following language:

"Yes () No ()."

Constitutional Amendments

Elections

Initiative and Referendum

Voters and Voting

Acts and Journals

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