

1 SB198
2 71036-3
3 By Senator Little (T)
4 RFD: Constitution, Campaign Finance, Ethics, and Elections
5 First Read: 03-FEB-05

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8 SYNOPSIS: The current state constitution was ratified
9 in 1901 and requires submitting the question of
10 whether to call a constitutional convention to
11 revise the constitution to the qualified electors
12 of the state.

13 This bill would call for an election to
14 submit the question of whether to call a
15 constitutional convention to the qualified electors
16 of the state. If the majority vote in favor of
17 holding a constitutional convention, it would
18 provide for the election of delegates to the
19 convention, provide for the holding of the
20 convention, and would provide for an election to
21 submit the proposed constitution, once prepared by
22 the convention, to the voters for ratification.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 To provide for an election on the issue of calling a
2 constitutional convention to revise and amend the Constitution
3 of Alabama of 1901; and in the event a majority of electors
4 voting favor the convention, to provide for the election of
5 delegates to the convention; to provide for the holding of the
6 convention; and to provide for an election to ratify the
7 proposed constitution.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. (a) The Legislature of Alabama declares
10 and finds as follows:

11 (1) Similar to the Legislature of 1900, this
12 Legislature faces an opportunity to change a constitution that
13 is grievously defective and antiquated in that it reflects the
14 conditions, frustrations, and prejudices of a long past
15 century that do not exist today.

16 (2) The mere length of the Constitution of Alabama
17 of 1901 is oppressive and unnecessary when a simpler, more
18 modern document, like that of all other states, would provide
19 a more efficient and effective fundamental law.

20 (3) The inadequacies and complexities of the
21 Constitution of Alabama of 1901 are demonstrated by the
22 multitude of amendments, over 700, deemed necessary by the
23 voters of this state to give the constitution proper and
24 current effect.

25 (4) Constitutional revision efforts by commissions
26 and study groups over the past 50 years have been costly and

1 unsuccessful, in part, due to a lack of proper authority,
2 i.e., the vote of the people of the state.

3 (5) The Constitution of Alabama of 1901 is long
4 overdue for a revision and, if necessary, a complete
5 replacement, with a better constitution for this century.

6 (6) The Legislature desires to provide the people of
7 Alabama an opportunity to move forward with a document that is
8 more appropriate for the times in which we live.

9 Section 2. A special statewide election shall be
10 held in 2005, within 120 days of the last legislative day and
11 providing a minimum of 60 days notice to the electors, in the
12 same manner and by the same officers as general elections are
13 required to be held, for the purpose of determining whether a
14 convention shall be held to revise and amend the Constitution
15 of Alabama of 1901. The special election may be held in
16 conjunction with any other election in the state within the
17 same time frame. At the election, the question of whether to
18 hold a convention shall be submitted to a vote of the
19 qualified electors of this state. There shall be printed on
20 the official ballots, the question to be voted in the
21 following form:

22 "Do you favor the holding of a constitutional
23 convention for the purpose of revising the Constitution of
24 Alabama of 1901?

25 "Yes () No ()"

26 If a majority of the voters voting at the election
27 shall approve of the holding of a convention for the purpose

1 stated, the election of the delegates for the convention and
2 the holding of the convention shall be held in the manner
3 hereinafter provided.

4 Section 3. In the same manner as for any other
5 general election ballot, the election officials of each county
6 shall ascertain the number of votes "Yes" and the number of
7 votes "No" and shall certify the vote results to the Secretary
8 of State. The Secretary of State shall, as quickly as
9 practicable, certify the statewide results. If it appears that
10 a majority of all persons voting voted for the holding of the
11 convention, the Governor shall give public notice, by
12 proclamation, of the fact that a majority of the electors of
13 the state voting at the election approved the call of the
14 convention for the purpose of revising and amending the
15 Constitution of Alabama of 1901. The proclamation shall be
16 published in every county in a newspaper of general
17 circulation. The courts of the state shall take judicial
18 notice of the proclamation.

19 Section 4. If the holding of the convention is
20 approved by the qualified electors of this state, the
21 delegates elected in the manner hereinafter provided shall
22 convene in the historic hall of the old chambers of the House
23 of Representatives in the State Capitol building in the City
24 of Montgomery at 12:00 noon on the first Tuesday following the
25 first Monday in January 2007, and proceed to organize the
26 convention by the election of a president from among
27 themselves, and any other officers, who need not be delegates,

1 as they may deem necessary. The most senior associate justice
2 of the Alabama Supreme Court, or in his or her absence the
3 second most senior associate justice shall call the convention
4 to order and preside over the convention until a president is
5 elected. The convention shall continue in session until, by
6 careful revision and amendment of the present constitution, it
7 shall frame and adopt a revised constitution for this state
8 but in no event shall the convention continue past the
9 qualification time for the 2008 primary election. Failure of
10 the convention to timely present a document for consideration
11 on the 2008 primary ballot terminates convention proceedings.

12 Section 5. (a) There shall be one delegate elected
13 from each House of Representatives district as the districts
14 exist at the time of the delegate election based on the most
15 recent census for a total of 105 delegates. The delegates to
16 the convention shall be elected in the primary election of the
17 year 2006 at the time and places provided by statute for
18 holding primary elections and shall be elected without regard
19 to political affiliation. If no candidate receives a majority
20 of the votes cast in the election for delegates to which there
21 were more than two candidates, a run-off election shall be
22 held in accordance with Section 17-16-6, Code of Alabama 1975,
23 at the time and places established by law.

24 (b) A delegate to the convention must be at least 25
25 years of age prior to the election, a qualified elector of his
26 or her district, a citizen of the State of Alabama for five
27 years, and a resident of his or her district for one year

1 immediately preceding the election. No person shall be
2 disqualified from being a delegate because he or she holds any
3 office of honor or profit under the federal government, state
4 government, or any political subdivision thereof, including
5 counties, municipalities, or townships.

6 (c) Candidates for election as delegates shall be
7 qualified by filing a declaration of candidacy with the
8 Secretary of State and there shall be no qualifying fee. The
9 date for qualification as determined by the Secretary of State
10 shall be no less than 60 days prior to the 2006 primary
11 election. All candidates for delegates shall be subject to the
12 Fair Campaign Practices Act and any other laws governing
13 candidates and elections at the time of the qualification and
14 election; provided, however, that no delegate may accept a
15 contribution from a political action committee or a corporate
16 entity. Upon election, the delegates shall be subject to the
17 Alabama Ethics Act and any other laws governing elected or
18 appointed state officials.

19 (d) 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 act.

25 Section 6. If a dispute occurs as to the right of
26 any person to sit in the convention as a delegate, the
27 question 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 Section 7. 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 Section 8. 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 per diem and mileage from the State Treasury as is
20 allowed to members of the Legislature of Alabama and the other
21 expenses of the convention shall be paid in the same manner as
22 provided for the members of the Legislature of Alabama. The
23 per diem, mileage, and other expenses shall be paid on the
24 certificates of the president and the secretary or clerk of
25 the convention, to the State Comptroller, in the same manner
26 that payment of the compensation to members of the Legislature
27 of Alabama is by law directed to be made. Notwithstanding the

1 foregoing, no legislative member who is a delegate shall
2 receive additional legislative compensation or per diem if the
3 legislative member is being paid any other payments on the
4 same dates for attendance on other state business. Per diem
5 compensation shall not be allowed or paid to any member of the
6 convention for a period of time longer than a maximum of 60
7 meeting days.

8 Section 9. The convention shall file with the
9 Secretary of State, within one week after its adjournment,
10 certified by the president and secretary or clerk, a correct
11 copy of the constitution that the convention adopted. The
12 convention shall keep a journal of its proceedings and file it
13 upon adjournment with the Secretary of State.

14 Section 10. Except as herein otherwise provided, the
15 general election laws of this state shall apply fully to the
16 elections provided for under this act, including all matters
17 preliminary to the holding of the elections as well as all
18 matters subsequent thereto.

19 Section 11. (a) In the event of the framing of a
20 constitution by this convention, the Governor, within one week
21 after the filing of the constitution with the Secretary of
22 State, shall issue a proclamation, published in the same
23 manner as the proclamation to assemble this convention. The
24 proclamation shall state that the constitution has been framed
25 and that an election will be held on a specific date in the
26 same manner and by the same officers as general elections are
27 required to be held for the purpose of submitting to the

1 qualified voters of this state for ratification or rejection
2 of the constitution. The election shall be held at the same
3 time and the same manner as the 2008 primary election.

4 (b) At the election provided for by the preceding
5 section, the question of whether to ratify the constitution
6 proposed by the convention shall be submitted to a vote of the
7 qualified electors of this state. There shall be printed on
8 the official ballots, the question to be voted on followed by
9 the words "Yes" and "No," opposite one of which the voter may
10 indicate his or her preference. The returns of this election
11 shall be made in the same manner, within the same time, by the
12 same officers, certified to the same officer, and shall be in
13 the same form as herein provided for the election regarding
14 whether to hold a convention.

15 Section 12. Within 15 days after the day on which
16 the election is held for the ratification or rejection of the
17 constitution, the Governor, Secretary of State, and Attorney
18 General shall meet in the office of the Secretary of State to
19 tabulate the votes on the issue of ratification or rejection
20 and the results shall be certified to the Governor by the
21 Secretary of State and the Attorney General. The Governor
22 shall make known to the people of this state, the results of
23 the election by proclamation published in the manner herein
24 provided. If a majority of the voters voting at the election
25 voted affirmatively to ratify the constitution, the Governor
26 shall designate within the proclamation that January 1 of the
27 following year is the effective date the new constitution

1 shall go into effect as the Constitution of the State of
2 Alabama, and shall be binding and obligatory upon all the
3 people of this state.

4 Section 13. If an election is called in the event of
5 the framing of a constitution, the judge of probate of each
6 county in the state shall prepare and furnish the official
7 ballots to be voted at such election as is now required under
8 the general election laws of the state which official ballot
9 shall be prepared according to the requirements of Section 3
10 of this act. No ballot other than an official ballot shall be
11 cast and counted in the election, and the election shall be
12 held and conducted as general elections are held, except as
13 otherwise provided by this act.

14 Section 14. This act shall become effective
15 immediately upon its passage by the Legislature and adopted as
16 provided herein.