

1 SB369
2 128835-1
3 By Senator Brewbaker (Constitutional Amendment)
4 RFD: Finance and Taxation General Fund
5 First Read: 07-APR-11

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8 SYNOPSIS: This bill would propose an amendment to
9 Amendment 543 to the Constitution of Alabama of
10 1901, now appearing as Section 219.07 of the
11 Official Recompilation of the Constitution of
12 Alabama of 1901, as amended, to provide that in any
13 year that the General Fund is in proration, the
14 investment income of the Forever Wild Trust Fund
15 would be deposited into the General Fund and would
16 provide for the termination of Alabama Forever Wild
17 Trust on October 1, 2032, unless the amendment is
18 reratified at the 2030 General Election.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT
23

24 To propose an amendment to Amendment 543 to the
25 Constitution of Alabama of 1901, now appearing as Section
26 219.07 of the Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, to provide that in any year that

1 the General Fund is in proration, the investment income of the
2 Forever Wild Trust Fund would be deposited into the General
3 Fund; to provide for the termination of Alabama Forever Wild
4 Trust on October 1, 2032, unless the amendment is reratified
5 at the 2030 General Election.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. The following amendment to the
8 Constitution of Alabama of 1901, as amended, is proposed and
9 shall become valid as a part thereof when approved by a
10 majority of the qualified electors voting thereon and in
11 accordance with Sections 284, 285, and 287 of the Constitution
12 of Alabama of 1901, as amended:

13 PROPOSED AMENDMENT

14 "Amendment 543.

15 "Section 1. Declaration of Purpose.

16 "The Legislature of Alabama finds that Alabama is
17 endowed with a rich diversity of natural areas having unique
18 ecological systems, plant and animal life, geological
19 formations, wildlife habitats, recreational values and scenic
20 beauty. As a part of the continuing growth of the population
21 and the economic development of the state, it is necessary and
22 desirable that certain lands and waters be set aside, managed
23 and preserved for use as state parks, nature preserves,
24 recreation areas, and wildlife management areas. In order to
25 meet the State's outdoor recreation needs and to protect the
26 natural heritage of Alabama for the benefit of present and
27 future generations, it is the policy of the state to:

1 "(a) Protect, manage, and enhance certain lands and
2 waters of Alabama with full recognition that this generation
3 is a trustee of the environment for succeeding generations;

4 "(b) Protect, to the fullest extent practicable,
5 recreational lands and areas of unique ecological, biological
6 and geological importance; and

7 "(c) Promote a proper balance among population
8 growth, economic development, environmental protection, and
9 ecological diversity. Accordingly, there is hereby established
10 the Alabama Forever Wild Land Trust for the purpose of
11 identifying, acquiring, managing, protecting and preserving
12 natural lands and waters that are of environmental or
13 recreational importance.

14 "Section 2. Definitions.

15 "(1) "Alabama Trust Fund" means the irrevocable,
16 permanent trust fund created by Amendment 450 to this Alabama
17 Constitution of 1901.

18 "(2) "Alabama Trust Fund Board" means the board of
19 trustees of the Alabama Trust Fund as established by Amendment
20 450 to this Alabama Constitution of 1901.

21 "(3) "Appraised Value" means that price estimated in
22 terms of money at which the property would change hands
23 between a willing and financially able buyer and a willing
24 seller, neither being under any compulsion to buy or sell.

25 "(4) "Board" means the Board of Trustees of the
26 Alabama Forever Wild Land Trust, as established by Section 4
27 of this Amendment.

1 "(5) "Commissioner" means the Commissioner of the
2 Alabama Department of Conservation and Natural Resources or
3 any other officer of the state who, by law, shall succeed to
4 his responsibilities.

5 "(6) "Conservation Easement" means a right, whether
6 or not stated in the form of restriction, easement, covenant
7 or condition, in any deed, will, or other instrument executed
8 by or on behalf of the owner of land providing for the
9 retention of properties predominantly in their natural,
10 scenic, open or wooded condition, or as suitable habitat for
11 fish and wildlife, or as recreational lands.

12 "(7) "Dedication" means the transfer to the state of
13 an estate, interest, or right in a natural area to fulfill the
14 purposes of this Amendment.

15 "(8) "Department" means the Alabama Department of
16 Conservation and Natural Resources or any other department or
17 agency of the state that, by law, shall succeed to its
18 functions and responsibilities.

19 "(9) "Final Approval Committee" means a Committee,
20 as established by Section 6 of this Amendment, to be composed
21 of the Governor, the Lieutenant Governor and the Speaker of
22 the House of Representatives.

23 "(10) "Forever Wild Land Trust" means the Alabama
24 Forever Wild Land Trust created by this Amendment.

25 "(11) "Instrument of Dedication" means any written
26 document by which an estate, interest, or right in a natural
27 area is formally dedicated as a natural area preserve.

1 "(12) "Land" or "lands" means real property and any
2 interests therein, including, but not limited to, fee simple
3 titles, ownership interests less than fee simple, leases,
4 easements, licenses, restrictions and use agreements. Such
5 property and interests therein shall also include wetlands,
6 estuarine areas and submerged lands and the waters thereon.

7 "(13) "Natural Area" means any property, whether
8 publicly or privately owned, (a) that retains or has generally
9 reestablished its natural character, though it need not be
10 completely natural and undisturbed, or (b) which is important
11 in preserving rare or vanishing flora and fauna, native
12 ecological systems, fish and wildlife habitats, geological,
13 natural, scenic or similar features of scientific,
14 recreational, or educational value benefitting the citizens of
15 the state.

16 "(14) "Natural Area Preserve" means a natural area
17 that has been dedicated pursuant to Section 12 of this
18 Amendment.

19 "(15) "State" means the State of Alabama.

20 "(16) "Stewardship" means the maintenance,
21 protection, operation, enhancement, and management of lands
22 acquired for the Forever Wild Land Trust.

23 "(17) "Trustee" means a member of the Board of
24 Trustees of the Forever Wild Land Trust.

25 "(18) "Trust income" means the net income received
26 by the state from the investment and reinvestment of all
27 assets of the Alabama Trust Fund, determined in accordance

1 with the provisions of Amendment Number 450 of the
2 Constitution of Alabama of 1901.

3 "(19) In dividing the State into geographical
4 regions:

5 "(a) "Central District" means the following counties
6 of the state: Autauga, Bibb, Chambers, Chilton, Clay, Coosa,
7 Elmore, Greene, Hale, Jefferson, Lee, Perry, Pickens,
8 Randolph, Shelby, Sumter, Talladega, Tallapoosa, and
9 Tuscaloosa.

10 "(b) "Northern District" means those counties in the
11 geographical region of the state north of the Central
12 District, as defined above.

13 "(c) "Southern District" means those counties in the
14 geographical region of the state south of the Central
15 District, as defined above.

16 "(20) "Person" means any individual, firm,
17 corporation, trust, partnership, or association.

18 "Section 3. Establishment of Forever Wild Land
19 Trust, Lead Management Agency, and Categories of Lands to be
20 Acquired.

21 "(a) For the purposes set forth in this Amendment,
22 there is hereby established the Alabama Forever Wild Land
23 Trust, which shall be a permanent trust to be funded and
24 administered in accordance with the provisions of this
25 Amendment. Title to all properties acquired for the Forever
26 Wild Land Trust shall be vested in the Alabama Trust Fund for
27 the State of Alabama. The Department shall serve as the lead

1 management agency with respect to all lands acquired and shall
2 have the responsibility of providing to the Board
3 administrative support as necessary.

4 "(b) In order to protect the natural heritage and
5 diversity of Alabama for future generations, the state, acting
6 through the Forever Wild Land Trust, will acquire lands, the
7 title of which shall be held in the Alabama Trust Fund, to
8 ensure their protection and use for conservational,
9 educational, recreational or aesthetic purposes. These lands
10 may include, but shall not be limited to, the following:
11 Wetlands, river corridors, lakes and streams, and the banks
12 and shores thereof, springs, riverine, montane, plain,
13 coastal, and other kinds of terrain, geological systems, areas
14 supporting threatened or endangered species, sensitive and
15 ecologically important lands, unusual habitat types, forests
16 and woodlands, fish and wildlife habitats, wilderness areas,
17 unusual assemblages of wildflowers, natural lands, waters or
18 wetlands that will provide public hunting and fishing, lands
19 having other distinctive natural or recreational
20 characteristics, and lands that will constitute suitable
21 additions to the state's system of parks and fish and wildlife
22 management areas.

23 "(c) Property purchased with Forever Wild Land Trust
24 moneys or which become part of the trust property through
25 dedication or by some other means shall be subject to the
26 condemnation of easements, rights-of-way and other necessary
27 rights and estates in property by or on behalf of corporations

1 that construct, own or operate railroads, pipelines for the
2 transportation of oil, gas, fuel or water, hydroelectric or
3 other electric generating facilities and electric lines,
4 telephone transmission lines and other communication
5 facilities, or any other public utility or method of
6 transportation which serves, or is intended to serve, the
7 public convenience and necessity to the same extent and under
8 the same conditions that such lands, if owned by private
9 persons, would be subject to condemnation by such corporations
10 under federal or state law now in effect or hereafter enacted.
11 No use of any such lands as determined by the Board shall
12 constitute a use thereof for public purposes that will require
13 proof of actual necessity by any corporation seeking to
14 condemn such lands.

15 "(d) Notwithstanding any other provision of this
16 Amendment, no property shall be acquired for the Alabama Trust
17 Fund or with moneys from the Forever Wild Land Trust through
18 condemnation or the use of eminent domain.

19 "(e) No funds or assets of the Forever Wild Land
20 Trust derived from any source shall be expended or used to
21 construct or improve buildings, structures or facilities used
22 for human lodging, feeding or entertainment, including,
23 without limitation thereto, hotels and other lodging
24 facilities, restaurants, convention centers and meeting halls,
25 golf courses, dancing or meeting pavilions, tennis courts,
26 recreational dams, exhibition halls, and similar facilities
27 that have a principal purpose not related to the stewardship

1 of properties of the Forever Wild Land Trust, the title of
2 which is held in the Alabama Trust Fund, in their natural
3 state; provided, however, that nothing herein contained shall
4 be construed to prohibit the expenditure of funds allocated to
5 the Stewardship Account for the construction and maintenance
6 of roads, bridges, culverts, drainage facilities, hiking
7 trails, boat launching ramps and other improvements located on
8 Trust Lands to provide reasonable public access thereto, for
9 the construction and maintenance of visitors' centers and
10 facilities, interpretive displays and other facilities for the
11 guidance and education of visitors, for the construction and
12 maintenance of facilities and the acquisition of equipment
13 necessary or appropriate in connection with the performance of
14 stewardship responsibilities (including housing for custodial
15 personnel), or for any other purpose reasonably related to the
16 stewardship responsibilities of the Board.

17 "Section 4. Establishment of Board of Trustees of
18 the Alabama Forever Wild Land Trust.

19 "(a) There is hereby established the Board of
20 Trustees of the Alabama Forever Wild Land Trust, which shall
21 consist of fifteen voting members as follows:

22 "(1) One member shall be the Commissioner of the
23 Department who shall also serve as Chairman of the Board.

24 "(2) One member shall be the State Forester.

25 "(3) Three members which shall be appointed by the
26 Alabama Commission on Higher Education from Departments of
27 Biology, Zoology, Environmental Sciences and Wildlife Science

1 from eligible four-year institutions of higher education in
2 Alabama. An eligible institution shall consist of a public or
3 private four-year college or university, offering a degree in
4 biology or one of its divisions, and having an enrollment of
5 at least 1500 undergraduate students. There shall be one
6 professional biologist appointed to the Board from eligible
7 institutions in the Northern District of the state, one from
8 such institutions in the Central District of the state, and
9 one from such institutions in the Southern District of the
10 state, as said districts are defined in Section 2 hereof. Each
11 eligible institution in the appropriate geographical region
12 shall be entitled to submit one nomination to the Alabama
13 Commission on Higher Education for the professional biologist
14 trustee from that region on the Board.

15 "(4) One member shall be the Executive Director of
16 the Marine Environmental Sciences Consortium.

17 "(5) There shall be three members from each of the
18 three geographical regions of the state as defined in Section
19 2 of this Amendment, as follows. Provided, however, at least
20 one appointee by the Governor, at least one appointee by the
21 Lieutenant Governor and at least one appointee by the Speaker
22 of the House of Representatives shall be black. If none of the
23 recommending groups recommend a black to the appointing
24 authority, said appointing authority shall appoint a black on
25 his or her own initiative.

26 "(A) One member from the Northern District shall be
27 appointed by the Governor from a list of names presented by

1 Group A and shall serve an initial term of six years. One
2 member from the Northern District shall be appointed by the
3 Lieutenant Governor from a list of names presented by Group B
4 and shall serve an initial term of four years. One member from
5 the Northern District shall be appointed by the Speaker of the
6 House of Representatives from a list of names presented by
7 Group C and shall serve an initial term of two years.

8 "(B) One member from the Central District shall be
9 appointed by the Lieutenant Governor from a list of names
10 presented by Group C and shall serve an initial term of six
11 years. One member from the Central District shall be appointed
12 by the Speaker of the House of Representatives from a list of
13 names presented by Group A and shall serve an initial term of
14 four years. One member from the Central District shall be
15 appointed by the Governor from a list of names presented by
16 Group B and shall serve an initial term of two years.

17 "(C) One member from the Southern District shall be
18 appointed by the Speaker of the House of Representatives from
19 a list of names presented by Group B and shall serve an
20 initial term of six years. One member from the Southern
21 District shall be appointed by the Governor from a list of
22 names presented by Group C and shall serve an initial term of
23 four years. One member from the Southern District shall be
24 appointed by the Lieutenant Governor from a list of names
25 presented by Group A and shall serve an initial term of two
26 years.

1 "(D) Any successor appointments and appointments to
2 vacancies shall be made in the same manner as described in
3 subparagraphs (A), (B) and (C) above, and members appointed
4 after the initial term of that office has expired shall serve
5 for six-year terms, except that no member shall serve
6 consecutive six-year terms.

7 "(E) It is the intent of this Amendment that the
8 eastern and western areas of the three geographical regions of
9 the state shall be represented on the Board of Trustees.

10 "(6) Each person appointed to the Board shall be and
11 remain an Alabama resident and shall have a demonstrated
12 knowledge of and commitment to land acquisition for the
13 purposes of conservation and recreation. Organizations making
14 recommendations to the appointing officials shall be Alabama
15 organizations or the Alabama chapter of national organizations
16 in order to ensure that the decisions affecting Alabama's
17 future are made by Alabama residents.

18 "The recommending groups are composed as follows:

19 "(A) "Group A" shall consist of non-profit
20 organizations, each having its principal programs extending
21 generally throughout the State, whose demonstrated primary
22 concerns are environmental protection for the state and its
23 citizens and non-consumptive use and preservation of natural
24 areas, and whose membership exceeds 750 individual residents
25 of Alabama, including, but not limited to, The Nature
26 Conservancy of Alabama, the Alabama Audubon Council
27 (comprising the chapters in Alabama of the National Audubon

1 Society), The Alabama Conservancy, the Alabama Chapter of the
2 Sierra Club, and their respective successor organizations.

3 "(B) "Group B" shall consist of business, industry,
4 trade associations and professional organizations, each having
5 its principal programs extending generally throughout the
6 state, and having a demonstrated concern for balancing
7 economic growth with protection for the environment and
8 increased recreational opportunities, including, but not
9 limited to, the Business Council of Alabama, the Alabama
10 Forestry Association, Alabama Forest Resources Center, the
11 Alabama Farmers Federation, the Petroleum Council of Alabama,
12 the Association of County Commissions of Alabama, and their
13 respective successor organizations.

14 "(C) "Group C" shall consist of non-profit
15 organizations, each having its principal programs extending
16 generally throughout the state, whose demonstrated primary
17 purposes are to promote hunting, fishing, camping or other
18 compatible recreational activities or conservation for such
19 purposes, and whose membership exceeds 750 individual
20 residents of Alabama, including, but not limited to, the
21 Alabama Wildlife Federation, the Alabama State Advisory
22 Council of Ducks Unlimited, Bowhunters of Alabama Inc., the
23 Coastal Land Trust, Inc., the Gulf Coast Conservation
24 Association, the Tennessee Valley Waterfowl Association, the
25 Alabama Rifle and Pistol Association, the Alabama Chapter of
26 the Safari Club International (whether or not those named

1 organizations meet the membership requirement), and their
2 respective successor organizations.

3 "(D) In order to qualify as a recommending
4 organization, each organization not specifically listed in
5 this section must file with the Secretary of State and with
6 the named organizations within the same "group", by January 1
7 preceding the date of expiration of term of office of Trustees
8 hereunder, a written statement of intent to nominate persons
9 to serve on the Board. This statement must include a request
10 for designation of the "group" within which the organization
11 plans to nominate Trustees and information demonstrating that
12 the organization qualifies to make such nominations. It shall
13 also include a copy of the organization's charter, stating its
14 purpose. Should the Secretary of State or any of the named
15 organizations within the same group oppose in writing the
16 eligibility of the new organization to nominate members of the
17 Board or the designation of the "group" within which it
18 proposes to nominate members, then the Secretary of State
19 shall determine the eligibility of the applying organization
20 to submit nominations for membership on the Board and, if
21 determined eligible, the "group" within which it shall submit
22 nominations. In making this decision, the Secretary of State
23 shall give due consideration to the views submitted to him by
24 the organizations in the "group" within which the new
25 organization proposes to submit nominations. An organization,
26 together with its affiliates, cannot recommend names to the
27 appointing officials as a member of more than one "group".

1 "Each organization submitting nominations may
2 submit, to the appropriate appointing official for that
3 position on the Board, the names of not more than two of its
4 members who have the qualifications to serve in the position
5 for which they are being nominated. In the event that no
6 organization within a group recommends names to the appointing
7 official, then that official may appoint a Trustee from that
8 group solely of his own choice.

9 "(E) Terms of office of the initial Trustees shall
10 begin on the January 1 following ratification of this
11 Amendment, or on the first day of the third month following
12 said ratification, whichever shall first occur. Terms of
13 office of successor Trustees shall begin and end on
14 anniversaries of that date. In the case of the initial
15 appointments of Trustees, nominations shall be made to the
16 appropriate appointing officials not later than one month
17 after ratification of this Amendment, and appointments by said
18 officials shall be made by the date of beginning of the
19 initial Trustees' terms of office. Nominations of successor
20 Trustees shall be made to the appropriate appointing officials
21 not later than two months prior to the expiration of the
22 Trustees' terms of office, and said officials shall appoint
23 new Trustees within 30 calendar days after the expiration of
24 said terms. In the event a Trustee resigns or dies, or
25 otherwise vacates his office, the Commissioner or the
26 Secretary of State shall promptly notify the appropriate
27 nominating organizations and shall publish notice of such

1 vacancy once a week for three successive weeks in three
2 newspapers of regional circulation in this state with a
3 request for new nominations from any group that may qualify to
4 do so under the provisions of this Amendment. Nominations for
5 a replacement Trustee shall be made to the appointing official
6 during the 30 calendar days following such death, resignation
7 or other vacation of office, and the appointing official shall
8 appoint a replacement Trustee not later than the end of the
9 next succeeding 30 calendar days thereafter. In the event the
10 appropriate appointing official fails to make an initial
11 appointment or an appointment within said 30-day periods for
12 appointment after expiration of term of office or after death,
13 resignation or other vacation of office, the right to make an
14 appointment to fill that vacancy shall fall to the next
15 appointing official in line of rotation of the Governor to the
16 Lieutenant Governor to the Speaker of the House (with the
17 Governor then to follow the Speaker); and, if that successor
18 appointing official fails to make such appointment within 30
19 days, then the right to make the appointment shall fall to the
20 next succeeding appointing official, all to the end that there
21 will, as nearly as possible, always be a full complement of
22 Trustees on the Board. Trustees appointed to fill a vacancy
23 other than by reason of expiration of term of office shall
24 serve the remainder of the unexpired term of the Trustee being
25 replaced.

26 "Section 5. Rights, Powers, and Duties of the Board.

1 "(a) The Board is to meet at least quarterly each
2 year for the transaction of its business and to review the
3 progress of the Forever Wild Land Trust. It shall review
4 written requests from state agencies, private organizations,
5 and private citizens proposing that certain properties or
6 interests therein be acquired. For purposes of establishing a
7 quorum, there must be present at least three-fifths (3/5) of
8 the members of the Board then in office at any Board meeting
9 in order to conduct business; provided, however, that in
10 absence of a quorum, the members present, by majority vote,
11 may adjourn the meeting from time to time until a quorum shall
12 attend. Any Board action or recommendation must be approved by
13 at least three-fifths (3/5) of the members of the entire Board
14 then in office, unless specified otherwise in this Amendment.
15 Using its own knowledge and expertise, as well as the
16 knowledge and expertise of the scientific community and state
17 and federal agencies, the Board shall adopt a priority list of
18 properties to be considered for acquisition. Recognizing that
19 real estate transactions must involve willing sellers and may
20 involve complicated procedures that could affect the
21 availability of property, the Department shall, to the extent
22 practicable, follow the directions of the Board in acquiring
23 lands or waters. Provided, however, the Forever Wild Land
24 Trust may only purchase or acquire an interest in property
25 from the priority list of properties adopted by the Board.

26 "(b) In addition to the site-specific management and
27 allowable use guidelines referred to in Section 9, the Board

1 may recommend to the Department rules, regulations and
2 management criteria, which the Board feels would be beneficial
3 to carrying out the goals and purposes of this Amendment.

4 "(c) The Board shall assist the Department in
5 developing and maintaining an inventory of areas and sites
6 which through acquisition become state natural and/or
7 recreational areas and shall make public as desirable
8 information regarding their location, management, regulation,
9 and permissible public uses.

10 "(d) The Board shall prepare and submit to the
11 Governor and the state Legislature, on or before February 1 of
12 each year, a report which shall describe and account for all
13 expenditures and acquisitions by the Forever Wild Land Trust
14 for the preceding fiscal year, as well as plans for the
15 current fiscal year. The Board shall present this annual
16 report to the public at a public meeting to be held within ten
17 days after February 1 of each year. The public meeting shall
18 be an informal process to present information on the Forever
19 Wild Land Trust to the public and give the public an
20 opportunity to have a dialogue with the Board regarding its
21 future plans and operations.

22 "(e) Before purchasing or acquiring any interest in
23 lands with moneys from the Forever Wild Land Trust, the Board,
24 acting through the Commissioner, or the Commissioner on his
25 own initiative, shall obtain at least two appraisals from
26 certified real estate appraisers. In no event shall the Board
27 expend more than the "appraised value", as defined in Section

1 2 of this Amendment, in purchasing such lands; provided,
2 however, that by affirmative vote of at least three-fourths
3 (3/4) of the members of the Board, the Board may expend up to
4 125 percent of the appraised value for such purchase where
5 such action is necessary to accomplish the purposes and goals
6 of this Amendment.

7 "(f) The Board may assume indebtedness on behalf of
8 the Forever Wild Land Trust that may be owed with respect to
9 real or personal property given, donated, contributed or
10 devised to the Forever Wild Land Trust, or that may be secured
11 by a mortgage, deed of trust or security interest covering
12 such property, and to agree to pay such indebtedness from
13 current assets or future revenues of the Forever Wild Land
14 Trust; provided that the present value of all installments of
15 principal and of interest on such indebtedness at the time of
16 the assumption thereof, determined in accordance with accepted
17 principles and using a discount rate equal to the rate of
18 interest payable on such indebtedness, shall be less than 80%
19 of the fair market value of such property as determined by an
20 active public market for such property or an appraisal
21 performed by an independent, professionally qualified
22 appraiser.

23 "(g) The Board may contract for the purchase of
24 tracts or parcels of land in which the purchase price shall be
25 payable in future installments, together with such rate of
26 interest on the unpaid balance of such purchase price as the
27 Board shall determine to be reasonable, and to secure the

1 payment of such installments, together with the interest
2 thereon, by purchase money mortgages on the land so acquired
3 and by a pledge of future revenues committed to the Forever
4 Wild Land Trust, including, without limitation thereto, any
5 portion of the trust income allocated to said trust by Section
6 7 of this Amendment; provided that such installments shall in
7 no event exceed 80% of the fair market value of such property
8 determined as set forth in the preceding subsection and
9 provided further that the total cumulative indebtedness
10 assumed each year under the preceding sub-section (f) together
11 with the total cumulative indebtedness incurred each year by
12 purchase money mortgages as provided in this sub-section (g)
13 shall be limited to no more than 25% of the trust income
14 allocated to said trust for the preceding year.

15 "(h) The Board may enter into contracts with any
16 person, nonprofit organization, corporation, governmental
17 entity or other entity concerning tracts or parcels of land
18 that constitute desirable acquisitions for the Forever Wild
19 Land Trust pursuant to which such person, nonprofit
20 organization, corporation, governmental entity or other entity
21 will agree to acquire and hold such land, or to hold such land
22 if theretofore acquired by such person, nonprofit
23 organization, corporation, governmental entity or other entity
24 and to sell or donate such land to the Forever Wild Land Trust
25 at some future date, in the interim preserving and managing
26 such land in its natural state subject to such conditions,
27 including the reimbursement of expenses, as the Board shall

1 deem advantageous for the ultimate acquisition and
2 preservation of such land.

3 "(i) The Board may sell, lease or exchange specific
4 properties or interests therein acquired or held by the
5 Alabama Trust Fund for the Forever Wild Land Trust. Any such
6 sale or exchange shall be made at not less than the "appraised
7 value", as defined in Section 2 of this Amendment; provided,
8 however, that by affirmative vote of at least three-fourths
9 (3/4) of the members of the Board, the Board may authorize and
10 direct the Commissioner to sell or exchange property of said
11 trust for not less than 85 percent of the appraised value
12 where such action is necessary to accomplish the purposes and
13 goals of the Amendment. All moneys received from any such sale
14 or lease shall be paid into the Forever Wild Land Trust.

15 "(j) The Board shall establish a technical advisory
16 committee, consisting of the State Forester, the President of
17 the Alabama Chapter of the Wildlife Society, the State
18 Geologist, and any other person whom the Board may desire to
19 appoint, for the purpose of obtaining advice and assistance in
20 performing the Board's functions and duties under this
21 Amendment.

22 "(k) In addition, the Board is authorized at its
23 discretion:

24 "(1) to establish procedures relating to the
25 confidentiality of information where necessary to accomplish
26 the purposes and goals of this Amendment;

1 "(2) to cooperate or contract with any federal,
2 state or local government agency, private organization, or
3 individual to accomplish any of the purposes and goals of this
4 Amendment, paying any reasonable fees or expenses in
5 connection with such cooperation or contracts from moneys held
6 under or within the Forever Wild Land Trust;

7 "(3) to recommend that moneys paid into the Forever
8 Wild Land Trust be allowed to accumulate, with only the income
9 thereon being spent, or that the corpus or principal of the
10 Forever Wild Land Trust be expended in whole or in part;

11 "(4) to do any and all things necessary to take
12 advantage of federal, state, or local government or private
13 funds donated or obtainable through the use of the Forever
14 Wild Land Trust; and

15 "(5) to adopt, alter and repeal bylaws, regulations
16 and rules in accordance with the provisions of the
17 Administrative Procedure Act for the regulation and conduct of
18 its affairs and business in accordance with the provisions of
19 the Alabama Administrative Procedures Act.

20 "(1) Members of the Board and the technical advisory
21 committee shall be entitled to receive the per diem allowance
22 and travel expenses provided by law to state employees. These
23 expense payments shall be for the sole purpose of travel to
24 and from their places of residence to meetings and for travel
25 involving official business of the Forever Wild Land Trust.
26 Those members who are state officials or employees shall serve

1 without compensation or expense allowances other than that to
2 which they are otherwise entitled in the positions they hold.

3 "(m) The Commissioner and the Department are hereby
4 specifically authorized and empowered to carry out all
5 directions and recommendations of the Board made hereunder to
6 accomplish the purposes of the Forever Wild Land Trust and
7 this Amendment.

8 "Section 6. Final Approval Committee.

9 "There is hereby established a Final Approval
10 Committee to be composed of the Governor, the Lieutenant
11 Governor and the Speaker of the House of Representatives.

12 "Before purchasing or leasing any property, or
13 acquiring any interest therein, with any funds from the
14 Forever Wild Land Trust or selling any properties previously
15 purchased from the Forever Wild Land Trust, the Board shall
16 submit to the Final Approval Committee a written proposal of
17 the purchase, lease, sale or acquisition of any other interest
18 in property. Said proposal shall include a legal description
19 of the property to be purchased, leased or sold; the proposed
20 purchase, lease or sale price; and any additional terms of the
21 sale, purchase, lease or other interest therein. The Final
22 Approval Committee shall approve or disapprove the proposal by
23 a majority vote of the full membership of said Committee
24 within 30 days after the date of submission of the proposal.
25 Failure of the Committee to act within 30 days of submission
26 shall constitute approval of said proposal.

27 "Section 7. Source of Funds.

1 "(a) Beginning with the state's 1992-1993 fiscal
2 year, there shall be allocated and paid into the Forever Wild
3 Land Trust the percentage of trust income earned from the
4 Alabama Trust Fund that would have been reinvested in the
5 Alabama Trust Fund under Section 4(c) of Amendment Number 450
6 to this Alabama Constitution of 1901. Notwithstanding Section
7 4(c) of Amendment Number 450 to the Alabama Constitution of
8 1901, the percentage of trust income earned from the Alabama
9 Trust Fund shall be allocated to the Forever Wild Land Trust
10 as follows:

11 "(1) For the 1992-1993 fiscal year, four percent
12 (4%) of the trust income earned from the Alabama Trust Fund.

13 "(2) For the 1993-1994 fiscal year, five percent
14 (5%) of the trust income earned from the Alabama Trust Fund.

15 "(3) For the 1994-1995 fiscal year, six percent (6%)
16 of the trust income earned from the Alabama Trust Fund.

17 "(4) For the 1995-1996 fiscal year, seven percent
18 (7%) of the trust income earned from the Alabama Trust Fund.

19 "(5) For the 1996-1997 fiscal year, eight percent
20 (8%) of the trust income earned from the Alabama Trust Fund.

21 "(6) For the 1997-1998 fiscal year, nine percent
22 (9%) of the trust income earned from the Alabama Trust Fund.

23 "(7) Thereafter, ten percent (10%) of the trust
24 income earned from the Alabama Trust Fund; provided, however,
25 that in no event shall such trust income paid to the Forever
26 Wild Land Trust exceed \$15 million in any one fiscal year.

1 "(b) The Alabama Trust Fund Board shall provide the
2 Board of Trustees of the Forever Wild Land Trust with advice
3 and assistance in the investment of funds in the Forever Wild
4 Land Trust.

5 "(c) Title to the property acquired from funds in
6 the Forever Wild Land Trust shall be held in the Alabama Trust
7 Fund for the State of Alabama. Provided, however, the Alabama
8 Trust Fund Board shall not have any responsibility for nor any
9 control over the approving or disapproving of the acquisition,
10 disposition or use of any such property. Nothing in this
11 Amendment or Amendment 450 to this Alabama Constitution of
12 1901 shall be construed so as to require the Alabama Trust
13 Fund Board to have a fiduciary responsibility for the
14 investment of Forever Wild Land Trust funds or the production
15 of income from property acquired by the Board of Trustees of
16 the Forever Wild Land Trust.

17 "(d) The amounts allocated to the Forever Wild Land
18 Trust shall be included in determining whether the trust
19 income received by the state from the Alabama Trust Fund
20 equals or exceeds \$60,000,000 for the purposes of the County
21 Government Capital Improvement Act (codified at Sections
22 11-29-1 through 11-29-7 of the Code of Alabama, 1975, as
23 amended) and the Municipal Government Capital Improvement Act
24 (codified at Sections 11-66-1 through 11-66-7 of the Code of
25 Alabama, 1975, as amended). In no event shall any provision
26 hereof serve to decrease the amount of income from the Alabama
27 Trust Fund which is to be appropriated to the Municipal

1 Government Capital Improvement Fund and the County Government
2 Capital Improvement Fund under the above-referenced acts.

3 "(e) Notwithstanding any provision of this amendment
4 to the contrary, in any year that the General Fund is in
5 proration, the investment income of the Forever Wild Trust
6 Fund shall be deposited into the General Fund.

7 "Section 8. Donations of Property.

8 "Any person making a donation of any property or any
9 interest therein, to the state for the purposes of this
10 Amendment, shall receive, irrespective of any other provisions
11 of the income tax laws of the state, twice the ordinary
12 deduction for state income tax purposes for the taxable year
13 in which the property or interest is donated. Provided,
14 however, the value of any such property or interest therein,
15 subject to this double deduction, shall be limited to the
16 actual value of the property, or any interest therein, donated
17 to the state which shall not include any indebtedness,
18 encumbrances or liens assumed by the Forever Wild Land Trust
19 or the value of any interests or rights retained by the donor.

20 "For the purposes of this section, the "actual
21 value" of property shall be the appraised value for ad valorem
22 taxation purposes, averaged over the preceding five years.

23 "Section 9. Stewardship Account.

24 "The Alabama Trust Fund Board shall establish a
25 separate account within the Alabama Trust Fund to be known as
26 the Forever Wild Land Trust Stewardship Account. When the
27 Forever Wild Land Trust acquires property or an interest in

1 property pursuant to this Amendment, the Board of Trustees of
2 the Forever Wild Land Trust shall set aside an amount from the
3 Forever Wild Land Trust equal to fifteen percent (15%) of the
4 appraised value of the land acquired, or the land affected if
5 less than a fee interest was acquired. The Alabama Trust Fund
6 Board shall provide for the investment of the Stewardship
7 Account. The Board of Trustees of the Alabama Forever Wild
8 Land Trust may authorize the Department to expend any interest
9 income generated from the investment of funds within the
10 Stewardship Account by the Alabama Trust Fund Board. Provided,
11 however, the Commissioner shall notify the Board of Trustees
12 in writing if he determines that the interest income projected
13 to be generated from the Forever Wild Land Trust Stewardship
14 Account for the next fiscal year will be insufficient to
15 properly manage property acquired by the Forever Wild Land
16 Trust. The Board may authorize by a three-fifths (3/5) vote
17 that funds within the corpus of the Forever Wild Land Trust
18 Stewardship Account be expended by the Department for
19 management purposes for the next fiscal year, provided that
20 funds from the Stewardship Account may not be expended to
21 purchase additional property or interests therein. Within one
22 year after the Forever Wild Land Trust acquires any properties
23 pursuant to this Amendment, the Board of Trustees of the
24 Forever Wild Land Trust shall develop management and allowable
25 use guidelines which shall be followed by the Department in
26 the administration and stewardship of that piece of property.
27 The Lands Division of the Department shall, in accordance with

1 such general directions as may be given by the Board of
2 Trustees, coordinate management of properties acquired
3 pursuant to this Amendment and expenditures from the
4 Stewardship Account. All lands will be managed under the
5 multiple-use management principle; to insure that all resource
6 values including recreation, hunting, fishing, boating,
7 hiking, aesthetics, soil, water, forest management and
8 minerals are protected or enhanced. No use will be allowed
9 that is not compatible with the primary purpose for acquiring
10 the land. In coordinating such management within the
11 Department, the Game and Fish Division of the Department shall
12 manage wildlife and fisheries programs; the State Parks
13 Division of the Department shall manage parks programs; the
14 Lands Division of the Department shall manage natural areas
15 programs through its Natural Heritage Program; and the Lands
16 Division of the Department shall manage other activities and
17 programs relating to Forever Wild Land Trust properties. The
18 Forestry Commission shall serve as consultant to the
19 Department for the purpose of managing the forest and forestry
20 resources programs. Any income that may be generated from the
21 property or from any use of said property acquired through the
22 Forever Wild Land Trust shall be treated as interest income of
23 the Alabama Trust Fund and shall accrue to the credit of the
24 general fund of the State of Alabama.

25 "The right of the public to hunt and fish on the
26 lands and easements acquired under the provisions of this act
27 shall not be abridged or restricted, subject to such rules,

1 regulations, seasons and limits as are established by the
2 Department of Conservation and Natural Resources.

3 "Section 10. Enforceability of Conservation
4 Restrictions; Recordation; Acquisition and Disposal of
5 Interests.

6 "(a) No conservation restriction or easement as
7 defined in Section 2 of this Amendment held by any
8 governmental body shall be unenforceable on account of lack of
9 privity of estate or contract or lack of benefit to particular
10 land or on account of the benefit being assignable to or being
11 assigned to any other governmental body with like purposes.
12 All such restrictions and easements shall be duly recorded and
13 indexed in the manner of other conveyances of interests in
14 land, and shall describe the land subject to the restrictions
15 or easements by adequate legal description or by reference to
16 a recorded plat showing its boundaries.

17 "Such conservation restrictions are interests in
18 land and may be acquired by any governmental body which has
19 power to acquire interests in land, in the same manner as it
20 may acquire other interests in land. Such a restriction or
21 easement may be enforced by injunction or proceeding in
22 equity, and shall entitle the holder of it to enter the land
23 in a reasonable manner and at reasonable times to assure
24 compliance. Such a restriction or easement may be released in
25 whole or in part, by the holder for such consideration, if
26 any, as the holder may determine, in the same manner as the
27 holder may dispose of land or other interest in land, subject

1 to such conditions as may have been imposed at the time of
2 creation of the restriction.

3 "This section shall not be construed to imply that
4 any restriction, easement, covenant or condition which does
5 not have the benefit of this section shall, on account of any
6 provision hereof, be unforceable. Nothing in this Amendment
7 shall diminish the powers granted by any law to acquire by
8 purchase, gift, eminent domain or otherwise as restricting the
9 use of an existing or future easement, express or implied, in
10 favor of any utility or other holder of an easement for public
11 purpose. The existence of conservation easements or
12 restrictions shall not of itself be proof of value as a
13 measure of damages in any eminent domain proceedings.

14 "(b) When a conservation restriction or easement is
15 held by public body under the program established by this
16 Amendment, the real property subject thereto shall be assessed
17 for taxation purposes on the basis of the true cash value of
18 the property or as otherwise provided by law, less such
19 reduction in value as may result from the granting of the
20 conservation restriction or easement. The value of the
21 interest held by the public body shall be exempt from property
22 taxation to the same extent as other public property.

23 "Section 11. Alabama Natural Heritage Program.

24 "(a) The Alabama Natural Heritage Program is hereby
25 established as a part of the Lands Division of the Department,
26 or its duly designated successor, and shall be funded from the
27 Forever Wild Land Trust or the Forever Wild Land Trust

1 Stewardship Account as provided by the Board, and from private
2 donations.

3 "(b) For purposes of this program, the Department,
4 subject to approval by the Board, shall:

5 "(1) Produce an inventory of Alabama's natural
6 heritage resources, including their location and ecological
7 status.

8 "(2) Maintain a natural heritage data bank of
9 inventory data and other relevant information for ecologically
10 significant sites supporting natural heritage resources.
11 Information from this data bank may be made available to
12 public agencies and to private institutions or individuals for
13 environmental assessment and land management purposes.

14 "(3) Develop a Natural Heritage Plan which suggests
15 priorities for the protection, acquisition and management of
16 dedicated natural area preserves.

17 "(4) Establish procedures relating to the
18 confidentiality of data and inquiries for information in order
19 to protect natural resources and encourage use by public
20 agencies and private organizations and individuals in planning
21 or conducting their activities.

22 "Section 12. Dedication of Natural Area Preserves.

23 "(a) The Department shall, in the name of the State
24 and upon the recommendation of the Board, accept the
25 dedication of natural areas on lands deemed by the Board and
26 the Commissioner to qualify as natural area preserves under
27 the provisions of this Amendment. Natural area preserves may

1 be offered for dedication by voluntary act of the owner. The
2 owner of a qualified natural area may transfer fee simple
3 title or other interest in land to the State. Natural area
4 preserves may be acquired by gift, grant or purchase.

5 "(b) Dedication of a natural area preserve shall
6 become effective only upon acceptance of the instrument of
7 dedication by the Board and the Commissioner.

8 "(c) The instrument of dedication may:

9 "(1) Contain restrictions and other provisions
10 relating to management, use, development, transfer, and public
11 access, and may contain any other restrictions and provisions
12 as may be necessary or advisable to further the purposes of
13 this Amendment;

14 "(2) Define, consistent with the purposes of this
15 Amendment, the respective rights and duties of the owner and
16 of the state and provide procedures to be followed in case of
17 violations of the restrictions;

18 "(3) Recognize and create reversionary rights,
19 transfers upon condition or with limitations, and gifts over;
20 and

21 "(4) Vary in provisions from one natural area
22 preserve to another in accordance with differences in the
23 characteristics and conditions of the several areas.

24 "(d) Public departments, commissions, boards,
25 counties, municipalities, corporations, colleges, universities
26 and all other agencies and instrumentalities of the state and
27 its political subdivisions may dedicate suitable areas within

1 their jurisdiction as natural area preserves in accordance
2 with the powers and authorities granted to such organizations
3 by existing state legislation.

4 "(e) The Board may enter into amendments to the
5 instrument of dedication upon finding that such amendments
6 will not permit an impairment, disturbance, use, or
7 development of the area inconsistent with the provisions of
8 this Amendment. If the fee simple estate in the natural area
9 preserve is not held by the state under this article, no
10 amendment may be made without the written consent of the owner
11 of the other interests therein.

12 "Section 13. Sunset Provision.

13 "(a) Beginning with the state's 2012-2013 fiscal
14 year and each succeeding fiscal year, all moneys to be paid
15 into the Forever Wild Land Trust shall be paid to the Alabama
16 Trust Fund in the event the Legislature has not provided for
17 the continuation of payments into the Forever Wild Land Trust
18 Fund as provided for in this section, provided that 2.5% of
19 the trust income earned from the investment of funds in the
20 Alabama Trust Fund shall continue to be paid to the Forever
21 Wild Stewardship Account established in Section 9 of this
22 Amendment until such time as the Legislature, by legislative
23 act, determines that interest income earned from the
24 investment of funds within the corpus of the Stewardship
25 Account is sufficient for the proper administration and
26 stewardship of properties acquired from the Forever Wild Land
27 Trust. And provided further, that the Legislature, by

1 legislative act, or by the enactment of a constitutional
2 amendment may continue payment of the revenues provided in
3 Section 7 hereof, or at any time provide for the payment of
4 other revenues, into the Forever Wild Land Trust. At such time
5 as the payment of trust income into the Forever Wild Land
6 Trust shall cease, the percentage of trust income accruing to
7 said trust fund shall be paid into the Alabama Trust Fund each
8 year to become a part of the corpus of the Alabama Trust Fund.

9 "(b) Notwithstanding the provisions of subsection
10 (a), this constitutional amendment shall terminate October 1,
11 2032, unless it is resubmitted to the electors at the 2030
12 General Election in its entirety and is approved by a majority
13 of the qualified electors voting on the issue.

14 "Section 14. Amendment Self-Executing.

15 "This Amendment shall be self-executing, but the
16 Legislature shall have the right and power to enact laws
17 supplemental hereto and in furtherance of the purposes and
18 objectives hereof, provided that such laws are not
19 inconsistent with the provisions of this Amendment.

20 "Section 15. Severability.

21 "If any provision of this Amendment, or the
22 application of any provision to any entity, person, or
23 circumstance is for any reason adjudged by a court of
24 competent jurisdiction to be invalid, the remainder of this
25 Amendment and its application shall not be affected."

26 Section 2. An election upon the proposed amendment
27 shall be held in accordance with Sections 284 and 285 of the

1 Constitution of Alabama of 1901, now appearing as Sections 284
2 and 285 of the Official Recompilation of the Constitution of
3 Alabama of 1901, as amended, and the election laws of this
4 state.

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

10 "Proposing an amendment to the Constitution of
11 Alabama of 1901, to amend Amendment 543 to the Constitution of
12 Alabama of 1901, now appearing as Section 219.07 of the
13 Official Recompilation of the Constitution of Alabama of 1901,
14 as amended, to provide that in any year the General Fund is in
15 proration, the investment income of the Forever Wild Trust
16 Fund shall be deposited into the General Fund; and to provide
17 that the amendment shall terminate on October 1, 2032, unless
18 the amendment is resubmitted for approval at the 2030 General
19 Election and approved by the electors.

20 "Proposed by Act _____."

21 This description shall be followed by the following
22 language:

23 "Yes () No ()."