

1 HB357
2 135965-3
3 By Representative DeMarco (Constitutional Amendment)
4 RFD: Constitution, Campaigns and Elections
5 First Read: 16-FEB-12

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8 SYNOPSIS: Under the Constitution of Alabama of 1901,
9 portions of Article XII relate to private
10 corporations and railroads and canals. This bill
11 would propose an amendment to the Constitution
12 which would rewrite certain sections of Article XII
13 as generally described herein and would repeal
14 other sections.

15 This bill would amend, effective January 1,
16 2014, Section 229, as amended by Amendment 27 of
17 the Constitution of Alabama of 1901, now appearing
18 as Section 229 of the Official Recompilation of the
19 Constitution of Alabama of 1901, as amended, by
20 replacing current language with language specifying
21 that the Legislature, by general law only, may pass
22 laws under which corporations and other entities
23 may be organized, dissolved, and regulated and that
24 the Legislature shall provide for the payment of a
25 tax on the privilege of doing business or being
26 organized, incorporated, qualified, or registered
27 under the laws of Alabama. This bill would also

1 amend Section 239 of the Constitution of Alabama of
2 1901, now appearing as Section 239 of the Official
3 Recompilation of the Constitution of Alabama of
4 1901, as amended, by deleting language regarding
5 telegraph and telephone companies. This bill would
6 also amend Section 240 of the Constitution of
7 Alabama of 1901, now appearing as Section 240 of
8 the Official Recompilation of the Constitution of
9 Alabama of 1901, as amended, by adding language
10 formerly found in Section 236, which this bill
11 would repeal, specifying that a stockholder in a
12 corporation cannot be individually liable for more
13 than the unpaid stock owned by that stockholder.

14 This bill would also repeal the following
15 sections of Article XII relating to private
16 corporations and railroads and canals: Section 230
17 of the Constitution of Alabama of 1901, now
18 appearing as Section 230 of the Official
19 Recompilation of the Constitution of Alabama of
20 1901, as amended, relating to the cancellation of
21 certain corporate charters; Section 231 of the
22 Constitution of Alabama of 1901, now appearing as
23 Section 231 of the Official Recompilation of the
24 Constitution of Alabama of 1901, as amended,
25 relating to limitation on remitting forfeiture of
26 corporate charters; Section 232, as amended, by
27 Amendment 473 of the Constitution of Alabama of

1 1901, now appearing as Section 232 of the Official
2 Recompilation of the Constitution of Alabama of
3 1901, as amended, relating to foreign corporations
4 doing business in the state; Section 233 of the
5 Constitution of Alabama of 1901, now appearing as
6 Section 233 of the Official Recompilation of the
7 Constitution of Alabama of 1901, as amended,
8 relating to corporations being restricted to
9 business authorized by the charter; Section 234 of
10 the Constitution of Alabama of 1901, now appearing
11 as Section 234 of the Official Recompilation of the
12 Constitution of Alabama of 1901, as amended,
13 relating to restrictions on the issuance of
14 corporate stocks and bonds; Section 236 of the
15 Constitution of Alabama of 1901, now appearing as
16 Section 236 of the Official Recompilation of the
17 Constitution of Alabama of 1901, as amended,
18 relating to security for dues from private
19 corporations and liability of stockholders; Section
20 237 of the Constitution of Alabama of 1901, now
21 appearing as Section 237 of the Official
22 Recompilation of the Constitution of Alabama of
23 1901, as amended, relating to issuance of preferred
24 stock by corporations; Section 243 of the
25 Constitution of Alabama of 1901, now appearing as
26 Section 243 of the Official Recompilation of the
27 Constitution of Alabama of 1901, as amended,

1 specifying that the regulation of railroad
2 companies is vested in the Legislature; Section 244
3 of the Constitution of Alabama of 1901, now
4 appearing as Section 244 of the Official
5 Recompilation of the Constitution of Alabama of
6 1901, as amended, relating to prohibiting the
7 giving of free passes or discount tickets to
8 members of the Legislature or officers exercising
9 judicial functions; Section 245 of the Constitution
10 of Alabama of 1901, now appearing as Section 245 of
11 the Official Recompilation of the Constitution of
12 Alabama of 1901, as amended, relating to railroads
13 not giving rebates or bonuses, and deceiving or
14 misleading the public as to rates; and Section 246
15 of the Constitution of Alabama of 1901, now
16 appearing as Section 246 of the Official
17 Recompilation of the Constitution of Alabama of
18 1901, as amended, relating to acceptance of article
19 as a prerequisite to benefits of future
20 legislation.

21 Section 235 of the Constitution of Alabama
22 of 1901, now appearing as Section 235 of the
23 Official Recompilation of the Constitution of
24 Alabama of 1901, as amended, relating to the taking
25 of property for public use by municipal and other
26 corporations would not be changed. Section 238 of
27 the Constitution of Alabama of 1901, now appearing

1 as Section 238 of the Official Recompilation of the
2 Constitution of Alabama of 1901, as amended,
3 relating to the authority of the Legislature to
4 revoke charters of incorporation would not be
5 changed. Section 241 of the Constitution of Alabama
6 of 1901, now appearing as Section 241 of the
7 Official Recompilation of the Constitution of
8 Alabama of 1901, as amended, relating to the
9 definition of a corporation would not be changed.
10 Section 242 of the Constitution of Alabama of 1901,
11 now appearing as Section 242 of the Official
12 Recompilation of the Constitution of Alabama of
13 1901, as amended, relating to when railroads and
14 canals are deemed public highways and relating to
15 railroad and canal companies, common carriers, and
16 rights of railroad companies generally would not be
17 changed.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
22

23 Proposing an amendment to the Constitution of
24 Alabama of 1901, to become effective January 1, 2014, relating
25 to corporations; to amend Section 229, as amended by Amendment
26 27 of the Constitution of Alabama of 1901, now appearing as
27 Section 229 of the Official Recompilation of the Constitution

1 of Alabama of 1901, as amended, relating to the authority of
2 the Legislature to pass general laws pertaining to
3 corporations and other entities; to amend Section 239 of the
4 Constitution of Alabama of 1901, now appearing as Section 239
5 of the Official Recompilation of the Constitution of Alabama
6 of 1901, as amended, relating to telephone and telegraph
7 companies; to amend Section 240 of the Constitution of Alabama
8 of 1901, now appearing as Section 240 of the Official
9 Recompilation of the Constitution of Alabama of 1901, as
10 amended, relating to the ability of corporations to sue and be
11 sued like natural persons; and to repeal Sections 230, 231,
12 232 as amended by Amendment 473, 233, 234, 236, 237, 243, 244,
13 245, and 246 of the Constitution of Alabama of 1901, now
14 appearing as Sections 230, 231, 232, 233, 234, 236, 237, 243,
15 244, 245, and 246, respectively, of the Official Recompilation
16 of the Constitution of Alabama of 1901, as amended, relating
17 to private corporations and railroads and canals.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. The following amendment to the
20 Constitution of Alabama of 1901, as amended, is proposed and
21 shall become valid as a part thereof, effective January 1,
22 2014, following approval by a majority of the qualified
23 electors voting thereon and in accordance with Sections 284,
24 285, and 287 of the Constitution of Alabama of 1901, as
25 amended:

26 PROPOSED AMENDMENT

1 1. Section 229 of the Constitution of Alabama of
2 1901, as amended by Amendment 27, is amended to read as
3 follows:

4 ~~"Section 229. The legislature shall pass no special
5 act conferring corporate powers, but it shall pass general
6 laws under which corporations may be organized and corporate
7 powers obtained, subject, nevertheless, to repeal at the will
8 of the legislature; and shall pass general laws under which
9 charters may be altered or amended. The legislature shall, by
10 general laws, provide for the payment to the state of Alabama
11 of a franchise tax by corporations organized under the laws of
12 this state which shall be in proportion to the amount of
13 capital stock; but strictly benevolent, educational or
14 religious corporations or federal building and loan
15 associations organized pursuant to an act of congress known as
16 the Home Owners' Loan Act of 1933, as amended, and as the same
17 may hereafter be amended, or building and loan associations
18 organized under or authorized to do business by the laws of
19 Alabama shall not be required to pay such a tax on their
20 withdrawable or repurchasable shares. The charter of any
21 corporation shall be subject to amendment, alteration, or
22 repeal under general laws. Exemption of the shares of building
23 and loan associations from franchise taxes heretofore provided
24 by statute is ratified.~~

25 "The Legislature shall pass general laws under which
26 corporations and other entities may be organized, authorized
27 to do business or conduct their affairs, operated, dissolved,

1 and regulated; such laws, now existing or hereafter passed,
2 shall be subject to amendment or repeal by general law. The
3 Legislature, by general law, shall provide for the payment to
4 the State of Alabama of a tax on the privilege of doing
5 business in Alabama or being organized, incorporated,
6 qualified, or registered under the laws of Alabama. Strictly
7 benevolent, educational, or religious corporations shall not
8 be required to pay such a tax on their withdrawable or
9 repurchasable shares to the extent they have such shares."

10 2. Section 239 of the Constitution of Alabama of
11 1901, is amended to read as follows:

12 "Any association or corporation organized for the
13 purpose, or any individual, shall have the right to construct
14 and maintain lines of telegraph and telephone within this
15 state, and connect the same with other lines; and the
16 legislature shall, by general law of uniform operation,
17 provide reasonable regulations to give full effect to this
18 section. ~~No telegraph or telephone company shall consolidate~~
19 ~~with or hold a controlling interest in the stock or bonds of~~
20 ~~any other telegraph or telephone company owning a complete~~
21 ~~[competing] line, or acquire, by purchase or otherwise, any~~
22 ~~other competing line of telegraph or telephone."~~

23 3. Section 240 of the Constitution of Alabama of
24 1901, is amended to read as follows:

25 "Section 240. All corporations shall have the right
26 to sue, and shall be subject to be sued, in all courts in like
27 cases as natural persons.

1 "Dues from private corporations shall be secured by
2 such means as may be prescribed by law; but in no case shall
3 any stockholder be individually liable otherwise than for the
4 unpaid stock owned by him or her."

5 4. The following sections of the Constitution of
6 Alabama of 1901, relating to private corporations and
7 railroads and canals are repealed: Section 230, relating to
8 the cancellation of certain corporate charters; Section 231,
9 relating to limitation on remitting forfeiture of corporate
10 charters; Section 232, as amended by Amendment 473, relating
11 to foreign corporations doing business in the state; Section
12 233, relating to corporations being restricted to business
13 authorized by the charter; Section 234, relating to
14 restrictions on the issuance of corporate stocks and bonds;
15 Section 236, relating to security for dues from private
16 corporations and liability of stockholders; Section 237,
17 relating to issuance of preferred stock by corporations;
18 Section 243, specifying that the regulation of railroad
19 companies is vested in the Legislature; Section 244, relating
20 to prohibiting the giving of free passes or discount tickets
21 to members of the Legislature or officers exercising judicial
22 functions; Section 245, relating to railroads not giving
23 rebates or bonuses and deceiving or misleading the public as
24 to rates; and Section 246, relating to acceptance of article
25 as a prerequisite to benefits to future legislation.

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 private corporation
11 provisions of Article 12 of the Constitution of Alabama of
12 1901, to become effective January 1, 2014, to continue the
13 authority of the Legislature to pass general laws pertaining
14 to corporations and other entities; to continue the authority
15 of the Legislature to regulate and impose a business privilege
16 tax on corporations and other entities; and to repeal various
17 provisions concerning private corporations, railroads, and
18 canals.

19 "Proposed by Act _____."

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

22 "Yes () No ()."