

1 SB147
2 140050-2
3 By Senators Orr and Pittman (Constitutional Amendment)
4 RFD: Finance and Taxation General Fund
5 First Read: 07-FEB-12

1 SB147

2
3
4 ENGROSSED

5
6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To propose an amendment to the Constitution of
12 Alabama of 1901, to provide a new procedure for distributions
13 made from the Alabama Trust Fund beginning with the 2013-2014
14 fiscal year; to provide further for distributions made from
15 the County and Municipal Government Capital Improvement Trust
16 Fund; to remove the requirement for additional transfers to
17 the County and Municipal Government Capital Improvement Trust
18 Fund under certain circumstances; to create an advisory
19 committee for the County and Municipal Government Capital
20 Improvement Trust Fund; to repeal conflicting provisions of
21 the Constitution of Alabama of 1901; and to repeal Sections
22 11-29-5 and 11-66-5, Code of Alabama 1975.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. The following amendment to the
25 Constitution of Alabama of 1901, as amended, is proposed and
26 shall become valid as a part thereof when approved by a

1 majority of the qualified electors voting thereon and in
2 accordance with Sections 284, 285, and 287 of the Constitution
3 of Alabama of 1901, as amended:

4 PROPOSED AMENDMENT

5 Section 1. (a) Notwithstanding any other provision
6 of this constitution, beginning with the state's 2013-2014
7 fiscal year, the following distributions shall be made
8 annually from the Alabama Trust Fund in lieu of any other
9 distributions of trust income, realized capital gains, or
10 unrealized capital gains provided by law:

11 (1) An amount equal to thirty-three percent (33%) of
12 the oil and gas capital payments paid into the Alabama Trust
13 Fund for the fiscal year ending one year prior to the
14 beginning of the fiscal year for which the distribution is
15 being made plus five percent (5%) of the average market value
16 of invested assets of the Alabama Trust Fund as of the end of
17 the three fiscal years ending one, two, and three years prior
18 to the beginning of the fiscal year for which the distribution
19 is being made shall be distributed as follows:

20 a. Ten percent (10%) of the amount distributed shall
21 be paid to the County Government Capital Improvement Fund and
22 shall be distributed pursuant to Section 11-29-6, Code of
23 Alabama 1975, as amended.

24 b. Ten percent (10%) of the amount distributed shall
25 be paid to the Municipal Government Capital Improvement Fund

1 and shall be distributed pursuant to Section 11-66-6, Code of
2 Alabama 1975, as amended.

3 c. If the constitutional amendment proposed by Act
4 2011-315 is ratified, then ten percent (10%) of the amount
5 distributed, but not more than fifteen million dollars
6 (\$15,000,000) in any one fiscal year, shall be paid to the
7 Forever Wild Land Trust. This distribution shall continue
8 through the fiscal year ending September 30, 2032, and shall
9 not be made after the end of that fiscal year. If the
10 constitutional amendment proposed by Act 2011-315 is not
11 ratified, then one percent (1%) of the amount distributed, but
12 not more than one million dollars (\$1,000,000) in any one
13 fiscal year, shall be paid to the Forever Wild Land Trust
14 Stewardship Account.

15 d. One percent (1%) of the amount distributed, but
16 not more than five million dollars (\$5,000,000) in any one
17 fiscal year, shall be paid to the Alabama Senior Services
18 Trust Fund.

19 e. The remainder of the amount distributed shall be
20 paid to the State General Fund.

21 (b) Beginning with the state's 2013-2014 fiscal
22 year, an amount equal to five percent (5%) of the average
23 market value of invested assets of the County and Municipal
24 Government Capital Improvement Trust Fund as of the end of the
25 three fiscal years ending one, two, and three years prior to

1 the beginning of the fiscal year for which the distribution is
2 being made shall be distributed as follows:

3 (1) Fifty percent (50%) of the amount distributed
4 shall be paid to the County Government Capital Improvement
5 Fund and shall be distributed pursuant to Section 11-29-6,
6 Code of Alabama 1975, as amended.

7 (2) Fifty percent (50%) of the amount distributed
8 shall be paid to the Municipal Government Capital Improvement
9 Fund and shall be distributed pursuant to Section 11-66-6,
10 Code of Alabama 1975, as amended.

11 (c) Notwithstanding the provisions of subsections
12 (a) and (b) of this Section, if market or financial conditions
13 dictate that distributing the entire amounts authorized by
14 this amendment would be detrimental to the preservation of the
15 invested assets of the Alabama Trust Fund, the preservation of
16 the invested assets of the County and Municipal Government
17 Capital Improvement Trust Fund, or both, the Board of Trustees
18 of the Alabama Trust Fund in its sole discretion may, by a
19 two-thirds recorded vote of the entire membership of the
20 Board, elect to distribute a smaller percentage of the oil and
21 gas capital payments, a smaller percentage of the average
22 amount of invested assets, or both. The Board shall make this
23 election at least six months prior to the beginning of the
24 fiscal year for which the distributions will be made.

25 (d) For purposes of this amendment, "invested
26 assets" means all assets which are invested in accordance with

1 the investment policy statement adopted by the Board of
2 Trustees of the Alabama Trust Fund. Invested assets shall not
3 include investments in land or properties acquired for the
4 Forever Wild Land Trust and vested in the Alabama Trust Fund
5 and shall not include any outstanding and unpaid amounts due
6 to the Education Trust Fund Rainy Day Account or to the
7 General Fund Rainy Day Account.

8 Section 2. A County and Municipal Government Capital
9 Improvement Trust Fund Advisory Committee is created. The
10 Committee shall be composed of three members appointed by the
11 Alabama League of Municipalities and three members appointed
12 by the Association of County Commissions of Alabama. The
13 Committee shall serve in an advisory role, and the Board of
14 Trustees of the Alabama Trust Fund shall define the duties of
15 the Committee.

16 Section 3. Beginning with the state's 2013-2014
17 fiscal year, whenever funds are withdrawn from the Education
18 Trust Fund Rainy Day Account or the General Fund Rainy Day
19 Account, there shall not be any additional transfer of funds
20 into the County and Municipal Government Capital Improvement
21 Trust Fund, and investment income earned on amounts repaid to
22 the Education Trust Fund Rainy Day Account and the General
23 Fund Rainy Day Account shall not be distributed to the State
24 General Fund.

25 Section 4. All laws or parts of laws in conflict
26 with this amendment are repealed, including, but not limited

1 to: Those portions of Amendments 450, 543, and 666 to the
2 Constitution of Alabama of 1901, relating to the distribution
3 of trust income, realized capital gains, and unrealized
4 capital gains; Amendment 668 to the Constitution of Alabama of
5 1901, relating to the distribution of trust income; those
6 portions of Amendment 803 to the Constitution of Alabama of
7 1901, relating to additional transfers to the County and
8 Municipal Government Capital Improvement Fund and the
9 distribution of investment income on repayments to the
10 Education Trust Fund and State General Fund Rainy Day
11 Accounts; and Sections 11-66-5 and 11-29-5 of the Code of
12 Alabama 1975, as amended, relating to appropriations of trust
13 income to the County and Municipal Government Capital
14 Improvement Trust Funds.

15
16 END OF PROPOSED AMENDMENT

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

23 Section 3. The appropriate election official shall
24 assign a ballot number for the proposed constitutional
25 amendment on the election ballot and shall set forth the

1 following description of the substance or subject matter of
2 the proposed constitutional amendment:

3 "Proposing an amendment to the Constitution of
4 Alabama of 1901, to provide a new procedure for distributions
5 made from the Alabama Trust Fund beginning with the 2013-2014
6 fiscal year; to create a County and Municipal Government
7 Capital Improvement Trust Fund advisory committee; and to
8 provide further for distributions made from the County and
9 Municipal Government Capital Improvement Trust Fund.

10 "Proposed by Act _____."

11 This description shall be followed by the following
12 language:

13 "Yes () No ()."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Senate

Read for the first time and referred to the Senate
committee on Finance and Taxation General Fund ... 07-FEB-12

Read for the second time and placed on the calen-
dar..... 23-FEB-12

Read for the third time and passed as amended 12-APR-12

Yeas 28
Nays 0

Patrick Harris
Secretary