

1 SB261
2 151037-3
3 By Senator Fielding (Constitutional Amendment)
4 RFD: Constitution, Campaign Finance, Ethics, and Elections
5 First Read: 22-JAN-14

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8 SYNOPSIS: Article III of the Constitution of Alabama
9 of 1901, consists of two sections: Section 42,
10 which establishes the three departments of state
11 government, and Section 43, which provides for the
12 separation of the powers of those three
13 departments. In addition, Amendment 582 of the
14 Constitution of Alabama of 1901, now appearing as
15 Section 43.01 of the Official Recompilation of the
16 Constitution of Alabama of 1901, as amended,
17 requires approval by the Legislature of court
18 orders requiring disbursement of state funds.

19 This proposed constitutional amendment would
20 repeal Article III and Amendment 582 and add a new
21 Article III combining the substance of the repealed
22 provisions in modernized language without making
23 any substantive change.

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25 A BILL
26 TO BE ENTITLED
27 AN ACT

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2 To propose an amendment to the Constitution of
3 Alabama of 1901, as amended, to repeal Article III and
4 Amendment 582 of the Constitution of Alabama of 1901, and add
5 Article III to the Constitution of Alabama of 1901, relating
6 to the separation of powers.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 PROPOSED AMENDMENT

15 I. Article III of the Constitution of Alabama of
16 1901, and Amendment 582 of the Constitution of Alabama of
17 1901, are repealed.

18 II. Article III is added to the Constitution of
19 Alabama of 1901, to read as follows:

20 Article III. SEPARATION OF POWERS.

21 Section 42. (a) The powers of the government of the
22 State of Alabama are legislative, executive, and judicial.

23 (b) The government of the State of Alabama shall be
24 divided into three distinct branches: legislative, executive,
25 and judicial.

26 (c) To the end that the government of the State of
27 Alabama may be a government of laws and not of men, and except

1 as expressly directed or permitted in this constitution, the
2 legislative branch may not exercise the executive or judicial
3 power, the executive branch may not exercise the legislative
4 or judicial power, and the judicial branch may not exercise
5 the legislative or executive power.

6 No order of a state court, which requires
7 disbursement of state funds, shall be binding on the state or
8 any state official until the order has been approved by a
9 simple majority of both houses of the Legislature. This
10 amendment shall not apply to orders, judgments, or decrees
11 requiring payment of compensation for the taking of property
12 by eminent domain or arising out of challenges to taxation or
13 to such other orders, judgments, or decrees as may be
14 otherwise required by statute, or settled principles of
15 Alabama common law as decided by the Alabama appellate courts,
16 not inconsistent with other provisions of this Constitution.
17 Nothing herein shall be construed to preclude a court from
18 making findings of fact or conclusions of law and orders
19 relating thereto, that standards required by the United States
20 Constitution, the Constitution of Alabama of 1901, laws of
21 this state or of the United States, or rules or regulations
22 promulgated pursuant thereto, are not being met, and from
23 ordering the responsible entity or entities to comply with
24 such standards.

25 Article III. This amendment shall become operative
26 January 1, 2017.

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

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

12 "Proposing an amendment to the Constitution of
13 Alabama of 1901, to repeal and restate the provisions of
14 Article III of the Constitution of Alabama of 1901 relating to
15 separation of powers to modernize the language without making
16 any substantive change, effective January 1, 2017.

17 "Proposed by Act _____."

18 This description shall be followed by the following
19 language:

20 "Yes () No ()."