

1 SB25  
2 163386-1  
3 By Senator Albritton (Constitutional Amendment)  
4 RFD: Judiciary  
5 First Read: 03-MAR-15  
6 PFD: 02/09/2015

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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21 Article III combining the substance of the repealed  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.

24  
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17 1901, are repealed.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 individuals,

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

6 Section 43. 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 section 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 Section 2. This amendment shall become operative  
26 January 1, 2017.

1           Section 3. 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 4. 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 ( )."