

1 SB372  
2 167520-1  
3 By Senators Pittman, Orr, Albritton, Scofield, Livingston,  
4 McClendon, Shelnut, Reed, Stutts, Melson and Williams  
5 RFD: Constitution, Ethics and Elections  
6 First Read: 14-APR-15

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8 SYNOPSIS: Under Article V of the United States  
9 Constitution, Congress must call a convention upon  
10 the application of the Legislatures of two-thirds  
11 of the states to consider proposed amendments to  
12 the Constitution. Proposed amendments must then be  
13 ratified by three-fourths of the states.

14 This bill would establish duties for  
15 appointed Article V Convention delegates and  
16 alternate delegates.

17 This bill would require the Legislature, by  
18 joint resolution, to adopt instructions for  
19 delegates and alternate delegates regarding an  
20 Article V Convention.

21 This bill would provide that a vote by a  
22 delegate outside the scope of the instructions from  
23 the Legislature is void.

24 This bill would also provide that a delegate  
25 who knowingly or intentionally votes, or attempts  
26 to vote, outside the scope of instructions from the  
27 Legislature commits a Class A misdemeanor.

1                   Amendment 621 of the Constitution of Alabama  
2                   of 1901, now appearing as Section 111.05 of the  
3                   Official Recompilation of the Constitution of  
4                   Alabama of 1901, as amended, prohibits a general  
5                   law whose purpose or effect would be to require a  
6                   new or increased expenditure of local funds from  
7                   becoming effective with regard to a local  
8                   governmental entity without enactment by a 2/3 vote  
9                   unless: it comes within one of a number of  
10                  specified exceptions; it is approved by the  
11                  affected entity; or the Legislature appropriates  
12                  funds, or provides a local source of revenue, to  
13                  the entity for the purpose.

14                  The purpose or effect of this bill would be  
15                  to require a new or increased expenditure of local  
16                  funds within the meaning of the amendment. However,  
17                  the bill does not require approval of a local  
18                  governmental entity or enactment by a 2/3 vote to  
19                  become effective because it comes within one of the  
20                  specified exceptions contained in the amendment.

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22                                   A BILL

23                                   TO BE ENTITLED

24                                   AN ACT

25  
26                   Relating to Article V Conventions; to establish  
27                   duties for appointed delegates and alternate delegates; to

1 require the Legislature, by joint resolution, to adopt  
2 instructions to delegates; to provide that a vote outside the  
3 scope of the instructions is void; to provide criminal  
4 penalties for exceeding the scope of instructions from the  
5 Legislature; and in connection therewith would have as its  
6 purpose or effect the requirement of a new or increased  
7 expenditure of local funds within the meaning of Amendment 621  
8 of the Constitution of Alabama of 1901, now appearing as  
9 Section 111.05 of the Official Recompilation of the  
10 Constitution of Alabama of 1901, as amended.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. This act shall apply whenever an Article  
13 V Convention is called by Congress.

14 Section 2. For the purposes of this act, the  
15 following terms shall have the following meanings:

16 (1) ALTERNATE DELEGATE. An individual appointed as  
17 an alternate delegate as provided by law.

18 (2) ARTICLE V CONVENTION. A convention for proposing  
19 amendments to the Constitution of the United States called for  
20 by the states under Article V of the Constitution of the  
21 United States.

22 (3) DELEGATE. An individual appointed as provided by  
23 law to represent Alabama at an Article V convention.

24 (4) PAIRED DELEGATE. The delegate with whom an  
25 alternate delegate is paired as provided by law.

26 Section 3. (a) (1) At the time delegates and  
27 alternate delegates are appointed, the Legislature shall adopt

1 a joint resolution to provide instructions to the delegates  
2 and alternate delegates regarding all of the following:

3 a. The rules of procedure.

4 b. Any other matter relating to the Article V  
5 Convention that the Legislature considers necessary.

6 (2) The Legislature may amend the instructions at  
7 any time by joint resolution.

8 (b) An alternate delegate shall do both of the  
9 following:

10 (1) Act in the place of the alternate delegate's  
11 paired delegate when the alternate delegate's paired delegate  
12 is absent from the Article V Convention.

13 (2) Replace the alternate delegate's paired delegate  
14 if the alternate delegate's paired delegate vacates the  
15 office.

16 Section 4. (a) A vote cast by a delegate or an  
17 alternate delegate at an Article V Convention is void if it is  
18 outside the scope of either of the following:

19 (1) The instructions established by a joint  
20 resolution adopted under Section 3 of this act.

21 (2) The limits placed by the Legislature in a joint  
22 resolution that calls for an Article V Convention for the  
23 purpose of proposing amendments to the Constitution of the  
24 United States on the subjects and amendments that may be  
25 considered by the Article V Convention.

26 (b) A delegate or alternate delegate who votes or  
27 attempts to vote outside the scope of the instructions or

1 limits as provided in subsection (a) forfeits the delegate's  
2 appointment by virtue of that vote or attempt to vote.

3 (c) The paired alternate delegate of a delegate who  
4 forfeits appointment under subsection (b) becomes the delegate  
5 at the time the forfeiture of the appointment occurs.

6 (d) The application of the Legislature to call an  
7 Article V Convention for proposing amendments to the  
8 Constitution of the United States ceases to be a continuing  
9 application and shall be treated as having no effect if all of  
10 the delegates and alternate delegates vote or attempt to vote  
11 outside the scope of the instructions or limits as provided in  
12 subsection (a).

13 (e) A delegate or alternate delegate who knowingly  
14 or intentionally votes or attempts to vote outside the scope  
15 of the instructions or limits as provided in subsection (a)  
16 shall be guilty of a Class A misdemeanor.

17 Section 5. The Attorney General or the district  
18 attorney for Montgomery County may prosecute violations of  
19 subsection (e) of Section 4 of this act.

20 Section 6. Although this bill would have as its  
21 purpose or effect the requirement of a new or increased  
22 expenditure of local funds, the bill is excluded from further  
23 requirements and application under Amendment 621, now  
24 appearing as Section 111.05 of the Official Recompilation of  
25 the Constitution of Alabama of 1901, as amended, because the  
26 bill defines a new crime or amends the definition of an  
27 existing crime.

1                   Section 7. This act shall become effective on the  
2   first day of the third month following its passage and  
3   approval by the Governor, or its otherwise becoming law.