

1 HB171  
2 197005-1  
3 By Representative Ball  
4 RFD: State Government  
5 First Read: 19-MAR-19

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8 SYNOPSIS: Under existing law, there is no provision  
9 for the issuance of subpoenas by chairs of standing  
10 committees of the Legislature.

11 This bill would authorize the chair of a  
12 committee of either house of the Legislature, by  
13 majority vote of the committee, to issue a subpoena  
14 to compel the attendance of witnesses and the  
15 production of papers, documents, files, and other  
16 evidence before the committee and would establish  
17 procedures for the issuance of such subpoenas.

18 This bill would provide penalties for  
19 persons who fail to properly respond to a  
20 legislative subpoena.

21 This bill would provide for payment of  
22 certain expenses of witnesses.

23 Amendment 621 of the Constitution of Alabama  
24 of 1901, now appearing as Section 111.05 of the  
25 Official Recompilation of the Constitution of  
26 Alabama of 1901, as amended, prohibits a general  
27 law whose purpose or effect would be to require a

1 new or increased expenditure of local funds from  
2 becoming effective with regard to a local  
3 governmental entity without enactment by a 2/3 vote  
4 unless: it comes within one of a number of  
5 specified exceptions; it is approved by the  
6 affected entity; or the Legislature appropriates  
7 funds, or provides a local source of revenue, to  
8 the entity for the purpose.

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

16  
17 A BILL  
18 TO BE ENTITLED  
19 AN ACT  
20

21 Relating to the Legislature; to authorize the chair  
22 of a committee of either house of the Legislature to issue  
23 subpoenas to compel the attendance of witnesses and the  
24 production of papers; to establish procedures for the issuance  
25 of subpoenas; to provide criminal penalties for persons who  
26 fail to properly response to a legislative subpoena or who  
27 commit perjury under oath; and to provide for payment of

1 certain expenses of witnesses; and in connection therewith  
2 would have as its purpose or effect the requirement of a new  
3 or increased expenditure of local funds within the meaning of  
4 Amendment 621 of the Constitution of Alabama of 1901, now  
5 appearing as Section 111.05 of the Official Recompilation of  
6 the Constitution of Alabama of 1901, as amended.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. For purposes of this act, the term  
9 committee means any standing committee of the House of  
10 Representatives or the Senate.

11 Section 2. (a) The chair of a committee of either  
12 house of the Legislature, by majority vote of the committee,  
13 may issue a subpoena to compel the attendance of a witness and  
14 the production of papers, documents, files, and other evidence  
15 before the committee at a specified time and place as may be  
16 named in the subpoena; provided, that the subject of  
17 investigation is within the range of legitimate legislative  
18 inquiry, and the proposed testimony of the person called  
19 relates to that subject. A subpoena issued pursuant to this  
20 act shall have the power to compel the attendance of witnesses  
21 and the production of papers, files, and records as a court of  
22 law and with like effect.

23 (b) A subpoena issued under this act is considered  
24 sufficient if it does all of the following:

25 (1) States the particular committee before which the  
26 proceeding will be conducted.

27 (2) Is addressed to the witness.

1           (3) Requires the attendance of the witness at a time  
2 and place certain.

3           Section 3. All subpoenas and other process issued by  
4 a committee of the Legislature for witnesses when attendance  
5 may be required before the committee shall be under the hand  
6 of the chair of the committee and attested by the Clerk of the  
7 House of Representatives or the Secretary of the Senate, as  
8 appropriate. The Clerk of the House of Representatives or the  
9 Secretary of the Senate, as appropriate, shall promptly serve,  
10 or have served, a subpoena issued by a committee upon the  
11 party named in the subpoena. Subpoenas shall be served in the  
12 manner provided for service of process in the Alabama Rules of  
13 Civil Procedure.

14           Section 4. Any person subpoenaed to appear as a  
15 witness before a committee shall be entitled to compensation,  
16 including travel pay, as provided by law for witnesses  
17 subpoenaed to appear in civil cases in courts of record in  
18 this state. Upon requisitions signed by the chair of the  
19 committee, these payments shall be paid out of any funds  
20 appropriated to the use of the Legislature by means of  
21 warrants drawn by the State Comptroller on the State Treasury.

22           Section 5. (a) The chair of a committee of either  
23 house of the Legislature shall be fully empowered to  
24 administer oaths and to take depositions for the purpose for  
25 which the committee is empowered to issue subpoenas for  
26 persons, papers, or records. A person who provides false

1 testimony while under oath is guilty of perjury and subject to  
2 the penalties prescribed by law.

3 (b) If a person subpoenaed to appear before a  
4 committee of either house of the Legislature fails to appear  
5 or produce subpoenaed material, the chair of the committee may  
6 invoke the aid of the Circuit Court for the 15th Judicial  
7 Circuit in order that the testimony or evidence be produced.  
8 Upon proper showing, the circuit court shall issue a subpoena  
9 or order requiring the person to appear before the committee  
10 and produce all evidence and give all testimony relating to  
11 the matter at issue. A person who fails to comply with an  
12 order may be punished by the court for contempt.

13 Section 6. (a) If a witness refuses to testify on  
14 the basis of his or her privilege against self-incrimination  
15 and the person presiding over the committee meeting  
16 communicates to the witness that the witness is required to  
17 testify, the witness may not refuse to testify. However, the  
18 witness may not be held criminally liable or held to answer  
19 criminally based upon any fact or act directly related to that  
20 which he or she is required to testify. No statement made by  
21 the witness or paper produced by the witness during the  
22 required testimony shall be considered competent evidence in  
23 any criminal proceeding against the witness except in  
24 prosecution for perjury or contempt of the Legislature.

25 (b) A witness may be sworn to testify under penalty  
26 of perjury without the immunity provided for in subsection (a)  
27 if all of the following conditions are met:

1           (1) The following statement is read or otherwise  
2           communicated to the witness:

3           "Alabama law provides that a person subpoenaed to  
4           testify before a committee of the Alabama Legislature cannot  
5           be held criminally liable or be held to answer criminally  
6           based upon any fact or act directly related to that which he  
7           or she is required to testify about other than for perjury  
8           committed in testifying or contempt of the Legislature.  
9           However, this committee will not require your testimony. The  
10          committee does not wish to be placed in a position where it  
11          can be claimed that you received immunity from any possible  
12          criminal prosecution because of your testimony before this  
13          committee. Because you are not being given immunity from  
14          criminal prosecution, you have a constitutional right to  
15          refuse to testify before this committee. If you desire to  
16          waive your right not to testify and testify voluntarily, you  
17          will be given the opportunity to testify subject to all of the  
18          following conditions:

19                 a. "If you do not wish to answer a question, you  
20                 will so state.

21                 b. "In the absence of such a statement, your answer  
22                 to each question will be entirely voluntary.

23                 c. "If you choose to testify, you will be sworn  
24                 under oath and will be subject to criminal prosecution for  
25                 perjury committed in testifying.

1           d. "If you choose to testify voluntarily, you are  
2 reminded that any self-incriminating statements you make can  
3 be used against you in criminal proceedings."

4           (2) After the statement quoted above is communicated  
5 to the witness, the witness shall answer the following  
6 questions in the affirmative:

7           a. "Do you understand these statements regarding  
8 your rights before this committee?"

9           b. "Do you wish to testify voluntarily under the  
10 conditions presented?"

11           (c) The consent to testify and subsequent testimony  
12 pursuant to subsection (b) constitutes a knowing a waiver of  
13 the privilege of the witness against self-incrimination.

14           Section 7. Each house of the Legislature may adopt  
15 procedures for the implementation of this act.

16           Section 8. Although this bill would have as its  
17 purpose or effect the requirement of a new or increased  
18 expenditure of local funds, the bill is excluded from further  
19 requirements and application under Amendment 621, now  
20 appearing as Section 111.05 of the Official Recompilation of  
21 the Constitution of Alabama of 1901, as amended, because the  
22 bill defines a new crime or amends the definition of an  
23 existing crime.

24           Section 9. This act shall become effective on the  
25 first day of the third month following its passage and  
26 approval by the Governor, or its otherwise becoming law.