

AN EDUCATIONAL UPDATE FROM
THE SOUTHEAST LAW INSTITUTE™, INC.

To: SLI Supporters
Date: November 2014
From: A. Eric Johnston
Re: 2014 Statewide Constitutional Amendments

Following in bold is a statement of the language that is expected to be on the November 4, 2014 ballot. Following each is a brief analysis of the amendment, without necessarily taking a position, unless indicated:

Statewide Amendment 1 - To Prohibit Alabama Courts from giving full faith and credit to public acts, records, or judicial proceedings of another state that violate public policy of the State of Alabama and to prohibit the application of foreign law in violation of rights guaranteed natural citizens by the United States and Alabama Constitutions, and the statutes, laws, and public policy thereof, but without application to business entities.

This is the American and Alabama Laws for Alabama Courts Act. It is a very important law to provide guidance to Alabama judges for the protection of Alabama public policy and constitutional rights in light of changing values in sister states, e.g., same sex marriage and the laws or customs of other countries, e.g., the European Union or Sharia law. It is important to vote yes on this amendment.

Statewide Amendment 2 - Relating to the Capital Improvement Trust Fund, to increase the amount of the General Obligation Bonds authorized herein: to provide for additional payments from the Alabama Trust Fund to fund any bond issue; to provide for competitive bidding of the bonds; to provide for the distribution of the proceeds for plans, construction, and maintenance of Alabama National Guard armories.

This amendment provides for additional funds to be raised through bond issues by the State of Alabama. The proceeds from the sale of the bonds will be used for improvements of National Guard armories. There is no language in the amendment to suggest improper purpose and, in light of homeland security, it appears to be a necessary expenditure. Bonds are a method of raising money through investment and this is not a loan as such. This is a probable yes vote.

Statewide Amendment 3 - To provide that every citizen has a fundamental right to bear arms and that any restriction on this right would be subject to strict scrutiny; and to provide that no international treaty or law shall prohibit, limit or otherwise interfere with a citizen's fundamental right to bear arms.

This amendment strengthens an existing amendment. Under the Alabama Constitution, citizens have the right to bear arms. This amendment states that the right is a "fundamental" right and if it is restricted, it will be strictly scrutinized by a court. A fundamental right is accorded the highest protection under a constitution and strict scrutiny is the most stringent judicial test. In other words, this provides significant additional protection in addition to Second Amendment rights under the U.S. Constitution of citizens to have firearms. This is a yes vote.

Statewide Amendment 4 - To prohibit a general law, whose purpose or effect is to require a new or increased expenditure of at least \$50,000 of local funds annually, from becoming effective with regard to a city or county board of education without enactment by a 2/3 vote.

This amendment adds city and county boards of education to the lists of city and county governments for how funds are appropriated for them by the Legislature. There is a great deal of concern by many that this will adversely affect the ability of these boards to repeal Common Core. Others say this is not at all the case. In all events, this amendment is the subject of much disagreement.

Statewide Amendment 5 - To amend Amendment 579, now appearing as Section 36.02 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, to clarify that the people have a right to hunt, fish, and harvest wildlife subject to reasonable regulations that promote conservation and management of fish and wildlife and preserve the future of hunting and fishing.

This amendment is referred to as the "Sportsman Bill of Rights." Under existing law, regulation is permitted, but there is no limitation on the ability to regulate. This amendment will be interpreted to limit the ability to regulate and therefore protects hunters and fishers' rights. This is a yes vote.

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It is difficult to understand the implications of amendments. Language appearing on the ballot does not give enough information to make an informed judgment. Amendments are always subject to interpretation of judges and therefore some uncertainty. Our comments above are based on our reading of the complete proposed amendment, not just the ballot language. Except for Statewide Amendment 1, AALAC, which we drafted and completely support, our opinions on the other four are informational and not to necessarily advocate for them. There will be several amendments on the ballot which have only local application and we do not comment on them here.