

1 HB55  
2 126131-1  
3 By Representative DeMarco  
4 RFD: Judiciary  
5 First Read: 01-MAR-11  
6 PFD: 02/25/2011

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8 SYNOPSIS: Under existing law, there are distinctions  
9 between notaries public commissioned to serve a  
10 specific county and notaries public commissioned to  
11 serve the state at large.

12 This bill would eliminate the distinction  
13 between county and at-large notaries public while  
14 preserving the functions, powers, and commissions  
15 of existing notaries public.

16 Amendment 621 of the Constitution of Alabama  
17 of 1901, now appearing as Section 111.05 of the  
18 Official Recompilation of the Constitution of  
19 Alabama of 1901, as amended, prohibits a general  
20 law whose purpose or effect would be to require a  
21 new or increased expenditure of local funds from  
22 becoming effective with regard to a local  
23 governmental entity without enactment by a 2/3 vote  
24 unless: it comes within one of a number of  
25 specified exceptions; it is approved by the  
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to  
2 the entity for the purpose.

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

10  
11 A BILL  
12 TO BE ENTITLED  
13 AN ACT  
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15 Relating to notaries public; to add Article 4,  
16 commencing with Section 36-20-70, to Chapter 20, Title 36,  
17 Code of Alabama 1975, to eliminate the distinction between  
18 county and at-large notaries public; to preserve the  
19 functions, powers, and commissions of existing notaries  
20 public; to repeal Article 1, commencing with Section 36-20-1,  
21 Chapter 20, Title 36, Code of Alabama 1975, relating to the  
22 employment of notaries public by counties, and Article 2,  
23 commencing with Section 36-20-30, Chapter 20, Title 36, Code  
24 of Alabama 1975, relating to the employment of notaries public  
25 for the state at large; and in connection therewith to have as  
26 its purpose or effect the requirement of a new or increased  
27 expenditure of local funds within the meaning of Amendment 621

1 of the Constitution of Alabama of 1901, now appearing as  
2 Section 111.05 of the Official ReCompilation of the  
3 Constitution of Alabama of 1901, as amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Article 4, commencing with Section  
6 36-20-70, is added to Chapter 20 of Title 36 of the Code of  
7 Alabama 1975, to read as follows:

8 §36-20-70.

9 (a) A competent number of notaries public for the  
10 state at large shall be appointed and commissioned by the  
11 judges of probate of the several counties of the state and  
12 shall hold office for four years from the date of their  
13 commission. Such notaries public shall perform all the acts  
14 and exercise all authority under the general laws of the State  
15 of Alabama. The jurisdiction of such notaries public shall not  
16 be limited to the counties of their residence and shall extend  
17 to any county of the state. The judges of probate shall  
18 collect a fee of ten dollars (\$10) for each notary commission  
19 issued. The judges of probate shall also report to the  
20 Secretary of State the name, county of residence, date of  
21 issuance, and date of expiration of the commission of each  
22 notary public appointed and commissioned under this  
23 subsection.

24 (b) All existing notaries public functioning on the  
25 effective date of this article shall continue to function  
26 pursuant to their existing authority for the remainder of  
27 their existing commission.

1 §36-20-71.

2 (a) Notaries public shall give bond with sureties,  
3 to be approved by the judge of probate of the county of their  
4 residence, in the sum of twenty-five thousand dollars  
5 (\$25,000), payable to the State of Alabama and conditioned to  
6 faithfully discharge the duties of such office so long as they  
7 may continue therein or discharge any of the duties thereof.  
8 Such bond shall be executed, approved, filed, and recorded in  
9 the office of the judge of probate of the county of their  
10 residence, before they enter on the duties of such office.

11 (b) All existing notaries public functioning on the  
12 effective date of this article shall continue to function  
13 pursuant to their existing bond for the remainder of their  
14 existing commission.

15 §36-20-72.

16 For the authentication of his or her official acts,  
17 each notary shall provide a seal of office, which shall  
18 present, by its impression or stamp, the name, office, and the  
19 state for which he or she was appointed.

20 §36-20-73.

21 Notaries public may do all of the following:

22 (1) Administer oaths in all matters incident to the  
23 exercise of their office.

24 (2) Take the acknowledgment or proof of instruments  
25 of writing relating to commerce or navigation and certify the  
26 same and all other of their official acts under their seal of  
27 office.

1           (3) Demand acceptance and payment of bills of  
2 exchange, promissory notes, and all other writings which are  
3 governed by the commercial law as to days of grace, demand,  
4 and notice of nonpayment and protest the same for  
5 nonacceptance or nonpayment and to give notice thereof as  
6 required by law.

7           (4) Exercise such other powers, according to  
8 commercial usage or the laws of this state, as may belong to  
9 notaries public.

10           §36-20-74.

11           Notaries public are entitled to the sum of one  
12 dollar (\$1) for carrying out any of the enumerated powers in  
13 Section 36-20-73.

14           §36-20-75.

15           Any person who, having been a notary, willfully  
16 performs or assumes the authority to perform a notarial act  
17 after his or her commission expires, with knowledge that his  
18 or her commission has expired, or any person who without a  
19 notary's commission assumes the authority and performs a  
20 notarial act shall be guilty of a Class C misdemeanor.

21           Section 2. All laws or parts of laws which conflict  
22 with this act are repealed. Specifically, Article 1,  
23 consisting of Sections 36-20-1 to 36-20-11, inclusive, of  
24 Chapter 20 of Title 36, Code of Alabama 1975, relating to the  
25 employment of notaries public by counties, and Article 2,  
26 consisting of Sections 36-20-30 to 36-20-32, inclusive, of  
27 Chapter 20 of Title 36, Code of Alabama 1975, relating to the

1 employment of notaries public for the state at large, are  
2 repealed.

3 Section 3. Although this bill would have as its  
4 purpose or effect the requirement of a new or increased  
5 expenditure of local funds, the bill is excluded from further  
6 requirements and application under Amendment 621, now  
7 appearing as Section 111.05 of the Official Recompilation of  
8 the Constitution of Alabama of 1901, as amended, because the  
9 bill defines a new crime or amends the definition of an  
10 existing crime.

11 Section 4. This act shall become effective on  
12 January 1, 2012, following its passage and approval by the  
13 Governor, or its otherwise becoming law.