

1 HB181
2 125937-1
3 By Representatives Hill, Todd, Merrill, Oden, Patterson,
4 Newton (D), Grimsley, Robinson (J), Melton, Ball, Morrow and
5 McCutcheon (Constitutional Amendment)
6 RFD: County and Municipal Government
7 First Read: 08-MAR-11

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8 SYNOPSIS: This bill proposes an amendment to the
9 Constitution of Alabama of 1901, that would provide
10 for limited optional home rule for those counties
11 in the state, the qualified electors of which
12 approve the same, in the areas of public safety and
13 health and land use regulation and control.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 Proposing an amendment to the Constitution of
20 Alabama of 1901, that would provide for limited optional home
21 rule for those counties in the state, the qualified electors
22 of which approve the same in a referendum held as provided
23 therein, in respect of the areas of public safety and health
24 and land use regulation and control, subject to the provision
25 of such general laws as the Legislature may enact providing
26 for the exercise of the optional supplemental county
27 governmental powers.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. The following amendment to the
3 Constitution of Alabama of 1901, as amended, is proposed and
4 shall become valid as a part thereof when approved by a
5 majority of the qualified electors voting thereon and in
6 accordance with Sections 284, 285, and 287 of the Constitution
7 of Alabama of 1901, as amended:

8 PROPOSED AMENDMENT

9 Section 1. Optional Supplemental County Governmental
10 Powers. Subject to the referendum provisions hereof, counties
11 in the state may exercise, in addition to all governmental
12 powers they may at the time of the ratification of this
13 amendment possess or have vested in them, the optional
14 supplemental county governmental powers as hereinafter
15 provided. The Legislature may enact general laws providing for
16 the exercise of these optional supplemental county
17 governmental powers.

18 Section 2. Referendum Elections Required for the
19 Exercise of Optional Supplemental County Governmental Powers.
20 Any county in the state, in accordance with the provisions
21 hereof, may adopt and exercise any or all of the optional
22 supplemental county governmental powers hereinafter specified
23 through the affirmative vote of the qualified electors of the
24 county voting in a referendum election held on the question of
25 whether such optional supplemental county governmental powers
26 shall be exercised. Such referendum elections shall be
27 conducted in accordance with the election laws of the state,

1 provided that any such election, however, may be held only in
2 conjunction with a general election held in the state not less
3 than three months following (a) the affirmative vote of the
4 majority of the members of the governing body of the county in
5 favor of a resolution proposing the authorization of the
6 exercise of one or more of the sets of optional supplemental
7 county governmental powers hereinafter provided for and as
8 hereinafter specified; or (b) the filing with the county
9 governing body at a regular meeting thereof of a petition
10 requesting the authorization of the exercise of one or more of
11 the sets of optional supplemental county governmental powers
12 hereinafter provided for and as hereinafter specified and
13 containing the verified signatures of at least 20 percent of
14 the total number of qualified electors of the county who cast
15 a ballot in the then immediately preceding gubernatorial
16 election held in the state.

17 Upon the favorable vote of the qualified electors of
18 the county at any referendum election held as provided in this
19 section, such set or sets of optional supplemental county
20 governmental powers thereby authorized for the county shall
21 take effect and the powers thereunder shall become exercisable
22 on and after the October 1 next following the date of such
23 election.

24 Any county authorized to exercise any optional
25 supplemental county governmental powers hereunder may
26 thereafter be authorized to exercise a different or additional
27 set or sets of optional supplemental county governmental

1 powers as described herein, or repeal an authorization of the
2 exercise of any such set or set of powers, in like manner as
3 that described above for the authorization of the exercise of
4 such powers. In no event, however, shall any referendum
5 election on the question of the authorization of the exercise
6 of any set or sets of optional supplemental county
7 governmental powers as herein provided for, or on the question
8 of the repeal of any thereof, be called or held in any county
9 except (i) upon adoption of a resolution by the governing body
10 of the county or the filing therewith of a petition as
11 described above in regard to the authorization of the exercise
12 of optional supplemental county governmental powers and (ii)
13 in conjunction with a general election held in the state.

14 Section 3. Optional Sets of Supplemental County
15 Governmental Powers. In addition to all other powers that it
16 may have under the laws and constitution of this state, any
17 county may exercise, not inconsistent with the laws of this
18 state and such rules and regulations as may be adopted
19 pursuant thereto, any or all of the following sets of optional
20 supplemental county governmental powers as such county may be
21 authorized to do pursuant to the provisions of this amendment
22 as hereinabove provided.

23 Set 1 Powers. A county authorized to exercise Set 1
24 Powers hereunder, any other provision of this constitution to
25 the contrary notwithstanding, shall be empowered to provide
26 for public health and safety services throughout the
27 unincorporated areas of the county in which and to the extent

1 such services are not otherwise generally provided by another
2 governmental authority, and through its governing body to
3 exercise such legislative powers and to adopt and enforce such
4 resolutions, orders, and ordinances as shall be necessary to
5 carry out such functions.

6 Set 2 Powers. A county authorized to exercise Set 2
7 Powers hereunder, any other provisions of this constitution to
8 the contrary notwithstanding, shall be empowered to regulate
9 and control the use of land through zoning and other similar
10 land use control measures in the unincorporated areas of the
11 county not otherwise subject to the zoning powers and land use
12 planning controls of any municipal corporation exercising such
13 powers in such areas pursuant to applicable law, and to
14 exercise, pursuant to such general laws with respect thereto
15 as the Legislature shall enact for counties so empowered, such
16 legislative powers and to adopt such resolutions, orders, and
17 ordinances as shall be necessary to carry out such functions,
18 provided that (a) if the Legislature does not, prior to
19 October 1, 2014, enact a general law uniformly governing the
20 exercise of zoning and land use planning powers by counties,
21 then the exercise by counties of such powers as herein
22 provided shall be carried out consistently with such general
23 laws of the state as are then applicable to municipal
24 corporations generally, (b) such regulation and control may
25 not commence in any particular area or portion of the county
26 in which such powers may be exercised pursuant hereto unless
27 the commencement of the exercise shall be approved, at a

1 referendum election held in conjunction with a general
2 election held in the state and called by the governing body of
3 the county, by a majority of the qualified electors voting in
4 such referendum election and residing in the area or portion
5 of the county in which commencement of the exercise of such
6 powers is proposed, and (c) in no event shall any county
7 establishing a planning commission or other similar body for
8 the administration of county zoning and land use planning
9 powers pursuant hereto provide for the membership on such
10 commission or other body other than of persons residing in the
11 unincorporated areas of the county.

12 Any county in the state authorized to exercise any
13 of the hereinabove described optional supplemental county
14 governmental powers pursuant to the provisions hereof shall
15 retain all such powers as it shall otherwise have pursuant to
16 this constitution and the laws of this state, but in the event
17 the authorization of the exercise by any county of any set or
18 sets of optional supplemental county governmental power
19 previously authorized pursuant hereto is subsequently repealed
20 pursuant to the provisions hereof, the powers of the county
21 with respect to the subject or subjects of any such optional
22 supplemental county governmental power so repealed shall
23 thereafter revert to those powers with respect thereto that
24 the county would then have otherwise had as if no such set of
25 optional powers had been previously authorized hereunder,
26 provided that such repeal shall in no circumstance affect the

1 impairment of any contract entered into by the county while it
2 was authorized to exercise such power.

3 Section 2. An election upon the proposed amendment
4 shall be held in accordance with Sections 284 and 285 of the
5 Constitution of Alabama of 1901, now appearing as Sections 284
6 and 285 of the Official ReCompilation of the Constitution of
7 1901, as amended, and the election laws of this state.

8 Section 3. The appropriate election official shall
9 assign a ballot number for the proposed constitutional
10 amendment on the election ballot and shall set forth the
11 following description of the substance or subject matter of
12 the proposed constitutional amendment:

13 "Proposing an amendment to the Constitution of
14 Alabama of 1901, providing for limited optional county home
15 rule powers concerning public safety and health and land use
16 regulation and control, subject to the approval of the
17 qualified voters of the respective county.

18 "Proposed by Act _____."

19 This description shall be followed by the following
20 language:

21 "Yes () No ()."