

1 HB731
2 118326-1
3 By Representative Wren (N & P)
4 RFD: Montgomery County Legislation
5 First Read: 23-MAR-10

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Montgomery County, Alabama; to authorize
14 a special election to be held to determine whether the
15 Woodland Creek subdivision shall continue to be annexed into
16 the corporate limits of the City of Montgomery, or be
17 deannexed by the City of Montgomery and annexed into the
18 corporate limits of the Town of Pike Road; and to provide for
19 the procedure involved in holding the election.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. This bill relates to Montgomery County,
22 Alabama, and involves the territory encompassed in the
23 Woodland Creek subdivision, currently located within the
24 corporate limits of the City of Montgomery, which is described
25 on Exhibit A attached hereto and made a part hereof.

26 Section 2. The Legislature hereby authorizes the
27 holding of a special election to determine whether the

1 territory that encompasses the Woodland Creek subdivision will
2 remain annexed into the City of Montgomery, or if the
3 territory, based on the election, will be deannexed from the
4 City of Montgomery and annexed into the corporate limits of
5 the Town of Pike Road. Only such owners of real property lying
6 in and being a part of the Woodland Creek subdivision
7 territory on the date of the election, and on or before the
8 effective date of this act, will be allowed to participate in
9 the election and the determination or outcome of the election
10 will be determined by whether 60 percent of such qualified
11 property owners affirmatively cast their ballots for
12 annexation into the Town of Pike Road. If not, the election
13 shall fail.

14 Section 3. (a) Within 10 days after the effective
15 date of this act, the mayors of the City of Montgomery and the
16 Town of Pike Road shall jointly inform the Judge of Probate of
17 Montgomery County of passage of this act and jointly petition
18 the holding of an election as herein provided.

19 (b) The Judge of Probate of Montgomery County, in
20 not less than 10 nor more than 15 days from the date of the
21 filing of such joint petition, shall make and enter an order
22 directing that such election shall be held. The order shall
23 further provide, not less than 20 days nor more than 40 days
24 from the date of making such order, an official list of the
25 owners of the real property within the Woodland Creek
26 subdivision territory. The judge of probate shall enter an
27 order setting the date for the election to be held not less

1 than 20 days nor more than 40 days from the date of
2 publication of the official list of such qualified property
3 owners. The judge of probate shall publish the list of
4 qualified property owners and give notice of the holding of
5 such election by publication in both the Montgomery Advertiser
6 and the Montgomery Independent and by posting notice at the
7 office of the judge of probate and at the designated polling
8 place within the platted Woodland Creek subdivision. The
9 notice of election shall state the day on which such election
10 is to be held, the voting place which must be within the
11 territory proposed in this annexation election, and such
12 notice must give a description of the territory proposed to be
13 involved in such annexation and must state that maps of the
14 platted territory are on file in the Office of the Judge of
15 Probate for Montgomery County, open to the inspection of the
16 public, a list of which maps appear as Exhibit B. The
17 description of the platted Woodland Creek subdivision is as
18 described and delineated on the foregoing plats, copies of
19 which, less covenants and restrictions, are attached as
20 Exhibit C hereto, and made a part hereof.

21 (c) Each qualified property owner who has owned real
22 property within the boundaries of the Woodland Creek
23 subdivision on the date of the election, and was a property
24 owner within that area on or before the effective date of this
25 act, may vote at such election at the voting place designated
26 by the judge of probate. Proof of property ownership and
27 qualification shall be made to the judge of probate by

1 affidavit, or otherwise, as he or she may direct. Each
2 property owner, whether a person or legal entity, shall have
3 one vote for each platted lot owned and one vote for each
4 unplatted parcel owned, and the number and percentage of
5 owners shall be based on and determined by the number of such
6 platted lots and unplatted parcels within the Woodland Creek
7 subdivision territory. There shall be only one vote for each
8 platted lot and one vote for each unplatted parcel. Multiple
9 owners of a single lot or parcel shall be entitled to only one
10 vote jointly in connection with the ownership of that lot or
11 parcel.

12 (d) The election to determine whether or not the
13 proposed territory shall remain within the corporate limits of
14 the City of Montgomery or be annexed into the corporate limits
15 of the Town of Pike Road must be conducted within all respects
16 as provided by the general election laws and under the same
17 sanctions and penalties, except as changed by this act and
18 except that an official ballot need not be provided.

19 (e) Each property owner may furnish his, her, or its
20 own ballot with the following words written or printed
21 thereon: "For Annexation into the Town of Pike Road" if he,
22 she, or it desires to vote for the change of annexation from
23 the City of Montgomery to the Town of Pike Road or "Not in
24 Favor of Annexation into the Town of Pike Road" if he, she, or
25 it desires to vote against or not in favor of annexation into
26 the Town of Pike Road. It shall not be necessary for the
27 ballot to be of any particular size, form, or color.

1 (f) (1) The judge of probate shall appoint three
2 inspectors of election, two clerks, and one returning officer
3 for the voting place. The inspectors shall manage the
4 election.

5 (2) The inspectors at the voting place, as soon as
6 the polls are closed, must ascertain and certify the results
7 of the election to the judge of probate and deliver the
8 results to the returning officer, who must at once return the
9 results to the judge of probate, and the judge of probate must
10 canvas the return as made by the inspectors, and if it appears
11 that 60 percent or more of the qualified owners of property
12 within the Woodland Creek subdivision territory cast their
13 ballot in favor of or for annexation into the Town of Pike
14 Road, the judge of probate shall make and enter an order on
15 the records of the probate court adjudging and decreeing that
16 the corporate limits of the Town of Pike Road be extended so
17 as to embrace the territory described as embracing all of the
18 Woodland Creek subdivision, platted and unplatted, and
19 designated on the plat or map attached to the joint petition,
20 and must cause the joint petition and the plat or map and all
21 orders or decrees or judgments to be recorded in the records
22 of the probate office, and from the time of the entry of such
23 order, such territory shall be part of and within the
24 corporate limits of the Town of Pike Road.

25 (3) If it appears that less than 60 percent of the
26 qualified owners of property within the Woodland Creek
27 subdivision territory fail to cast their ballot for annexation

1 into the Town of Pike Road, the territory as a whole will
2 remain within the corporate limits of the City of Montgomery,
3 and the judge of probate shall make and enter an order on the
4 records of the probate court adjudging and decreeing that less
5 than 60 percent of the owners of property within that
6 territory eligible to vote on the annexation did not vote for
7 annexation into the Town of Pike Road, and that the territory
8 described and designated in the joint petition and the plat or
9 map attached shall not form a part of or be embraced in the
10 Town of Pike Road, but shall continue to be annexed into the
11 corporate limits of the City of Montgomery.

12 (g) The results of such election may be contested by
13 any qualified property owner voting at the election in the
14 manner provided for contests of general municipal elections.
15 The City of Montgomery and the Town of Pike Road shall pay all
16 costs and expenses incident to the election in equal shares;
17 provided each municipality shall pay for its own legal
18 counsel, if any. The contestor, if unsuccessful, shall pay all
19 costs and expenses incident to the contest.

20 Section 4. This act shall become effective upon the
21 passage and approval by the Governor, or upon its otherwise
22 becoming law.