

HB349 INTRODUCED



1 HB349

2 JPXJZFF-1

3 By Representative Lipscomb (Constitutional Amendment)

4 RFD: Local Legislation

5 First Read: 29-Jan-26



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4 SYNOPSIS:

5 This bill would propose an amendment to the
6 Constitution of Alabama of 2022, relating to Etowah
7 County, to create the Whorton Bend Agricultural
8 Protection Act.

9 This bill would propose to define the boundaries
10 of the protected Whorton Bend Community area, to
11 specify the permitted and prohibited activities within
12 the protected area, and to provide exemptions.

13

14

15 A BILL

16 TO BE ENTITLED

17 AN ACT

18

19 To propose an amendment to the Constitution of Alabama
20 of 2022, relating to Etowah County, to create the Whorton Bend
21 Agricultural Protection Act; to define the boundaries of the
22 protected Whorton Bend Community area; to specify the
23 activities which are permitted and prohibited within the
24 protected area; and to provide exemptions.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. The following amendment to the Constitution
27 of Alabama of 2022, is proposed:

28 (a) This section shall be known and may be cited as the



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29 Whorton Bend Agricultural Protection Act.

30 (b) The Legislature finds that the area commonly known
31 as the Whorton Bend Community is a peninsula that possesses
32 unique agricultural, environmental, and rural residential
33 characteristics; contains sensitive wetlands, riparian
34 buffers, and flood-prone lands along the Coosa River; and is
35 experiencing development pressures that threaten long-standing
36 land uses. The Legislature further finds and declares that it
37 is in the public interest to preserve the Whorton Bend
38 Community's agricultural viability, environmental stability,
39 and community character through the establishment of
40 development protections tailored specifically to the
41 community.

42 (c) (1) This section applies only to the territory
43 located within the Whorton Bend Community in Etowah County.
44 The territory includes both incorporated and unincorporated
45 areas of the community, including those portions of the
46 community that lie within Etowah County and the City of
47 Gadsden.

48 (2) Neither the Etowah County Commission nor the
49 governing body of the City of Gadsden may alter the boundaries
50 of the Whorton Bend Community as established and protected by
51 this section.

52 (3) Any future annexation, incorporation, or municipal
53 action affecting the community is subject to this section.

54 (d) (1) For the purposes of this section, the boundaries
55 of the Whorton Bend Community include the Whorton Bend
56 Peninsula and all land lying within the peninsula as follows:



57 a. Beginning at the intersection of State Highway 77
58 and Whorton Bend Road, thence traveling easterly along Whorton
59 Bend Road to its intersection with Garmin Road. Thence
60 following Garmin Road generally north and east to its
61 intersection with Oakland Drive. Thence following Oakland
62 Drive northerly to its intersection with Whorton Bend Road.
63 Thence continuing northerly along Whorton Bend Road to the
64 point at which Whorton Bend Road reaches or adjoins the Coosa
65 River.

66 b. From the point at which Whorton Bend Road reaches or
67 adjoins the Coosa River, the boundary shall follow the meander
68 of the Coosa River shoreline, continuing around the perimeter
69 of the Whorton Bend Peninsula until returning to the point
70 opposite the intersection of State Highway 77 and Whorton Bend
71 Road, encompassing all shoreline frontage.

72 c. All lands lying to the left of the roadway path
73 described in paragraph a., and lying landward of the Coosa
74 River shoreline, are included within the boundaries, provided
75 that only those lands that are contiguous to the named roads
76 or to the shoreline and are customarily understood to be part
77 of the Whorton Bend Peninsula are included.

78 (2) The Etowah County mapping authority shall define
79 the final metes-and-bounds description without altering the
80 territorial extent described in this subsection. A copy of the
81 final description shall be filed with the Etowah County
82 Revenue Commissioner.

83 (e) (1) The Whorton Bend Community area protected by
84 this section is designated for the continued support and



85 preservation of agricultural, horticultural, silvicultural,
86 and related rural uses.

87 (2) Commending on the ratification date of this
88 section, no governmental entity may approve, authorize, or
89 permit any rezoning, subdivision, or land-use action that has
90 the potential of substantially interfering with or
91 diminishing:

92 a. Agricultural operations;
93 b. Water-dependent farming uses;
94 c. Farm-related accessory structures; or
95 d. Agricultural commercial activities integral to farm
96 operations.

97 (3) Commercial structures and operations directly
98 related to farming or agriculture are expressly permitted
99 including, but not limited to, farm supply, feed and seed,
100 produce stands, farm equipment storage, and agricultural
101 processing or distribution operations available to local
102 farms.

103 (f) (1) No inland development activity may be approved
104 that results in the filling, altering, channelizing, or
105 degrading of wetlands, riparian buffers, natural floodways, or
106 marshlands within the protected Whorton Bend Community area.
107 Shoreline development is subject to all requirements existing
108 on the ratification date of this section.

109 (2) Any person who proposes development within the
110 protected Whorton Bend Community area shall demonstrate that
111 the proposed development will not adversely affect the Coosa
112 River shoreline, tributary wetlands, or hydrologic systems



113 within the community.

114 (3) The Alabama Department of Environmental Management
115 and the U.S. Army Corps of Engineers shall retain jurisdiction
116 over all regulated waters and wetlands within the protected
117 Whorton Bend Community area.

118 (g) (1) Except as otherwise provided in this section,
119 commencing on the ratification date of this section, no new
120 commercial or industrial development may be permitted within
121 the protected Whorton Bend Community area.

122 (2) All of the following are exempt from this section:

123 a. Preexisting commercial structures located within or
124 on the immediate perimeter of the protected Whorton Bend
125 Community area may continue to operate and may maintain,
126 repair, renovate, or construct new structures within or on
127 those preexisting structures or the property upon which the
128 structures are located.

129 b. Commercial structures supporting agricultural or
130 forestry operations.

131 (h) (1) Residential structures and dwellings located
132 within the boundaries of the protected Whorton Bend Community
133 area on the ratification date of this section, may continue to
134 be used, maintained, or rebuilt in the event of casualty. The
135 construction of residential structures and dwellings after the
136 ratification date of this section, shall be subject to all
137 applicable zoning and subdivision standards and the
138 agricultural and environmental protections provided by this
139 section.

140 (2) This subsection shall have no effect on a valid



141 contract for the construction of a residential structure or
142 dwelling within the boundaries of the Whorton Bend Community
143 area executed before the ratification date of this section.

144 (3)a. Any other provision of law to the contrary
145 notwithstanding, commencing on the ratification date of this
146 section, no governmental entity may approve, authorize, or
147 permit the construction or establishment of either of the
148 following in the Whorton Bend Community:

149 1. Multifamily residential structures including, but
150 not limited to apartments, condominiums, townhouses, duplexes,
151 triplexes, quadplexes, or any other residential structure
152 designed or intended to contain more than one dwelling unit on
153 a single lot or parcel, regardless of ownership form.

154 2. High-density single-family residential developments,
155 including garden homes, patio homes, zero-lot-line homes,
156 cluster developments, or any other residential structure or
157 subdivision characterized by reduced lot sizes, attached
158 units, shared walls, or common open space, that is
159 inconsistent with the rural, agricultural, and low-density
160 character of the Whorton Bend Community.

161 b. For the purposes of this section, the density,
162 configuration, and physical characteristics of a residential
163 development shall control, regardless of the terminology used
164 to describe the development.

165 (4) Any newly constructed single-family residential
166 dwelling permitted after the ratification date of this
167 section, shall be located on a lot of not less than one acre,
168 exclusive of public rights-of-way and flood-prone lands,



169 except where such lots were lawfully platted and recorded as
170 part of an existing, documented subdivision before the
171 ratification date of this section.

172 (5) For the purposes of this subsection, the following
173 terms have the following meanings:

174 a. GARDEN HOME or PATIO HOME or CLUSTER DEVELOPMENT.

175 Any residential development characterized by reduced lot
176 sizes, zero-lot-line construction, shared walls, common open
177 space, or other design features intended to increase
178 residential density beyond that of conventional single-family
179 detached housing.

180 b. MULTIFAMILY RESIDENTIAL STRUCTURE. Any building or
181 group of buildings containing more than one dwelling unit,
182 whether attached or detached, regardless of ownership
183 structure, tenure, or method of conveyance.

184 (i) This section may be enforced by the Etowah County
185 Commission, the City of Gadsden, affected landowners, and any
186 party with standing under state law. No land-use action
187 inconsistent with this section may be approved by any local
188 government.

189 (j) Nothing in this section shall be construed to limit
190 the rights of property owners to continue lawful agricultural
191 operations, timber practices, or farm-related commercial
192 functions.

193 Upon ratification of this constitutional amendment, the
194 Code Commissioner shall number and place this amendment as
195 appropriate in the constitution omitting this instructional
196 paragraph and may make the following nonsubstantive revisions:

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197 change capitalization, hierarchy, spelling, and punctuation
198 for purposes of style and uniformity; correct manifest
199 grammatical, clerical, and typographical errors; revise
200 internal or external citations and cross-references; harmonize
201 language; and translate effective dates.

END PROPOSED AMENDMENT

203 Section 2. An election upon the proposed amendment
204 shall be held in accordance with Sections 284, 284.01, and 285
205 of the Constitution of Alabama of 2022, and the election laws
206 of this state. The appropriate election official shall assign
207 a ballot number for the proposed constitutional amendment on
208 the election ballot and shall set forth the following
209 description of the substance or subject matter of the proposed
210 constitutional amendment:

211 "Relating to Etowah County, proposing an amendment to
212 the Constitution of Alabama of 2022, to create the Whorton
213 Bend Agricultural Protection Act; to define the boundaries of
214 the protected Whorton Bend Community area; to provide for the
215 activities which are permitted and prohibited within the
216 protected area; and to provide exemptions.

217 Proposed by Act ____."

218 This description shall be followed by the following
219 language:

220 "Yes() No()."

221 Section 3. The proposed amendment shall become valid as
222 part of the Constitution of Alabama of 2022, when approved by
223 a majority of the qualified electors voting thereon.