

1 SB129
2 70602-2
3 By Senators Barron, Figures, McClain, Penn, Little (T), Ross,
4 Denton, and Roberts
5 RFD: Economic Expansion and Trade
6 First Read: 01-FEB-05

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to counties; to authorize the several
12 counties to exercise additional powers under certain
13 conditions; and to provide that this act would be effective in
14 a county only upon approval at a referendum in the county.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known as "The Alabama
17 Limited Self-Governance Act."

18 Section 2. (a) Except where otherwise specifically
19 prohibited or provided for either heretofore or hereafter by
20 general law or the constitution of this state and subject to
21 the procedures and limitations set out in this act, the county
22 commission of a county may provide for its property and
23 affairs and the public welfare, health, and safety of its
24 citizens throughout the unincorporated areas of the county by
25 exercising certain powers for the protection of the county and
26 public property under its control. The powers granted herein

1 to provide for the public welfare, health, and safety shall
2 only include the following:

3 (1) Weed abatement.

4 (2) Subject to the provisions of Section 6-5-127,
5 Code of Alabama 1975, control of animals and animal nuisances.

6 (3) Litter, rubbish, and trash control.

7 (4) Junkyard control.

8 (5) Public water and sewer or public water and sewer
9 systems.

10 In addition to any other authority granted under
11 this act, the county commission of a county may add up to two
12 members to any water authority to which the county commission
13 is the appointing authority.

14 Nothing in this act shall preclude municipal
15 utilities from expanding into the county and shall not grant
16 counties the authority to govern or regulate municipal water
17 and sewer systems which operate within the county.

18 (6) Public transportation.

19 (7) Subject to the provisions of Section 6-5-121,
20 Code of Alabama 1975, abatement of noise or pollution creating
21 a public nuisance as defined in Sections 6-5-120 and 6-5-127,
22 Code of Alabama 1975.

23 (b) The process for implementation of the powers set
24 out in subsection (a) may be authorized by resolution of the
25 majority of the county commission qualified under subsection
26 (g) to vote thereon or in response to a petition signed by 10
27 percent of the total number of qualified electors of the

1 county who reside in the unincorporated areas of the county. A
2 petition shall only be accepted if signed by 10 percent of the
3 total number of qualified electors who reside in the
4 unincorporated areas of the county. The petition shall include
5 the full legal names and addresses of all persons signing the
6 petition and shall be filed in the office of the judge of
7 probate. The judge of probate shall within 30 days verify that
8 all of the persons signing the petition are in fact qualified
9 electors and legal residents of the unincorporated areas of
10 the county and shall immediately thereafter forward the
11 petition to the chairperson of the county commission.
12 Following receipt of the verified petition, the county
13 commission shall, at its next regularly scheduled meeting,
14 make preparations for the referendum on the issue as set out
15 in Section 4.

16 (c) The powers granted to a county commission by
17 this act shall not be construed to extend to any matters which
18 the Legislature by general law has heretofore preempted by
19 operation of law and the powers granted by this act shall not
20 be limited or superseded by local law enacted after the
21 effective date of this act. The county commission may adopt
22 ordinances to effectuate the orderly implementation of the
23 powers granted herein under the procedures set out in Section
24 3.

25 (d) The powers granted to a county commission by
26 this act shall not include any of the following:

1 (1) The authority of a county to levy or collect any
2 tax or to implement a county land use plan or to establish and
3 enforce planning and zoning.

4 (2) Any action extending the power of regulation
5 over any business activity regulated by the Public Service
6 Commission, the Department of Agriculture and Industries, or
7 the Department of Environmental Management beyond that
8 authorized by general law or by the Constitution of Alabama of
9 1901.

10 (3) Any action affecting any court or the personnel
11 thereof.

12 (4) Any action affecting any public school system.

13 (5) Any action affecting pari-mutuel betting or any
14 pari-mutuel betting facility.

15 (6) Any action affecting in any manner the property,
16 affairs, boundaries, revenues, powers, obligations,
17 indebtedness, or government of a municipality or any municipal
18 or public corporation organized pursuant to Chapter 50 of
19 Title 11 of the Code of Alabama 1975.

20 (7) Any action affecting the private or civil law
21 governing private or civil relationships, except as is
22 incident to the exercise of an independent governmental power.

23 (8) Any action extending the power of regulation
24 over the construction, maintenance, operation, or removal of
25 facilities used in the generation, transmission, or
26 distribution of water, sewer, gas, telecommunications, or
27 electric utility services.

1 (9) Any action affecting the rights granted to an
2 agricultural, manufacturing, or industrial plant or
3 establishment, or farming operation pursuant to Section
4 6-5-127, Code of Alabama 1975, or other general laws in effect
5 on the effective date of this act or thereafter.

6 (e) Unless otherwise provided by general law, a
7 county may not exercise any of the powers or provide any
8 service authorized by this act inside the corporate limits of
9 any municipality or within any other territory in which a
10 municipality or an instrumentality of a municipality is
11 authorized by general law to exercise the power or provide
12 those services, or within any other county, except by contract
13 with the municipality, municipal instrumentality, or county
14 affected.

15 (f) Nothing in this act shall be construed to grant
16 the county commission of a county any general authority to
17 establish or adopt a comprehensive plan for zoning or land use
18 regulation in the unincorporated areas of the county or to
19 grant any taxing authority except as otherwise provided for by
20 law.

21 (g) If less than 10 percent of the population of a
22 county commissioner's district is composed of persons who
23 reside in the unincorporated area of the district, the
24 commissioner from that district shall not vote on the
25 implementation of this act in the county pursuant to
26 subsection (b) of Section 2 and Section 5 or on any of the
27 matters related to the powers granted under this act. For

1 purposes of this subsection, population shall be determined
2 according to the last or any subsequent federal decennial
3 census.

4 (h) Nothing in this act shall be construed to allow
5 a county commission to expend any county funds for any
6 improvement on private property.

7 Section 3. (a) Following the notice requirements set
8 out in subsection (b), the county commission, by majority
9 vote, may adopt ordinances for the implementation and
10 enforcement of the powers set out in Section 2. The county
11 commission, in its discretion, may hold a separate public
12 hearing on the adoption of the proposed ordinances except the
13 vote on approval of a proposed ordinance shall be taken only
14 at a regularly scheduled county commission meeting and only
15 following notice as set out in subsection (b). The style of
16 all ordinances shall be, "Be it ordained by the _____
17 County Commission as follows:" inserting the name of the
18 county as the case may be.

19 All ordinances adopted by the county commission
20 pursuant to this act shall be kept in a separate book
21 maintained in the county commission office and shall be
22 available at all times for public inspection.

23 (b) Prior to the adoption of any ordinance pursuant
24 to subsection (a), the county commission shall post notice of
25 its intention to consider the adoption of the ordinance at the
26 courthouse and at any other place it determines appropriate
27 for a period of no less than 30 days. Notice shall also be

1 published at least twice beginning three weeks prior to the
2 county commission meeting at which the matter will be
3 addressed in all newspapers published in the county that are
4 authorized to publish legal advertisements. All notices shall
5 state the date, time, and location of the meeting at which the
6 proposed ordinance will be considered and shall advise where
7 copies of all proposed ordinances may be obtained for review.

8 (c) Subject to any limitations set out in the
9 constitution or the general laws of this state, the county
10 commission may establish administrative fees except in any
11 county with a population of 600,000 or more, which shall be
12 used exclusively for the expenses of the implementation and
13 enforcement of any ordinance adopted under authority granted
14 herein.

15 (d) The county commission may establish and enforce
16 administrative and civil penalties, including fines, for the
17 enforcement of ordinances adopted under authority granted in
18 this act. The fine shall not exceed one hundred fifty dollars
19 (\$150). Each day the violation continues shall constitute a
20 separate offense. The ordinances, including any penalties and
21 fines, shall be adopted in accordance with the procedures set
22 out in subsections (a) and (b) of Section 3 of this act. All
23 fines and penalties collected shall be paid into the county
24 general fund of the county and earmarked for the
25 administration of the ordinances adopted pursuant to this act.
26 Compliance may also be pursued through civil or equitable

1 action filed in the circuit court of the county seeking
2 injunctive relief or other appropriate remedy.

3 Section 4. The powers authorized under this act
4 shall be effective in a county only after an affirmative vote
5 of a majority of the qualified electors of the county residing
6 in the unincorporated areas of the county and voting in a
7 referendum election held on the question of whether the powers
8 authorized under this act shall be effective in the county.
9 The election shall be called upon resolution adopted by
10 affirmative vote of the majority of the members of the county
11 commission qualified under subsection (g) of Section 2 to vote
12 thereon. The referendum election shall be conducted in
13 accordance with the election laws of the state and may be held
14 only in conjunction with a primary, general, or special
15 election held for another purpose in the county.

16 Section 5. The county commission of a county shall
17 call for a referendum election on the repeal of the
18 application of the powers authorized under this act in the
19 county following a resolution of the majority of the county
20 commission qualified under subsection (g) of Section 2 to vote
21 thereon or in response to a petition signed by 10 percent of
22 the total number of qualified electors of the county who
23 reside in the unincorporated areas of the county requesting
24 that the application of the powers authorized under this act
25 in the county be repealed. The procedures for calling and
26 holding a referendum election provided in Section 2 and
27 Section 4 shall also apply to a referendum election for the

1 repeal of the application of the powers authorized under this
2 act in the county.

3 Section 6. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Economic Expansion and Trade 01-FEB-05

Read for the second time and placed on the calen-
dar 03-FEB-05

Read for the third time and passed as amended ... 15-FEB-05

McDowell Lee
Secretary