

THE ALABAMA LIMITED SELF GOVERNANCE ACT

Procedures for Referendum on General Election Ballot

BACKGROUND

The Alabama Limited Self Governance Act (found at *Ala. Code § 11-3A-1 et seq.*) resulted from a growing interest in many counties for the governing body to have the authority to establish programs to abate certain health and safety nuisances in unincorporated areas of the county. Working with counties and other groups interested in developing limited powers for county government to address problems such as overgrown weeds and unkempt junkyards, the Legislature approved a mechanism for granting such powers in counties where approved by local referendum. Once the county obtains these powers, it can establish any of the following programs using the procedures in the law:

Weeds
Junkyards
Litter and rubbish
Noise
Pollution
Unsanitary sewage
Animal control

Since the legislation was approved in 2005, voters in approximately 18 counties have granted their county commission authority to exercise the powers available under the act.

OVERVIEW OF ACT

A local referendum to grant the county commission these powers may be called in one of two ways:

- (1) Upon resolution adopted by a majority of the county commission members, or
- (2) Upon verification of a petition signed by 10 percent of the qualified voters of the county who reside in the unincorporated areas of the county.

The referendum may only be held in conjunction with a primary, general, or special election held for another purpose in the county. And the referendum must be held in accordance with the provisions of the act and Alabama's election laws.

If the referendum passes in a county, the county commission may adopt ordinances to abate these nuisances under procedures in the act.

- The procedures must include providing notice prior to adoption of any ordinance.
- The county may hold separate hearing prior to adoption of any ordinance but must pass any ordinance at regularly scheduled meeting.
- The act allows for assessing administrative fines for failure to abate nuisances.
- The county is not required to adopt ordinances and can pass ordinances on some but not all issues authorized by the act.

PROCEDURES FOR PLACING REFERENDUM ON BALLOT

The next opportunity for counties to hold a vote on adoption of these important powers will be at the general election set for **Nov. 4, 2014**. However, in order to have the issue on the ballot, the county commission must prepare early by completing each of the following steps:

COUNTY COMMISSION RESOLUTION

The county commission may, on its own initiative, pass a resolution calling for a local referendum to grant the commission these health and safety powers. The resolution must pass by a majority of the members of the commission at a regular county commission meeting.

- The commission cannot call a special meeting for this purpose.

In order to allow sufficient time for getting the local referendum on the 2014 general election ballot, it is recommended that the county commission's resolution be passed as soon as possible and no later than the first week in August 2014. Even though there is no longer a requirement to submit the proposed referendum to the U.S. Justice Department for preclearance, election information must be certified to the probate judge not later than 74 days before the general election pursuant to *Ala. Code § 17-13-22*. For the 2014 general election, this date will be **Aug. 22, 2014**. Making sure the resolution is passed early in August will help to ensure the necessary information is provided to the probate judge in time for inclusion on the Nov. 4, 2014, ballot.

PETITION METHOD

The act also allows for calling a local referendum upon certification of a petition signed by 10 percent of qualified electors in the unincorporated areas of the county. (See, *Ala. Code § 11-3A-2(b)*.) When this method is utilized, the probate judge shall verify all signatures on the petition within 60 days of receipt of the petition. Once the signatures have been verified, the commission must "make preparations for the referendum" at its next regularly scheduled meeting.

- This means that the county commission must certify the election information to the probate judge not later than 74 days before the election.

Since the county commission will have to take action on the petition at its next regular meeting following verification of signatures, it is recommended that any petition for referendum be submitted more than 60 days prior to the county commission's first meeting in August 2014. The more time allowed for the probate judge and county commission to perform their functions under both the act and the election laws of the state, the better the chance that the local referendum will appear on the Nov. 4, 2014, ballot.

QUESTIONS?

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