

1 HB302
2 136717-1
3 By Representative Newton (D) (Constitutional Amendment)
4 RFD: County and Municipal Government
5 First Read: 14-FEB-12

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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 economic
13 development, public safety and health, taxation,
14 and land use regulation and control.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT
19

20 Proposing an amendment to the Constitution of
21 Alabama of 1901, that would provide for limited optional home
22 rule for those counties in the state, the qualified electors
23 of which approve the same in a referendum held as provided
24 therein, in respect of the areas of economic development,
25 public safety and health, taxation, and land use regulation
26 and control, subject to the provision of such general laws as

1 the Legislature may enact providing for the exercise of the
2 optional supplemental county governmental powers.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

10 PROPOSED AMENDMENT

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

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

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

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

26 Any county authorized to exercise any optional
27 supplemental county governmental powers hereunder may

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

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

25 Set 1 Powers. A county authorized to exercise Set 1
26 Powers hereunder shall be empowered, (a) the provisions of
27 Section 94 of this constitution to the contrary

1 notwithstanding, to lend its credit or to grant public money
2 or thing of value in aid of or to any individual, association,
3 or corporation, by issuing bonds or otherwise, for the purpose
4 of promoting economic development and tourism in the county,
5 and to exercise such legislative powers and to adopt such
6 resolutions, orders, and ordinances as shall be necessary to
7 carry out such functions; and (b) any other provision of this
8 constitution to the contrary notwithstanding, to provide for
9 public health and safety services throughout the
10 unincorporated areas of the county in which and to the extent
11 such services are not otherwise generally provided by another
12 governmental authority, and through its governing body to
13 exercise such legislative powers and to adopt and enforce such
14 resolutions, orders, and ordinances as shall be necessary to
15 carry out such functions.

16 Set 2 Powers. A county authorized to exercise Set 2
17 Powers hereunder shall be empowered, any other provision of
18 this constitution to the contrary notwithstanding, and except
19 as hereinafter provided, to levy for county governmental
20 purposes and to set the rates of (a) taxes on the assessed
21 value of taxable property in the county, (b) business license
22 and privilege taxes on persons having sufficient nexus with
23 the county to permit the lawful imposition of such taxes, (c)
24 sales, use, and other excise taxes on transactions and events
25 occurring in the county, (d) taxes on incomes earned in or
26 occupations performed in the county, and (e) taxes on such
27 additional subjects of taxation as the Legislature may by

1 general law provide that counties may impose, provided that
2 the imposition of any taxes to be levied pursuant to the
3 authorization herein contained or the increase in rate of any
4 thereof shall not be made or levied except following a public
5 hearing conducted by the governing body of the county
6 respecting such imposition or increase and the favorable vote
7 by a majority of the qualified electors of the county voting
8 at a referendum election held thereon. The provisions hereof
9 shall not affect the rates, the validity, the imposition, or
10 the duration of any taxes or fees being lawfully imposed by
11 any county in the state on the date of the ratification of
12 this amendment. Any provision hereof to the contrary
13 notwithstanding, no levy of any ad valorem property tax made
14 by any county pursuant to an authorization hereunder to
15 exercise Set 2 Powers shall result in the amount of ad valorem
16 taxes payable to the state and to all counties,
17 municipalities, and other taxing authorities in the state with
18 respect to any item of taxable property exceeding the limits
19 thereon provided for in subsection (i) of Section 217 of this
20 constitution, as amended.

21 Set 3 Powers. A county authorized to exercise Set 3
22 Powers hereunder shall be empowered, any other provisions of
23 this constitution to the contrary notwithstanding, to regulate
24 and control the use of land through zoning and other similar
25 land use control measures in the unincorporated areas of the
26 county not otherwise subject to the zoning powers and land use
27 planning controls of any municipal corporation exercising such

1 powers in such areas pursuant to applicable law, and to
2 exercise, pursuant to such general laws with respect thereto
3 as the Legislature shall enact for counties so empowered, such
4 legislative powers and to adopt such resolutions, orders, and
5 ordinances as shall be necessary to carry out such functions,
6 provided that (a) if the Legislature does not, prior to
7 October 1, 2016, enact a general law uniformly governing the
8 exercise of zoning and land use planning powers by counties,
9 then the exercise by counties of such powers as herein
10 provided shall be carried out consistently with such general
11 laws of the state as are then applicable to municipal
12 corporations generally, (b) such regulation and control may
13 not commence in any particular area or portion of the county
14 in which such powers may be exercised pursuant hereto unless
15 the commencement of the exercise shall be approved, at a
16 referendum election held in conjunction with a general
17 election held in the state and called by the governing body of
18 the county, by a majority of the qualified electors voting in
19 such referendum election and residing in the area or portion
20 of the county in which commencement of the exercise of such
21 powers is proposed, and (c) in no event shall any county
22 establishing a planning commission or other similar body for
23 the administration of county zoning and land use planning
24 powers pursuant hereto provide for the membership on such
25 commission or other body other than of persons residing in the
26 unincorporated areas of the county.

1 Any county in the state authorized to exercise any
2 of the hereinabove described optional supplemental county
3 governmental powers pursuant to the provisions hereof shall
4 retain all such powers as it shall otherwise have pursuant to
5 this constitution and the laws of this state, but in the event
6 the authorization of the exercise by any county of any set or
7 sets of optional supplemental county governmental power
8 previously authorized pursuant hereto is subsequently repealed
9 pursuant to the provisions hereof, the powers of the county
10 with respect to the subject or subjects of any such optional
11 supplemental county governmental power so repealed shall
12 thereafter revert to those powers with respect thereto that
13 the county would then have otherwise had as if no such set of
14 optional powers had been previously authorized hereunder,
15 provided that such repeal shall in no circumstance affect the
16 impairment of any contract entered into by the county while it
17 was authorized to exercise such power.

18 Section 2. An election upon the proposed amendment
19 shall be held in accordance with Sections 284 and 285 of the
20 Constitution of Alabama of 1901, as amended, and the election
21 laws of this state.

22 Section 3. The appropriate election official shall
23 assign a ballot number for the proposed constitutional
24 amendment on the election ballot and shall set forth the
25 following description of the substance or subject matter of
26 the proposed constitutional amendment:

1 "Proposing an amendment to the Constitution of
2 Alabama of 1901, providing for limited optional county home
3 rule powers concerning economic development, public safety and
4 health, taxation, and land use regulation and control, subject
5 to the approval of the qualified voters of the respective
6 county.

7 "Proposed by Act _____."

8 This description shall be followed by the following
9 language:

10 "Yes () No ()."