

LIMITED SELF-GOVERNANCE ACT

- *Ala. Code § 11-3A-1 et seq.*, "The Alabama Limited Self-Governance Act," became law on May 26, 2005
- Is not effective in any county until approved by local referendum

LIMITED SELF-GOVERNANCE ACT

- Vote will only be by those residing in unincorporated areas
- Referendum can only take place at a primary election, general election or a special election called for another purpose

LIMITED SELF-GOVERNANCE ACT

- The local referendum is held ONLY in the unincorporated portion of the county
- ONLY those residents in the unincorporated area of the county may vote on the question

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Two options to call an election:

1. By resolution of the county commission, or
2. By petition of 10 percent of the qualified voters from the unincorporated area

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- Election can only be during primary election, regular election or special election held for another purpose
- The ballot question is “whether the powers authorized under the act shall be effective in the county”

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- Separate vote is NOT taken on each one of the powers granted in the act
- Election in each county can only be held once every 48 months

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- The county commission or citizens signing a petition may also call an election to repeal no sooner than 48 months after the initial approval is granted
- Otherwise the election is held under general Alabama election laws

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After an affirmative vote, the county is authorized to exercise the powers outlined in the act in order to provide for or control:

“its property and affairs”

“public welfare, health and safety”

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Protection of “welfare, health and safety” is restricted to:

1. “abatement of weeds”
2. control of “litter” or “rubbish”
3. control of “animals and animal nuisances”
4. “junkyard control”
5. “abatement of noise, unsanitary sewage or pollution”

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- The Act includes references to Alabama code sections that include definitions of weeds, animal nuisances, litter, rubbish and other terms
- Act specifically says powers cannot be exercised inside a city unless the city authorizes the county to act on its behalf

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The Act CANNOT be used to:

- ✘ Raise or levy taxes
- ✘ Establish Planning and Zoning
- ✘ Regulate utilities, railroads, landfills or other companies regulated by a number of named agencies

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The Act CANNOT be used to:

- ✘ Regulate the state's court system, cities, schools or pari-mutuel betting
- ✘ Regulate civil or private law or expend public money on private property
- ✘ Violate property rights

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The Act CANNOT be used to:

- ✘ Regulate a farm operation that is not determined to be a nuisance by other sections of Alabama law
- ✘ Regulate a properly permitted mining operations

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Implementation

- Commission adopts “ordinances” to implement the act
- Commission publishes notice of the proposed ordinances before vote

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Implementation

- Ordinances must include a provision that those cited for violations can appeal to the commission

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Implementation

- Ordinances may be used to establish “administrative fees” that do not exceed the cost of implementation and enforcement

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Implementation

- Assessments and fees for services can only be charged if the services are provided to the person or the property

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Implementation

- County Commission may “establish and enforce administrative and civil penalties, including fines” for the enforcement of its ordinances

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Implementation

- Fines capped at \$150 per day, not to exceed a total of \$5,000
- All fines and penalties must be paid into the county general fund and earmarked for administration of the program