

Frequently Asked Questions

What is the Alabama Limited Self Governance Act?

The Alabama Limited Self Governance Act (*Ala. Code § 11-3A-1 et seq.*) deals with nuisance abatement in the unincorporated portion of a county in the following defined areas only:

Weeds
Junkyards
Litter and rubbish
Noise
Pollution
Unsanitary sewage
Animal control

I THOUGHT "HOME RULE" INCLUDED TAXING AUTHORITY.

This law does not include any authority in the two areas usually associated with the term "home rule"— the authority to levy taxes or the authority to establish a planning and zoning program. In fact, the law specifically prohibits this authority in two separate places:

- *Ala. Code § 11-3A-2(d)(1)* states the powers granted to a county commission under this law shall not include "The authority of a county to levy or collect any tax, to levy or collect any fee except an administrative fee as provided in this chapter, or to implement a county land use plan or to establish and enforce planning and zoning".
- *Ala. Code § 11-3A-2(f)* states, "Nothing in this chapter shall be construed to grant the county commission of a county any general authority to establish or adopt a comprehensive plan for zoning or land use regulation in the unincorporated areas of the county or to grant any taxing authority except as otherwise provided for by law."

HOW DOES THE LAW BECOME APPLICABLE IN MY COUNTY?

The law becomes applicable if approved at a local referendum held in conjunction with a primary, general, or special election held for another purpose. Only voters in the unincorporated areas of the county can vote on the question.

The local referendum may be called in one of two ways:

1. By resolution adopted by a majority of members of the county commission
2. By a petition signed by citizens in the unincorporated area of the county

Ala. Code § 11-3A-5 states that an election authorized under the Limited Self-Governance Act can only be held once every 48 months.

- This means if the referendum fails, the county will not be able to try again for four years.
- It also means that there can be no referendum to repeal the law for at least four years after the powers are granted.

WHAT HAPPENS IF THE REFERENDUM PASSES?

If the referendum passes, the commission will then enter into a process of adopting “ordinances” to implement the act.

- Any proposed ordinance must be advertised and subject to public hearings before passage.
- All proposed ordinances must be voted on at a regularly scheduled county commission meeting.

HOW WILL THE ORDINANCES WORK?

The law sets out specific requirements for what must be included in ordinances and how ordinances can be enforced.

- All ordinances must include provisions for notice to those accused of violating the ordinances.
- All ordinances must include an appeals process allowing review by the county commission before a matter goes to any court of law.
- Once a violation has been established, the commission will take steps to respond to any nuisances as set out in the ordinance.

WHERE DOES THE COMMISSION HAVE AUTHORITY TO TAKE ACTION?

The law specifically prohibits the county from taking any actions inside a city’s limits without permission of city leaders. The concept of this law is that only voters in the unincorporated area should vote on have the powers implemented and the commission should only exercise those powers in the unincorporated areas of the county.

IS THERE PROTECTION FOR FARMS, CITIES OR INDUSTRY?

The list of actions the commission cannot take under the law is actually much longer than the list of powers that can be exercised. *Ala. Code § 11-3A-2(d)* prohibits the county commission from taking actions against any of the following:

Any business activity that is regulated by:

1. Alabama Public Service Commission;
2. Alabama Department of Environment Management;
3. Department of Agriculture and Industries.

Any action affecting:

1. Public schools
2. Courts
3. Gambling
4. Municipalities
5. "Private or civil relationships"
6. Utilities
7. Existing agricultural, manufacturing, or industrial operations
8. Property Rights
9. Mining operations

WHAT ABOUT THE FEES?

Pursuant to Ala. Code § 11-3A-3(d), the county commission cannot charge a fee that is more than the "actual" cost of providing a service. The law also clearly states that the fee cannot be charged against a property or person to which the service is not made available.

WHAT ABOUT THE FINES?

Ala. Code § 11-3A-3(e) limits fines to \$150 per offense. Each day a person remains in violation of the ordinance is a separate offense. The law caps the fine at \$5000.

No fines can be assessed without notice to all those who are violating an ordinance and an opportunity for those affected to appeal to the commission.

WHAT IF THE VOTERS AREN'T HAPPY?

The law provides a process for the voters to petition to call for a vote on repealing the powers. As with the passage of the referendum to authorize the powers, the referendum on repeal can only be held in conjunction with a primary, general, or special election called for another purpose.

- And *Ala. Code § 11-3A-5* provides that an election authorized by this law cannot be held more often than once every 48 months.
- This means that a referendum for repeal cannot be held until the powers have been in place for at least four years.