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An Analysis of Proposed Statewide  
Amendments to the  
Alabama State Constitution: 2016





## Analysis of Proposed Statewide Amendments for the November 8 General Election

When Alabama voters go to the polls on November 8, they will be asked to consider adding 35 more amendments to the Alabama Constitution. PARCA has compiled a summary of each of the 14 amendments that will appear on the ballot statewide.

Alabama already has the nation's longest constitution — about 12 times longer than the national average. Since its adoption in 1901, the Alabama Constitution has been amended 895 times.

In principle, constitutions are meant to lay out the fundamental powers of government and establish a statewide framework for its operation, leaving the state legislature and local legislative bodies the task of carrying out work within those limits. Alabama's Constitution, by contrast, is minutely detailed with a multitude of amendments that create local exceptions that apply to individual jurisdictions, as well as provisions that apply statewide.

The problem stems from the constitution strictly limiting the powers of local governments. Almost immediately after its adoption, the constitution began to accumulate amendments, most of which created local exceptions to state constitutional principles. November's ballot continues that practice. Of the 35 amendments proposed, 25 apply to a single jurisdiction. Of the total, 14 amendments will be voted on statewide. Of those, 10 will affect the state as a whole, and four pertain to an individual locality but are being voted on by voters throughout the state.

Of those local amendments being considered statewide, one is a proposal to raise the maximum age of the probate judge in Pickens County to 75. Voters statewide will also decide whether the citizens of Etowah County can create a personnel board for employees of its sheriff's department.

Four statewide amendments, Amendments 3, 4, 5 and 6, make a modest effort to clean up some of the problems with the constitution. These amendments are the result of the work of a nonpartisan commission chaired by former Governor Albert Brewer, PARCA's founder and chairman emeritus.

In addition to PARCA's summary, more information on the proposed amendments can be found on the Secretary of State's website, including summaries and explanations compiled by the state's Fair Ballot Commission.

## Statewide Amendment 1

“Proposing an amendment to the Constitution of Alabama of 1901, to establish procedures to ensure that no more than three of the members of the Auburn University Board of Trustees shall have terms that expire in the same calendar year and to add two additional at-large members to the board to enhance diversity on the board.”

Yes ( ) No ( )

This amendment would alter the composition and adjust the terms of the Auburn University Board of Trustees.

The constitution establishes the composition and selection method for the members of Auburn University’s Board of Trustees. The trustee selection process was last revised by amendment in 2005. That amendment created a nominating committee made up of the governor, the president pro tem of the board, two board members, and the Auburn Alumni Association or their designees. The nominees are then forwarded to the Alabama Senate for confirmation.

While that reform has generally been viewed as a positive, it produced the unintended consequence of having multiple trustee terms expire at the same time. Under current rules, nine members’ terms are set to expire in 2019.

This amendment, proposed by [Act 2015-217](#), would create staggered terms for the trustees and thus prevent the wholesale turnover of the board. Under the amendment, no more than three of the members of the board will have terms that end in the same year.

If voters approve the amendment, it will have the effect of extending board member Jimmy Sanford’s term to March 2020. Board members Jimmy Rane, Charles McCrary and Sarah Newton’s terms would expire in 2021. Bob Dumas and Elizabeth Huntley’s terms would be extended to 2022.

The proposed amendment would also add two more at-large members to the board with the intention of adding diversity. This would expand the size of the board from 14 to 16 total members with five at-large members.

Board members will still be limited to serving no more than two full seven-year terms of office, but if a trustee is appointed to fill an unexpired term, that time served will not apply to the two-term limit. A “Yes” vote makes changes to the board terms and composition. A “No” vote keeps the terms and composition as they are.

## Statewide Amendment 2

“Proposing an amendment to the Constitution of Alabama of 1901, to prohibit any monies from the State Parks Fund, the Parks Revolving Fund, or any fund receiving revenues currently deposited in the State Parks Fund or the Parks Revolving Fund, and any monies currently designated pursuant to statute for the use of the state parks system from being transferred for another purpose other than the support, upkeep, and maintenance of the state parks system.”

“Notwithstanding, in the event that guest revenues to the State Parks Revolving Fund exceed the threshold of \$50 million (as annually adjusted based on increases in the consumer price index) in a fiscal year, the sales and use and cigarette tax revenue distributed to benefit the State Parks System shall be reduced in the following fiscal year. The amount of the reduction shall correspond to the amount of guest revenue to the State Parks Revolving Fund exceeding the threshold. The amount of tax revenue not distributed to benefit the State Parks System shall be distributed to the General Fund.”

“Proposing an amendment to Amendment 617 of the Constitution of Alabama of 1901, to allow the Department of Conservation and Natural Resources the option to provide for the operation and management, by non-state entities, of hotels, golf courses, and restaurants at any applicable state parks in Alabama.”

Yes ( ) No ( )

This amendment would prohibit the Legislature from transferring money generated by or designated for the State Park System to other purposes.

Currently, about 80 percent of the \$37 million budget for the operation and maintenance of Alabama State Parks comes from revenue generated by the parks themselves.

Taxpayer support for the parks amounts to \$7.6 million a year, coming from a portion of the cigarette tax and the sales tax designated by law to be used to support park maintenance and improvements.

Since 2012, with the state lacking adequate revenue to pay for other government operations, the Legislature has shifted a total of \$15 million away from the state park budget to fund other departments.

This reallocation by the Legislature led to increases in fees, adjustment of operating hours, and the closure of five state parks. Since then, arrangements have been made to reopen the parks in cooperation with local entities willing to take on the expense of the closed parks' operation.

However, the parks continue to struggle with a backlog of deferred maintenance and other issues resulting from the transfers.

This amendment, proposed by [Act 2016-145](#), would prevent the Legislature from shifting park operating revenue and designated tax dollars away from the parks. The prohibition against shifting tax dollars will be waived if the parks generate guest revenues in excess of \$50 million. The amendment would also allow the State Park System to contract with non-state entities to provide for the operation and management of hotels, golf courses and restaurants at certain parks.

A “Yes” vote means both the operating revenue generated by the park system and taxes currently designated for the State Park System will be constitutionally earmarked for the state parks, limiting the Legislature’s ability to designate it for other purposes. A “No” vote maintains the Legislature’s discretion to shift money away from the park system.

### Statewide Amendment 3

“Proposing an amendment to the Constitution of Alabama of 1901, to revise the procedure for adoption of local constitutional amendments to provide that a proposed constitutional amendment the Legislature determines without a dissenting vote applies to only one county or a political subdivision within one or more counties shall be adopted as a valid part of the constitution by a favorable vote of a majority of the qualified electors of the affected county or the political subdivision and county or counties in which the political subdivision is located, who vote on the amendment.”

Yes ( ) No ( )

This amendment proposes changes to the state’s system for deciding whether constitutional amendments that pertain to an individual locality have to appear on ballots statewide.

Alabama’s constitutional practices are unusual in that often an amendment only applies to a specific county or locality. On the current statewide ballot, four of the proposed amendments apply to only one county.

Under the current procedure, if a local constitutional amendment passes the Legislature without a single dissenting vote, a state commission can decide to allow it to be voted on in only the affected locality. In making the decision, the commission evaluates whether or not the amendment is strictly local in nature.

However, if a proposed amendment receives even *one* dissenting vote in the Legislature, it must appear on ballots statewide. If a local amendment does appear on the statewide ballot and passes statewide, it goes into effect, even if the affected locality votes against it.

Under the new procedure, proposed by [Act 2015-44](#), local constitutional amendments will be voted on twice in the Legislature. If the amendment receives approval by a three-fifths (60 percent) vote, the Legislature then takes a second vote on whether it should appear in a single jurisdiction. Again, if a single legislator votes against putting it only on the local ballot, it must appear statewide. The new procedure is designed to allow a legislator to vote against initial passage to register his or her opposition to the measure, but then later vote for its placement on a local ballot only.

The amendment also stipulates that a proposed amendment must pass in the affected local jurisdiction for it to be adopted. A “Yes” vote creates a new procedure for deciding whether amendments are voted on statewide or locally. A “No” vote keeps the current system in place.

## Statewide Amendment 4

“Proposing an amendment to the Constitution of Alabama of 1901, to authorize each county commission in the state to establish, subject to certain limitations, certain programs related to the administration of the affairs of the county.”

Yes ( ) No ( )

The Alabama Constitution strictly limits the powers of local governments, particularly counties. Counties can only exercise powers specifically granted to them by the constitution or the Legislature. Hundreds of amendments to the 1901 constitution grant specific localities authority to undertake basic activities, such as mosquito spraying or rodent control, for example.

In an attempt to grant some latitude to county governments, the Legislature, in 2005, adopted the Alabama Limited Self-Governance Act. This Act allows counties to pass laws that address a limited range of services, such as weed control and litter pickup, without permission from the Legislature. However, this power only applies in unincorporated areas of the county and only if approved by a majority of voters in the affected area. Since 2005, 19 counties have utilized the provisions of this law.

Amendment 4, proposed by [Act 2015-220](#), would give counties similar authority granted through the Alabama Limited Self-Governance Act without the need for seeking approval from a majority of voters in the affected area. Amendment 4 would allow counties to adopt programs and policies relating to county personnel, litter-free roadways and public property, public transportation, safety on public roads and emergency assistance. Under Amendment 4, counties could pass and enforce these laws by a vote of the County Commission. A county would not be required to seek the approval of the Legislature or voters to exercise these specified powers.

Amendment 4 contains limitations. It would prevent a county from imposing a tax or fee or establishing any program that would infringe on a citizen’s rights to the use of his or her private property. It would not allow changes to the compensation, terms of office or powers or duties of elected officials. It would also not apply to Jefferson County, nor would it allow a county to supersede, repeal or amend an existing local law.

A “Yes” vote would allow county commissions to exercise a limited range of additional powers without first obtaining permission from the Legislature or voters. A “No” vote would maintain the status quo.

## Statewide Amendment 5

“Proposing an amendment to the Constitution of Alabama of 1901, to repeal and restate the provisions of Article III of the Constitution of Alabama of 1901 relating to separation of powers to modernize the language without making any substantive change, effective January 1, 2017.”

Yes ( ) No ( )

Language related to the powers given to the three branches of Alabama government is currently contained in two parts of the State Constitution – Article III and Amendment 582.

Article III splits state government into the legislative, executive and judicial branches, and says that one branch “shall never” exercise the powers of the other two branches. Amendment 582 provides that the state is required to follow a state court order to spend state funds only after the spending has been approved by a majority of the Legislature.

Statewide Amendment 5, proposed by [Act 2015-200](#), would combine Article III and Amendment 582 into the same part of the constitution. It would also modernize the language of the previous laws, removing antiquated phrases such as “to wit” and “body of magistracy.” This will not change the provisions of the laws, just the wording.

A “Yes” vote allows for the current laws to be combined and modernized, and a “No” vote is to remain the same.

## Statewide Amendment 6

“Proposing an amendment to the Constitution of Alabama of 1901, to become operative January 1, 2017, to repeal and replace Article VII, Impeachments.”

Yes ( ) No ( )

The Alabama Constitution contains no specific instructions about voting on impeachment charges for statewide elected officials, including the Governor, Lieutenant Governor, Attorney General, State Auditor, Secretary of State, State Treasurer, State Board of Education, Superintendent of Education, Commissioner of Agriculture, and members of the Alabama Supreme Court.

Current law instructs that the House of Representatives will bring the impeachment case forward and the Senate will preside over the case, but there is nothing that tells the Senate how much of a vote is needed to impeach one of these officials.

Amendment 6, proposed by [Act 2015-199](#), will add a requirement for a two-thirds majority vote of present senators.

It will also change impeachment abilities for two parties. Under current law, the appointed Superintendent of Education is subject to impeachment, but members of the elected State Board of Education are not. Amendment 6 adds the entire State Board of Education and removes the Superintendent of Education, who is appointed by — and can only be removed by — the board through the impeachment process.

Amendment 6 will not alter the reasons someone can be impeached.

A “Yes” vote approves the required two-thirds majority vote to impeach. A “No” vote leaves the impeachment process in its current ambiguous state.

### Statewide Amendment 7

“Relating to Etowah County, proposing an amendment to the Constitution of Alabama of 1901, to provide that the employees of the Office of Sheriff of Etowah County, except for the chief deputy, chief of detention, chief of administration, chief of investigation, director of communications, and food service manager, shall be under the authority of the of the Personnel Board of the Office of the Sheriff of Etowah County.”

Yes ( ) No ( )

Amendment 7, proposed by [Act 2015-97](#), relates only to Etowah County. This amendment would put employees of the Etowah Sheriff’s Office under the authority of a newly created Personnel Board of the Office of the Sheriff of Etowah County instead of the county’s personnel department. The new law would not apply to the chief deputy, chief of detention, chief of administration, chief of investigation, director of communications or food service manager.

According to *The Anniston Star*, Rep. Mack Butler, R-Rainbow City, said he was approached by the Etowah County Sheriff’s Office to create a personnel board. He said the sheriff’s office had a problem retaining new hires because of an inability to provide competitive pay.

He said that because deputies are hired by the county, in order for them to receive a raise, all county employees would also have to receive a raise. He said officials in the county not only want to give the sheriff’s office more control over hiring and firing, but also to give more protections for employees.

A “Yes” vote would allow the sheriff’s office, excluding the positions mentioned above, to operate under the personnel board, which would allow sheriff’s deputies to receive raises without requiring the county to provide raises for all county employees.

A “No” vote would block the official establishment of the personnel board and keep the sheriff’s office under the authority and supervision of the county.

## Statewide Amendment 8

“Proposing an amendment to the Constitution of Alabama of 1901, to declare that it is the public policy of Alabama that the right of persons to work may not be denied or abridged on account of membership or nonmembership in a labor union or labor organization; to prohibit an agreement to deny the right to work, or place conditions on prospective employment, on account of membership or nonmembership in a labor union or labor organization; to prohibit an employer from requiring its employees to abstain from union membership as a condition of employment; and to provide that an employer may not require a person, as a condition of employment or continuation of employment, to pay dues, fees, or other charges of any kind to any labor union or labor organization.”

Yes ( ) No ( )

Amendment 8, proposed by [Act 2016-86](#) would enshrine Alabama’s current “Right-to-Work” law in the Alabama Constitution, thus requiring any change to those rights to be made through the constitutional amendment process rather than through an act of the Legislature.

Under current law, the Code of Alabama states that a person’s membership or nonmembership in a labor union or organization may not eliminate or reduce that person’s right to work. Union membership cannot be used as a condition for hiring or continuation of employment, meaning that no employee can be forced to join the union or pay union dues.

A “Yes” vote for Amendment 8 would duplicate these identical right-to-work provisions from the Code of Alabama into the state constitution. A “No” vote leaves this language out of the constitution but the language would remain in the Code of Alabama.

## Statewide Amendment 9

“Relating to Pickens County, proposing an amendment to the Constitution of Alabama of 1901, to provide that a person who is not over the age of 75 at the time of qualifying for election or at the time of his or her appointment may be elected or appointed to the office of Judge of Probate of Pickens County.”

Yes ( ) No ( )

Amendment 9 was proposed by [Act 2016-120](#). At present, a person is constitutionally prohibited from being elected or appointed to a judicial office in Alabama after a person reaches the age of 70. That prohibition includes the position of Probate Judge.

If passed, Amendment 9 would allow a person who is older than 70 at the time of election or appointment, but not older than 75, to be elected or appointed Probate Judge in Pickens County. No other judicial offices in the state would be impacted by Amendment 9. This amendment only applies to Pickens County. According to an article in the *Tuscaloosa News*, the amendment was proposed at the request of Pickens County Probate Judge John Paluzzi who, at age 71, would be barred from seeking re-election in 2018 under state law.

A “Yes” vote would be in favor of changing the maximum age limitation for the Pickens County Probate Judge only. All other judicial age limitations will remain in place. A “No” vote would leave the maximum age at 70 for all judges.

## Statewide Amendment 10

“Relating to Calhoun County, proposing an amendment to the Constitution of Alabama of 1901, to provide that any territory located in the county would be subject only to the police jurisdiction and planning jurisdiction of a municipality located wholly or partially in the county.”

Yes ( ) No ( )

Amendment 10, proposed by [Act 2016-144](#), applies only in Calhoun County. It will prevent any city or town that is not located completely or partially within the county from exercising police jurisdiction over any territory in Calhoun County.

Currently, cities in Alabama can establish their policing perimeter outside of their corporate limits. Alabama is one of a small number of states that requires cities to provide police and fire department coverage outside their city limits to include people who live near the town. The police jurisdiction coverage radius is determined by the population of the city. Cities with populations of fewer than 6,000 inhabitants would have a police jurisdiction that covers all adjoining territory within one-and-a-half miles outside of the corporate limits. In cities with more than 6,000, that jurisdiction would extend to three miles beyond the city limits. This law was amended in May to allow a municipality that has a police jurisdiction of three miles to reduce its jurisdiction to one-and-a-half miles by ordinance. If the city reduces its jurisdiction, it may not then re-extend the jurisdiction, except by local law.

Police jurisdictions offer police protection and fire coverage to rural areas. Within these police jurisdictions, cities have the power to levy and assess taxes at one-half the amount within the city limits, as well as the ability to collect permit and license fees such as business licenses. The taxes and fees collected cannot be greater than the cost of services provided by the municipality within the jurisdiction. However, some argue that since these rural residents within the police jurisdiction cannot vote on issues within the city, this arrangement amounts to “taxation without representation.”

In the case of Calhoun County, when the 2010 census showed that the City of Lincoln, located in northern Talladega County, had surpassed 6,000 in population, its police jurisdiction extended across the Talladega County line into parts of Calhoun County. Amendment 10 would ensure that only cities with territory in Calhoun County can exercise police jurisdiction within Calhoun County. Thereby, jurisdictions from outside of the county, such as Lincoln, would not extend across county lines.

A “Yes” vote supports the proposal that any territory in Calhoun County can only be subject to the police jurisdictions of municipalities within Calhoun County. A “No” vote opposes this proposal, allowing municipal police jurisdictions to extend across county lines.

## Statewide Amendment 11

“Proposing an amendment to the Constitution of Alabama of 1901, as amended, to permit cities and counties, notwithstanding any existing constitutional restrictions, to utilize tax increment district revenues collected within a Major 21st Century Manufacturing Zone and other moneys to incentivize the establishment and improve various types of manufacturing facilities located or to be located in such Zone, and to validate and confirm the Major 21st Century Manufacturing Zone Act, Act No. 2013-51.”

Yes ( ) No ( )

Amendment 11, proposed by [Act 2016-267](#), deals with the Major 21st Century Manufacturing Zone Act. Passed in 2013, the Act allows cities and counties to create special zones to incentivize industrial development and reclaim blighted areas. The local government entities can pledge a projected increase in future property tax revenues to acquire and redevelop private land that has been specially designated as suitable for certain major manufacturing facilities.

The local governments can then sell these properties to developers or manufacturing companies. The original legislation required that cities or counties sell these properties at fair market value so that those governmental bodies would not be considered to be invested in a private enterprise, in violation of the Constitution. Amendment 11 seeks to remove this fair market value requirement and give the city or county sole discretion to determine the sale price of the property, regardless of fair market value.

A “Yes” vote would allow local governing bodies within the Major 21st Century Manufacturing Zones to sell city- or county-owned properties in that zone below fair market value to attract economic development to the zone.

A “No” vote would mean that cities and counties remain required to sell properties within these special zones for at least fair market value.

The other provisions of the Major 21st Century Manufacturing Zone Act will still be in effect, even though they are not incorporated into the constitution.

## Statewide Amendment 12

“Relating to municipalities in Baldwin County; proposing an amendment to the Constitution of Alabama of 1901, to authorize the Legislature by general or local law to provide for any municipalities in the county to incorporate a toll road and bridge authority as a public corporation in the municipality for the construction and operation of toll roads and bridges in the municipality and to authorize the authority to issue revenue bonds to finance the projects.”

Yes ( ) No ( )

Amendment 12, proposed by [Act 2016-274](#), is a local amendment that only affects Baldwin County. The amendment would allow the Legislature to permit a Baldwin County municipal governments to establish a toll road and bridge authority. The amendment does not establish the authority; it only creates the legal ability for the future creation of such an authority.

A road and bridge authority is a type of special district or special-purpose government. A special-purpose government is an entity created by the Legislature to exercise control over one service, or a limited number of related services. Special-purpose governments have administrative and financial independence from other units of government, such as the local city or county. Special-purpose governments have the ability to issue debt, pass taxes or collect fees without a citizen vote. Some airport authorities, hospital authorities and water boards are examples of special-purpose governments. As of October 2012, Alabama had 548 special-purpose governments.

Among Alabama's special districts is the Alabama Toll Road, Bridge & Tunnel Authority established in 1980. According to the enabling legislation, Alabama Code 23-2-142 2008, the authority is authorized "to acquire and construct toll road, bridge, or tunnel projects" and "to issue toll road, bridge, or tunnel revenue bonds" payable by tolls and other revenues to support the construction, operation, and maintenance of such projects.

The exact powers of a Baldwin County authority would be spelled out in future legislation, but presumably, the new authority would have similar powers as the Alabama Toll Road, Bridge & Tunnel Authority. The authority would issue bonds for the financing of new roads and extensions of current roads to enhance access to Alabama's beaches. These bonds would be paid back by tolls charged to users of the roads and bridges.

There are currently four toll roads in Alabama, including the Foley Beach Express. All are managed by a private company. A newly established authority would have no jurisdiction over any existing road or bridge in Baldwin County.

A "Yes" vote will give the Legislature the power to allow Baldwin County to create an authority to build and manage toll roads and bridges. A "No" will not give the Legislature this power.

### Statewide Amendment 13

"Proposing an amendment to the Constitution of Alabama of 1901, to repeal any existing age restriction on the appointment, election, or service of an appointed or elected official, with the exception of persons elected or appointed to a judicial office, currently imposed by a provision of the Constitution or other law; and to prohibit the Legislature from enacting any law imposing a maximum age limitation on the appointment, election, or service of an appointed or elected official."

Yes ( ) No ( )

Amendment 13, proposed by [Act 2016-429](#), amends the Alabama Constitution to eliminate age limits on any candidate for election or appointment to public office, except judges. The Alabama Constitution currently prohibits judges from appointment or election after reaching the age of 70. Amendment 13 does not change this. The amendment also prevents the Legislature from passing a future law to limit ages.

This change was initially proposed in the 2016 Regular Session. The bill passed the House but not the Senate and was re-introduced in the Special Session. The original version of HB31 proposed removing the age limits of judicial officials as well, but this was removed in the Senate version.

The Alabama Constitution and the Code of Alabama currently impose maximum age limits on commissioners of the Alabama Commission on Higher Education and trustees at four public universities: Alabama State University, Jacksonville State University, the University of Alabama and Auburn University.

A “Yes” vote invalidates maximum age limits that apply to these and any other officials, except for judges. A “No” vote leaves maximum age limits in place.

### Statewide Amendment 14

“Proposing an amendment to the Constitution of Alabama of 1901, to amend Amendment 448 to the Constitution of Alabama of 1901, now appearing as Section 71.01 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, to ratify, approve, validate, and confirm the application of any budget isolation resolution relating to a bill proposing a local law adopted by the Legislature before November 8, 2016, that conformed to the rules of either body of the Legislature at the time it was adopted.”

Yes ( ) No ( )

In Amendment 14, Alabama’s complex constitution, budget process and lack of home rule come together. To understand Amendment 14, you must understand the Legislature’s Budget Isolation Resolution (BIR), which is specified in Amendment 448.

Amendment 448 was passed in 1984. It states that budgeting is the “paramount duty” of the Legislature. Then, as now, this was a duty the Legislature found to be difficult. Amendment 448 requires that no bill may be passed by either chamber of the Legislature and submitted to the other chamber before the full Legislature passes “basic appropriations” — the General Fund budget and the Education Trust Fund budget – and submits them to the governor. This is to ensure that the Legislature’s “paramount duty” of budgeting is addressed before other legislation.

However, the amendment allows either chamber to declare that the provision does not apply to a particular bill if three-fifths (60 percent) “of a quorum present” votes to make the exception. This process is known as a Budget Isolation Resolution, or BIR. Alabama House Rule 36(2) states that the BIR process requires a three-fifths vote of members “present and voting,” whereas Amendment 448 stipulates a three-fifths vote of members present. Thus, the adopted House rule varies from the text of Amendment 448. The BIR language in Senate Rule 75 matches the language of Amendment 448.

The BIR process allows the Legislature to circumvent the intent of Amendment 448. Hundreds of laws enacted since 1984 were considered under a BIR. Of these, approximately 630 are local acts. These local acts are required because Alabama limits home rule. Cities and counties must receive legislative authorization to enact certain ordinances or laws. These local acts apply to a single county, city or class of cities.

When a bill is a local bill, the Legislature employs so-called “local courtesy.” Under local courtesy, only legislators who represent the jurisdiction(s) affected by a local bill may actually vote on the bill. State law does not require this practice. It is a custom, albeit one that is encouraged in Senate Rule 81. House rules are not explicit on local courtesy.

Among the many local bills adopted under a BIR and ultimately signed into law was HB573 in 2015, which authorized Jefferson County to issue a one-cent sales and use tax. The bill required and received a BIR. The House employed local courtesy and adopted the BIR on a vote of 13 to 3 with 35 abstentions. This equates to 81 percent of members voting, but only 25 percent of members present. HB573 was ultimately enacted into law as Act 2015-226.

In December 2015, Circuit Judge Michael Graffeo ruled in *Jefferson County v. The Taxpayers and Citizens of Jefferson County* that Act 2015-226 was unconstitutional because the BIR accompanying the House version did not comply with Amendment 448. The ruling is suspended upon appeal to the Alabama Supreme Court.

If the Alabama Supreme Court upholds Judge Graffeo's ruling, Act 2015-226 will be invalidated. Likewise, the more than 630 other laws passed in a similar fashion could be ruled unconstitutional.

Amendment 14, proposed by [Act 2016-430](#), seeks to negate the impact of Judge Graffeo's ruling and a potential upholding of the ruling by the Alabama Supreme Court. The amendment states that local bills passed using the BIR procedure are valid so long as they were passed in accordance with the rules of the chamber in place at that time. In essence, this is a retroactive correction to BIRs passed under House rules at odds with the language of the Alabama Constitution.

A "Yes" vote on Amendment 14 means that all local acts passed with a BIR will remain valid, regardless of the ruling of the Alabama Supreme Court. A "No" vote on Amendment 14 means that all local acts passed with a BIR could be invalidated, depending on the ruling of the Alabama Supreme Court or future courts in other cases.







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