

1 HB393
2 96666-2
3 By Representatives Martin and Gipson
4 RFD: Tourism and Travel
5 First Read: 12-FEB-08

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8 SYNOPSIS: Currently, any municipality having a
9 population of 7,000 or more may change its
10 classification from dry to wet or wet to dry by a
11 municipal option election.

12 This bill would allow any municipality to
13 hold a municipal option election.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT

18
19 To amend Sections 28-2A-1 and 28-2A-3, Code of
20 Alabama 1975, and to repeal Section 28-2A-4, Code of Alabama
21 1975, relating to municipal option elections, to allow any
22 municipality to hold a municipal option election.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 28-2A-1 and 28-2A-3, Code of
25 Alabama 1975, are amended to read as follows:

26 "§28-2A-1.

1 "(a) Any municipality ~~having a population of 7,000~~
2 ~~or more~~ may change its classification from dry to wet or wet
3 to dry by a municipal option election, in the following
4 manner:

5 "(b) Upon petition of 25 percent of the number of
6 voters voting in the last preceding general election of the
7 municipality being filed with the city or town clerk or
8 governing body of said municipality, said governing body must
9 call a municipal option election for said municipality to
10 determine the sentiment of the people as to whether or not
11 alcoholic beverages can be legally sold or distributed in said
12 municipality. Said petition for municipal option election
13 shall contain the following: "It is petitioned that a
14 municipal option election be held to permit the legal sale and
15 distribution of alcoholic beverages within this municipality."
16 On the ballot to be used for such municipal option election,
17 the question shall be in the following form: "Do you favor the
18 legal sale and distribution of alcoholic beverages within this
19 municipality? Yes _____ No _____."

20 "(c) Said municipal option election shall be held
21 and the officers appointed to hold same in the manner provided
22 by law for holding other municipal elections and the returns
23 thereof tabulated and the results certified as provided by law
24 for such municipal elections. Said municipal option election
25 shall be held at the time of the primary, general, county-wide
26 or municipal election next succeeding the date of the filing
27 of said petition, provided, however, said election shall not

1 be held within less than 30 days from the date of the filing
2 of said petition. Notice of said municipal option election
3 shall be given by the governing body of the municipality by
4 publication at least three weeks before the date of election,
5 in a newspaper in the municipality, or, if there be none, in a
6 newspaper in the county, or, if there be neither, by posting
7 such notice at the town or city hall, apprising the voters of
8 the municipality that a municipal option election shall be
9 held to determine whether such municipality shall be wet or
10 dry under this article. The cost of said municipal option
11 election, including the cost of notice by publication, shall
12 be paid out of the general fund of the municipality.

13 "(d) Only qualified voters shall vote in said
14 municipal option election. If a majority of the voters in said
15 municipal option election vote "yes," said municipality shall
16 be wet, and alcoholic beverages can be legally sold,
17 distributed and consumed within the corporate limits of said
18 municipality, and all of the provisions of Title 28, relating
19 to alcoholic beverages in wet counties, including Chapters 3,
20 3A, 6 and 7, shall be immediately put into operation with
21 respect to and effective within the corporate limits of said
22 municipality. Said municipality shall remain wet until said
23 municipality shall be in subsequent municipal option election
24 held under this article changed to a dry municipality,
25 notwithstanding the results of any subsequent county election
26 or special method referendum. All other laws to the contrary
27 notwithstanding, the electors residing within the corporate

1 limits of any such municipality that has become wet pursuant
2 to a municipal option election held under this article shall
3 not be entitled to vote in any subsequent county election or
4 special method referendum held to determine if the county in
5 which such municipality is located shall become wet. The
6 question of whether such county shall become wet shall be
7 decided by the electors of such county residing outside the
8 corporate limits of such wet municipality as otherwise
9 provided by law.

10 "(e) If a majority of the voters voting in said
11 municipal option election vote "no," said municipality shall
12 be a dry municipality under the terms of this article until
13 the county shall by subsequent election or special referendum,
14 vote wet, or the municipality shall by a subsequent municipal
15 option election held under this article, vote wet.

16 "(f) Said municipal option election in said
17 municipality may be held at the time of any primary, general,
18 county-wide or municipal election as determined by the county
19 commission or the municipal governing body, as applicable,
20 ~~provided a period of not less than 720 days must elapse~~
21 ~~between the dates of such municipal option elections, provided~~
22 ~~further,~~ that a county or municipal wet-dry election or
23 special method referendum may be held at any time without
24 regard to the lapse of time between the dates of any county or
25 municipal option elections.

26 "§28-2A-3.

1 "It is hereby declared the intention and the purpose
2 of this article to permit an election by the citizens of
3 certain municipalities to determine the wet or dry status of
4 such municipalities with regard to the sale, distribution and
5 consumption of alcoholic beverages within the corporate limits
6 of such municipalities; ~~and further that such election shall~~
7 ~~be provided only in those municipalities which can provide~~
8 ~~safeguards for the protection of the public welfare, health,~~
9 ~~peace and morals of the people. In the furtherance of the~~
10 ~~protection of the public welfare, health, peace and morals,~~
11 ~~the Legislature has determined that a population~~
12 ~~classification should be established to provide this method of~~
13 ~~municipal option election only in those municipalities with a~~
14 ~~population of 7,000 or more people within a county, it being~~
15 ~~the judgment of the Legislature that municipalities with a~~
16 ~~lesser population would be unable to support and maintain such~~
17 ~~protection where such municipality is located in a dry county,~~
18 ~~whereas a municipality of 7,000 or more population would have~~
19 ~~the resources and ability to support and maintain such~~
20 ~~safeguards."~~

21 Section 2. All laws or parts of laws which conflict
22 with this act are repealed and specifically Section 28-2A-4,
23 Code of Alabama 1975, is repealed.

24 Section 3. This act shall become effective
25 immediately following its passage and approval by the
26 Governor, or its otherwise becoming law.