

1 HB73  
2 164728-1  
3 By Representative Martin  
4 RFD: Economic Development and Tourism  
5 First Read: 03-MAR-15

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8 SYNOPSIS: Currently, any municipality having a  
9 population of 1,000 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  
13 having a population of 500 or more to hold a  
14 municipal option election.

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

20 To amend Sections 28-2A-1 and 28-2A-3, Code of  
21 Alabama 1975, relating to municipal option elections; to allow  
22 any municipality having a population of 500 or more to hold a  
23 municipal option election.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

27 "§28-2A-1.

1           "(a) Any municipality having a population of ~~1,000~~  
2     500 or more, excluding Clay, Randolph, and Blount Counties,  
3     may change its classification from dry to wet or wet to dry by  
4     a municipal option election, in the following manner.

5           "(b) Upon petition of 30 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 \_\_\_\_\_." Each subsequent municipal  
20    option election must follow the petition process as provided  
21    in this subsection with a new petition.

22           "(c) Said municipal option election shall be held  
23    and the officers appointed to hold same in the manner provided  
24    by law for holding other municipal elections and the returns  
25    thereof tabulated and the results certified as provided by law  
26    for such municipal elections. Said municipal option election  
27    shall be held at the time of the primary, general,

1 county-wide, or municipal election next succeeding the date of  
2 the filing of said petition, provided, however, said election  
3 shall not be held within less than 30 days from the date of  
4 the filing of said petition. Notice of said municipal option  
5 election shall be given by the governing body of the  
6 municipality by publication at least three weeks before the  
7 date of election, in a newspaper in the municipality, or, if  
8 there be none, in a newspaper in the county, or, if there be  
9 neither, by posting such notice at the town or city hall,  
10 apprising the voters of the municipality that a municipal  
11 option election shall be held to determine whether such  
12 municipality shall be wet or dry under this article. The cost  
13 of said municipal option election, including the cost of  
14 notice by publication, shall be paid out of the general fund  
15 of the municipality.

16 "(d) Only qualified voters shall vote in said  
17 municipal option election. If a majority of the voters in said  
18 municipal option election vote "yes," said municipality shall  
19 be wet, and alcoholic beverages can be legally sold,  
20 distributed and consumed within the corporate limits of said  
21 municipality, and all of the provisions of this title,  
22 relating to alcoholic beverages in wet counties, including  
23 Chapters 3, 3A, 6, and 7, shall be immediately put into  
24 operation with respect to and effective within the corporate  
25 limits of said municipality. Said municipality shall remain  
26 wet until said municipality shall be in subsequent municipal  
27 option election held under this article changed to a dry

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

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

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

1                   "§28-2A-3.

2                   "It is hereby declared the intention and the purpose  
3 of this article to permit an election by the citizens of  
4 certain municipalities to determine the wet or dry status of  
5 such municipalities with regard to the sale, distribution and  
6 consumption of alcoholic beverages within the corporate limits  
7 of such municipalities; and further that such election shall  
8 be provided only in those municipalities which can provide  
9 safeguards for the protection of the public welfare, health,  
10 peace, and morals of the people. In the furtherance of the  
11 protection of the public welfare, health, peace, and morals,  
12 the Legislature has determined that a population  
13 classification should be established to provide this method of  
14 municipal option election only in those municipalities with a  
15 population of ~~1,000~~ 500 or more people within a county,  
16 excluding Clay, Randolph, and Blount Counties, it being the  
17 judgment of the Legislature that municipalities with a lesser  
18 population would be unable to support and maintain such  
19 protection where such municipality is located in a dry county,  
20 whereas a municipality of ~~1,000~~ 500 or more population would  
21 have the resources and ability to support and maintain such  
22 safeguards."

23                   Section 2. This act shall become effective  
24 immediately following its passage and approval by the  
25 Governor, or its otherwise becoming law.