

1 HB8
2 178820-4
3 By Representative Ford (Constitutional Amendment)
4 RFD: Economic Development and Tourism
5 First Read: 15-AUG-16

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8 SYNOPSIS: Under existing law, the operation of bingo
9 games by qualifying nonprofit organizations in
10 Etowah County is authorized by Amendment 506 to the
11 Constitution of Alabama of 1901.

12 This bill would propose an amendment to the
13 Constitution of Alabama of 1901, to define bingo to
14 include bingo played on any electronic machine or
15 device authorized under the Indian Gaming
16 Regulatory Act and operated by a Native American
17 tribe in Alabama and played at a single location in
18 Etowah County, create the Etowah County Gaming
19 Commission and provide for its duties and powers,
20 impose a local gross receipts tax of 12.5 percent
21 on gaming revenue and a local bingo game vendor tax
22 of four percent and provide for the distribution of
23 the proceeds, and create the Etowah County
24 Interstate 759 Extension Authority to which a
25 portion of the proceeds would be distributed for
26 specified purposes.
27

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 Proposing an amendment to the Constitution of
6 Alabama of 1901; to provide that the game of bingo in Etowah
7 County may be played on any electronic machine or device that
8 is authorized pursuant to the Indian Gaming Regulatory Act and
9 is operated by any Native American tribe in Alabama at a
10 single location in Etowah County; to levy a local gross
11 receipts tax on bingo gaming revenue; to levy a tax on vendors
12 of bingo game equipment; to provide for the allocation of the
13 proceeds of the taxes; to create the Etowah County Gaming
14 Commission to implement, regulate, and administer bingo
15 gaming; and to create the Etowah County Interstate 759
16 Commission to which a portion of the tax proceeds will be
17 distributed for specified purposes.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. The following amendment to the
20 Constitution of Alabama of 1901, is proposed and shall become
21 valid as a part of the Constitution when all requirements of
22 this act are fulfilled:

23 PROPOSED AMENDMENT

24 Section 1. For the purposes of this amendment, the
25 following words have the following meanings:

26 (1) BINGO. That specific kind of game played on any
27 electronic machine or device that is authorized by the

1 National Indian Gaming Commission pursuant to the Indian
2 Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., and is
3 operated by any Native American tribe in Alabama.

4 (2) EQUIPMENT. Any electronic machine or device that
5 is authorized by the National Indian Gaming Commission,
6 pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701
7 et seq., and operated by any Native American tribe in Alabama.

8 (3) GAMING GROSS REVENUE. The total amount of money
9 or value in any form received with respect to the playing of
10 electronic bingo, less the total money or value in any form
11 paid as prizes or winnings to the players of a bingo game and
12 free play or promotional credits, but not after deduction of
13 any expenses incurred in operating the establishment,
14 including, but not limited to, depreciation or leasing costs
15 of physical facilities and equipment, wages and other
16 employment costs, utilities, interest, and taxes.

17 (4) OPERATOR. The limited liability company holding,
18 as of January 1, 2016, the development agreement with the
19 Etowah County Commission or another operator approved by both
20 the holder of the development agreement and the Etowah County
21 Gaming Commission.

22 Section 2. Bingo for prizes or money may be operated
23 by the operator at one location in Etowah County. If the
24 operator changes locations, the operator may operate in both
25 locations for not more than 15 days. The Etowah County Gaming
26 Commission shall adopt rules for licensing, permitting, and
27 operation of bingo games within the county. The Etowah County

1 Gaming Commission shall insure compliance with the rules or
2 regulations of all of the following:

3 (1) No person under the age of 19 shall be permitted
4 to play bingo; nor shall any person under the age of 19 be
5 permitted to conduct or assist in the conduct of bingo.

6 (2) Bingo games shall be operated only on the
7 premises owned or leased by the operator.

8 (3) The operator may pay consulting fees,
9 compensation, and salary to any individual or entity for any
10 services performed in relation to the operation or conduct of
11 a bingo game.

12 (4) The operator may not lend its name or allow its
13 identity to be used by any other person or entity in the
14 operating or advertising of a bingo game in which the operator
15 is not directly and solely operating the bingo game.

16 Section 3. (a) A local gross receipts tax of 12 and
17 one-half percent is levied on the gaming gross revenue of the
18 operator.

19 (b) The local gross receipts tax on gaming gross
20 revenue for each calendar month shall be paid to the Etowah
21 County Gaming Commission on or before the 20th day of the next
22 succeeding calendar month.

23 (c) The Etowah County Gaming Commission shall
24 apportion the local gross receipts tax as follows:

25 (1) The proceeds from the tax of four percent to the
26 Etowah County Interstate 759 Extension Authority, up to
27 twenty-five million dollars (\$25,000,000), the purpose of

1 which is to provide a source of local funding to contribute to
2 federal and state funding to construct the Interstate 759
3 Extension in Etowah County. Thereafter, these proceeds will be
4 divided as follows:

5 a. The proceeds from the tax of .8 percent to the
6 Riverfront Development Committee for the development and
7 management of the riverfront in the county.

8 b. The proceeds from the tax of .8 percent to the
9 Etowah County Mega Sports Authority for the development and
10 management of a public sports complex in Etowah County.

11 c. The proceeds from the tax of .8 percent to the
12 Etowah County Road Improvement Highway Development Committee
13 for the improvement of the Etowah County public roads.

14 d. The proceeds from the tax of .8 percent to the
15 Etowah County Economic Growth Committee to create new jobs in
16 Etowah County.

17 e. The proceeds from the tax of .8 percent to the
18 Etowah County Interstate 759 Extension Authority.

19 f. If any of the committees referenced in this
20 subdivision have not been established prior to receiving any
21 allocation, the committee is not eligible for prior proceeds
22 but shall begin receiving proceeds within the first month
23 immediately following the date the committee is established.

24 (2) The proceeds from the tax of one-half of one
25 percent shall be retained by the Etowah County Gaming
26 Commission to provide for all reasonable and necessary

1 expenses incurred by the commission in the furtherance of its
2 duties.

3 (3) The proceeds from the tax of one-half of one
4 percent to the Etowah County Commission which shall be
5 apportioned among the municipalities in the county on the
6 basis of the ratio of the population of the municipality to
7 the population of all the municipalities in the county and pay
8 the amounts apportioned to the municipalities.

9 (4) The proceeds from the tax of one percent to the
10 Etowah County Commission which shall be apportioned among the
11 school boards in the county on the basis of average daily
12 attendance to be used for technical education.

13 (5) The proceeds from the tax of one-half of one
14 percent to the Etowah County Commission Development Committee
15 which shall be divided equally among the three House of
16 Representatives districts in Etowah County. The funds in each
17 district shall be expended only on projects located in the
18 respective House district. The expenditure of funds for each
19 respective district shall be voted on and approved by the
20 respective House district appointee and the Senate appointee.
21 The House appointee and the Senate appointee for a district
22 may call a district meeting for the purpose of this provision.

23 (6) The proceeds from the tax of one and one-half
24 percent to the Etowah County Sheriff for operation of the
25 office of the sheriff.

1 (7) The proceeds from the tax of one-half of one
2 percent to the District Attorney for the 16th Circuit for
3 operation of the office of the district attorney.

4 (8) The proceeds from the tax of one-half of one
5 percent to the Circuit Clerk for the 16th Circuit for
6 operation of the office of the circuit clerk.

7 (9) The proceeds from the tax of one-half of one
8 percent to the Etowah County Revenue Commissioner for
9 operation of the office of the revenue commissioner.

10 (10) The proceeds from the tax of one-half of one
11 percent to the Etowah County Judge of Probate for operation of
12 the office of the judge of probate.

13 (11) The proceeds from the tax of one percent to the
14 Etowah County Commission.

15 (12) The proceeds from the tax of one-half of one
16 percent to the Judges of the 16th Circuit and the District
17 Judges of Etowah County which may be used only for bailiffs
18 and other staff.

19 (13) One hundred thousand dollars (\$100,000)
20 annually to the Chamber of Gadsden/Etowah County for economic
21 development and job promotion.

22 (14) Two thousand dollars (\$2,000) annually to each
23 volunteer fire department in Etowah County.

24 (15) In any year in which the proceeds available for
25 distribution under this section are insufficient to make all
26 of the distributions made in this section, the distributions

1 of specific dollar amounts made by this section shall be
2 reduced proportionately.

3 (16) Any proceeds from the remaining local gross
4 receipts tax, based upon criteria adopted by the Etowah County
5 Gaming Commission, shall be awarded by the Etowah County
6 Gaming Commission to nonprofit organizations that provide
7 services to the residents of Etowah County.

8 Section 4. (a) A local bingo game vendor tax is
9 hereby levied on bingo game vendors conducting business in
10 Etowah County in an amount equal to four percent of the gross
11 revenues collected by the bingo game vendor from leases or
12 other revenue sharing arrangements with the operator.

13 (b) A bingo game vendor shall pay the local bingo
14 game vendor tax for each calendar month to the Etowah County
15 Gaming Commission on or before the 20th day of the next
16 succeeding calendar month for deposit in the County General
17 Fund. The local bingo game vendor tax shall be apportioned as
18 follows:

19 (1) The proceeds from the tax of one and one-half
20 percent to the Etowah County Commission which shall be
21 apportioned among the municipalities in the county on the
22 basis of the ratio of the population of the municipality to
23 the population of all the municipalities in the county and pay
24 the amounts apportioned to the municipalities.

25 (2) The proceeds from the tax of two and one-half
26 percent to the Etowah County Mega Sports Authority for the

1 development and management of a public sports complex in
2 Etowah County.

3 Section 5. The local gross receipts tax on gaming
4 gross revenue, and the local bingo game vendor tax shall be in
5 lieu of all other state or local taxes or license fees levied
6 with respect to the conduct of bingo games by the operator.
7 Notwithstanding the foregoing, the operator is liable for all
8 income taxes, franchise taxes, property taxes, lodging taxes,
9 and sales and use taxes on merchandise, food, and beverage
10 generally applicable at uniform rates to all businesses
11 operating in the county in which the operator is licensed.

12 Section 6. (a) There is created the Etowah County
13 Gaming Commission. The commission shall regulate and supervise
14 the operation and conduct of bingo under this amendment in
15 Etowah County, shall implement, regulate, administer, and
16 supervise all laws and rules related to the operation and
17 conduct of bingo by the operator in Etowah County, and shall
18 cooperate with the district attorney and sheriff of Etowah
19 County in enforcing all laws related to illegal gambling. The
20 Etowah County Gaming Commission may retain an executive
21 director to manage the day-to-day operations of the commission
22 if necessary.

23 (b) The Etowah County Gaming Commission shall
24 consist of seven members. One member of the commission shall
25 be appointed by the Mayor's Association for Etowah County, one
26 member shall be appointed by the Chamber of Gadsden/Etowah
27 County, one member shall be appointed by the Etowah County

1 Sheriff, one member shall be appointed by the state Senator
2 for the district encompassing Etowah County and one member
3 shall be appointed by each member of the Alabama House of
4 Representatives delegation for Etowah County. Members, where
5 possible, shall represent the gender and racial diversity of
6 the state.

7 (c) Members of the commission shall be residents of
8 the State of Alabama, residents of Etowah County, United
9 States citizens, and prominent persons in their businesses or
10 professions, may not have been convicted of a felony, and may
11 not be the executive director of, or another employee of the
12 commission, an officer of, or occupy an official position in
13 any political party, an elected official, or actively engaged
14 in the business of, or have a pecuniary interest in, an
15 electronic gaming operation, racetrack, or casino.

16 (d) Members shall serve a term of five years and may
17 serve two complete terms and any portion of an initial term of
18 less than five years or any portion of an expired term to
19 which appointed. Any vacancy occurring on the commission shall
20 be filled for the unexpired term by the appointing authority
21 as described in this section. The initial term of office upon
22 the effective date of this amendment shall be five years for
23 the member appointed by the state Senator, five years for the
24 three members appointed by the Alabama House of
25 Representatives delegation for Etowah County, three years for
26 the member appointed by the Mayor's Association, and two years
27 for the members appointed by the Chamber of Gadsden/Etowah

1 County and the Etowah County Tourism Board. Each member of the
2 commission shall serve for the duration of his or her term and
3 until his or her successor is duly appointed; provided,
4 however, that if a successor is not appointed within 120 days
5 after the expiration of a member's term, a vacancy shall be
6 deemed to exist.

7 (e) The commission and its members and employees
8 shall be subject to the Ethics Law, Section 36-25-1, et seq.,
9 Code of Alabama 1975; the Open Records Act, Section 36-12-40,
10 Code of Alabama 1975; the Open Meetings Act, Section 36-25A-1,
11 et seq., Code of Alabama 1975; and the Administrative
12 Procedure Act, Section 41-22-1, et seq., Code of Alabama 1975.

13 Section 7. (a) There is created the Etowah County
14 Interstate 759 Extension Authority.

15 (b) The Etowah County Interstate 759 Extension
16 Authority shall consist of seven members. One member of the
17 authority shall be appointed by the Mayor's Association for
18 Etowah County, one member shall be appointed by the Chamber of
19 Gadsden/Etowah County, one member shall be appointed by the
20 Etowah County Commission, one member shall be appointed by the
21 state Senator for the district encompassing Etowah County and
22 one member shall be appointed by each member of the Alabama
23 House of Representatives delegation for Etowah County.
24 Members, where possible, shall represent the gender and racial
25 diversity of the state.

26 (c) Members of the authority shall be residents of
27 the State of Alabama, residents of Etowah County, United

1 States citizens, and prominent persons in their businesses or
2 professions, may not have been convicted of a felony, and may
3 not be the executive director of, or another employee of, the
4 authority.

5 (d) Members shall serve a term of five years and may
6 serve two complete terms and any portion of an initial term of
7 less than five years or any portion of an expired term to
8 which appointed. Any vacancy occurring on the authority shall
9 be filled for the unexpired term by the appointing authority
10 as described in this section. The initial term of office upon
11 the effective date of this amendment shall be five years for
12 the member appointed by the state Senator, five years for the
13 three members appointed by the Alabama House of
14 Representatives delegation for Etowah County, three years for
15 the member appointed by the Mayor's Association, and two years
16 for the members appointed by the Chamber of Gadsden/Etowah
17 County and the Etowah County Commission. Each member of the
18 authority shall serve for the duration of his or her term and
19 until his or her successor is duly appointed; provided,
20 however, that if a successor is not appointed within 120 days
21 after the expiration of a member's term, a vacancy shall be
22 deemed to exist.

23 (e) The authority shall receive the proceeds of the
24 local gross receipts tax as provided in Section 3 and use
25 those proceeds to provide a source of funding to construct the
26 Interstate 759 extension in Etowah County. In addition, the
27 authority has the power to do the following:

1 (1) To develop, promote, and provide a source of
2 funding for the Interstate 759 Extension in Etowah County.

3 (2) To acquire or lease real property for the
4 Interstate 759 Extension in Etowah County.

5 (3) To make, enter into, and execute contracts,
6 agreements, or other instruments necessary to accomplish the
7 purposes of this amendment.

8 (4) To establish and appoint committees and hire
9 staff it deems necessary for the carrying out of its
10 functions.

11 (5) To accept any and all donations and grants of
12 money, equipment, supplies, materials, and services, and to
13 receive, utilize, and dispose of it.

14 (6) To perform other functions as may be necessary
15 or appropriate to achieve the purposes of this amendment.

16 Section 8. Nothing in this amendment affects or
17 prohibits conduct of bingo gaming under Amendment 506.

18 Section 9. Sections 8-1-150, 13A-12-20 to 13A-12-27,
19 inclusive, and 13A-12-30, Code of Alabama 1975, do not apply
20 to any bingo game authorized by this amendment and operated in
21 accordance with the rules adopted by the Etowah County Gaming
22 Commission.

23 Section 2. An election upon the proposed amendment
24 shall be held in accordance with Amendment 555 to the
25 Constitution of Alabama of 1901, now appearing as Section
26 284.01 of the Official ReCompilation of the Constitution of

1 Alabama of 1901, as amended, and the election laws of this
2 state.

3 Section 3. The appropriate election official shall
4 assign a ballot number for the proposed constitutional
5 amendment on the election ballot and shall set forth the
6 following description of the substance or subject matter of
7 the proposed constitutional amendment:

8 "Relating to Etowah County, proposing an amendment
9 to the Constitution of Alabama of 1901, to provide that the
10 game of bingo may be played at a single location in Etowah
11 County on any electronic machine or device that is authorized
12 pursuant to the Indian Gaming Regulatory Act and is operated
13 by any Native American tribe in Alabama; to levy a local gross
14 receipts tax on bingo game revenue of the operator and a local
15 bingo game vendor tax; to provide for the allocation of the
16 tax proceeds; to create the Etowah County Gaming Commission to
17 implement, regulate, and administer bingo under this
18 amendment; and to create the Etowah County Interstate 759
19 Extension Authority to receive and expend a portion of the
20 proceeds for the extension of Interstate 759 in Etowah County.

21 "Proposed by Act _____"

22 This description shall be followed by the following
23 language:

24 "Yes () No ()."