



PRESS-REGISTER

Voters inch toward constitution reform

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By **SALLIE OWEN**
Capital Bureau

MONTGOMERY -- Without changing Alabama's oft-criticized 1901 constitution, voters in Mobile and four other counties this month inched toward fixing what many consider one of the document's most troublesome flaws.

Those primary voters empowered their county commissioners to make someone address nuisances such as unsanitary sewage, noise, litter and rubbish, pollution, overgrown weeds, junkyards and unrestrained animals.

The success of the five referendums is significant in light of Alabama's usual debate over constitutional reform. "The rhetoric has always been that county government can't be given any more power," said Sonny Brasfield of the Association of County Commissions of Alabama.

For years, reform advocates have said the 1901 constitution denies "home rule" to counties and favors special interests by centralizing power in Montgomery. Its restrictions have led to nearly 800 constitutional amendments, many pertaining to single localities.

The document's defenders insist that reform is really an attempt to raise taxes, delete references to God and weaken protections for individual liberties. They say a rewrite could expand legalized gambling, and they cite advantages of legislative involvement in local affairs.

Brasfield said many county leaders in Alabama want home rule in three major areas: taxes, planning and zoning, and health and safety.

After wholesale constitutional reform failed again two years ago in the Legislature, county leaders came up with a new approach. Brasfield said that a group of county officials from across the state met and decided to separate health and safety from the more controversial issues.

"We weren't willing to wait around on constitutional reform," Brasfield said.

Even the scaled-down health and safety proposal hit roadblocks until someone suggested limiting the referendums to voters from unincorporated areas, Brasfield said.

Counties will be able to use their new authority only in unincorporated areas. Cities and towns already have control of those matters within their borders.

"These are just regular things that counties ought to be able to do," said former U.S. Rep. Jack Edwards of Baldwin County. He is co-chairman of Alabama Citizens for Constitutional Reform, a group pushing for a convention of delegates who would write a new state constitution.

The law setting up the health and safety referendums passed the Legislature in 2005, and the June 6 primary was the first chance to put the issue before voters.

County commissions in Mobile, Autauga, Dallas, Jackson and Marshall counties passed resolutions to place the issue on their local ballots.

Although ballot language may have varied from county to county, the legal authority under consideration was the same.

Voters approved the concept everywhere it was on the ballot.

"That's a huge shift in philosophy," Brasfield said. "Given the choice, the voters would rather have the powers exercised at home."

So far, identical referendums are set for Nov. 7 in Escambia, Bibb and DeKalb counties.

Lenora Pate, co-chairman of Alabama Citizens for Constitutional Reform, said the existing constitution sets up a "Mother, may I?" system for counties, with the 140-member Legislature playing mom.

"May we clean up the junkyard? May we deal with the barking dog?" Pate said.

The recent votes represent significant progress, but much more remains to be done, she said. According to Pate, some county commissioners do not want the extra responsibilities of home rule.

The ACCR group wants the state to begin work on its seventh constitution in 2007, Pate said. The first step would be for the Legislature to set a statewide vote on whether to have a convention. The proposal will be similar to the one that legislators considered earlier this year. It passed a Senate committee unanimously but never got a floor vote. An identical measure stalled in a House committee.

If state voters decided to have a convention, they would vote to choose delegates. After a convention, any new document would go to voters for their consideration.

To build support, Pate said, ACCR is collecting signatures and educating voters. The organization's Web site -- www.constitutionalreform.org -- contains information about each legislative candidate's stance on the issue, she said.

Local campaigns

Opposition to the home rule proposals was generally not widespread or organized, according to county commissioners who were interviewed.

But opponents who did emerge frequently alleged that taxes would go up. In Autauga County, voters were told the proposal was "communism."

In Mobile County, some opponents said that county commissioners were trying to take over all government functions from cities. They also complained about the ballot question's wording.

Commissioner Stephen Nodine said he had been discussing the referendum at community meetings in Mobile County for a year.

"It was under everybody's radar, but it wasn't purposely like that," he said.

The initiative was promoted more heavily in Marshall County, where it was discussed at length during two months of commission meetings, according to County Commission Chairman Billy Cannon. Each meeting is broadcast on local cable seven times a day for a week afterward, he said.

Mobile County voters approved the measure by a comfortable margin -- 57 percent to 43 percent.

With a 3-point margin, the vote was closest in fast-growing Autauga County, northwest of Montgomery. Commissioner Michael Morgan chalked that up to confusion. Some people thought they were voting on mandatory garbage collection, which will be on the November ballot, he said.

The additional authority, he said, is needed to cope with real-life situations like those in which someone started raising hogs in his Autauga County back yard, while another converted a lawn into a junkyard. "You could see rats running along the fence lines," Morgan said, "and neighbors were in an uproar."

Support was the strongest in Dallas County, where voters said "yes" by a 3-to-1 margin. Officials in the poor Black Belt county "emphasized that in no way could the county commission raise (property) taxes," said Probate Judge Johnny Jones. "That's always the first thing that pops into people's minds."

What's next?

Brasfield said the five counties will soon receive guidelines about on adopting ordinances. The proposals must be advertised, and public hearings are required under the law.

Commissioners don't have to consider ordinances on every type of nuisance outlined in the law. They may decide to tackle only a couple of issues, depending on local needs. The law also requires an appeals process for violators.

Dallas County wants to combat litter, while Mobile County wants to address junkyards. Autauga County is particularly interested in cracking down on illegal dumps, like one garbage-filled ravine that cost the county \$285,000 to clean up.

In mountainous Marshall County, in the state's northeastern corner, officials need all the additional enforcement tools available, Cannon said.

Cannon rattled off many of the same issues as his colleagues elsewhere. He listed other problems, such as people who play music too loud; malfunctioning septic tanks; houses that are falling in; loose animals; and pollution that threatens the Tennessee River, Lake Guntersville and numerous springs.

"We're not going to brood on this thing or sit on our egg," said Cannon, who has been Marshall County's commission chairman for 12 years. "We're going to get out and go."

Cannon wants to have new ordinances in effect within 90 days, and he has already hired an enforcement officer, he said.

The pace will be slower in Mobile County. Nodine said public hearings will be scheduled within 60 to 90 days, and new ordinances could be in place in six months to a year.

More information about the process is available at www.selfgov.net

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