

1 HB419
2 175443-1
3 By Representatives McCampbell, Howard and Harper
4 (Constitutional Amendment)
5 RFD: Economic Development and Tourism
6 First Read: 15-MAR-16

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8 SYNOPSIS: Under existing law, bingo may be played in
9 Greene County pursuant to Amendment 743 to the
10 Constitution of Alabama of 1901.

11 This bill proposes an amendment to Amendment
12 743 of the Constitution of Alabama of 1901, to
13 clarify and provide that the game of bingo
14 authorized by Amendment 743 may be played on any
15 electronic machine or device that is authorized by
16 the National Indian Gaming Commission pursuant to
17 the Indian Gaming Regulatory Act, 25 U.S.C. § 2701
18 et seq., and which is operated by any Native
19 American tribe in Alabama; to limit bingo gaming in
20 Greene County to a licensed racetrack in Greene
21 County where pari-mutuel wagering is currently
22 legal; to levy a state gross receipts tax and a
23 local gross receipts tax on bingo gaming revenue of
24 the racetrack; to levy a tax on vendors of bingo
25 gaming equipment; to provide for the allocation of
26 the local bingo gaming tax proceeds; and to create

1 the Greene County Gaming Commission to implement,
2 regulate, and administer bingo gaming.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Proposing an amendment to Amendment 743 to the
9 Constitution of Alabama of 1901, to clarify and provide that
10 the game of bingo authorized in Greene County by Amendment 743
11 may be played on any electronic machine or device that is
12 authorized by the National Indian Gaming Commission pursuant
13 to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq.,
14 and which is operated by any Native America tribe in Alabama;
15 to limit bingo gaming in Greene County to a licensed racetrack
16 in Greene County where pari-mutuel wagering is currently
17 legal; to levy a state gross receipts tax and a local gross
18 receipts tax on bingo gaming revenue of the racetrack; to levy
19 a tax on vendors of bingo gaming equipment; to provide for the
20 allocation of the local bingo gaming tax proceeds; and to
21 create the Greene County Gaming Commission to implement,
22 regulate, and administer bingo gaming.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. The following amendment to the
25 Constitution of Alabama of 1901, as amended, is proposed and
26 shall become valid as a part thereof when approved by a
27 majority of the qualified electors voting thereon and in

1 accordance with Sections 284, 285, and 287 of the Constitution
2 of Alabama of 1901, as amended:

3 PROPOSED AMENDMENT

4 "Section 1. For purposes of this amendment, the
5 following words have the following meanings:

6 "1. BINGO. That specific kind of game commonly known
7 as bingo in which prizes are awarded on the basis of
8 designated numbers or symbols on a card or electronic marking
9 machine conforming to numbers or symbols selected at random.
10 The game of bingo may be played on any bingo machine or
11 device, electronic or otherwise, authorized by the National
12 Indian Gaming Commission pursuant to the Indian Gaming
13 Regulatory Act, 25 U.S.C. § 2701 et seq., and which is
14 operated by any Native American tribe in Alabama. Sections
15 8-1-150, 13A-12-20 through 13A-12-27, and 13A-12-30 of the
16 Code of Alabama 1975, shall not apply to any bingo games
17 authorized by this provision and operated in accordance with
18 the rules adopted by the Greene County Gaming Commission.

19 "2. EQUIPMENT. The receptacle and numbered objects
20 drawn from it, the master board upon which such objects are
21 placed as drawn, the cards or sheets bearing numbers or other
22 designations to be covered and the objects used to cover them
23 or electronic card marking machines, and the board or signs,
24 however operated, used to announce or display the numbers or
25 designations as they are drawn, and any electronic machine or
26 device authorized by the National Indian Gaming Commission
27 pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701

1 et seq., and which is operated by any Native American tribe in
2 Alabama.

3 "3. GAMING GROSS REVENUE. The total amount of money
4 or value in any form received by a racetrack with respect to
5 the playing of any form of bingo game, less the total money or
6 value in any form paid as prizes or winnings to the players of
7 a bingo game and free play or promotional credits, but before
8 deduction of any expenses incurred in operating the
9 establishment, including, but not limited to, depreciation or
10 leasing costs of physical facilities and equipment, wages and
11 other employment costs, utilities, interest, and taxes. Gaming
12 gross revenue may not be included in a pari-mutuel pool for
13 the purpose of determining any tax levied on pari-mutuel
14 wagering or for any other purpose.

15 "3. 4. NONPROFIT ORGANIZATION. A bona fide
16 religious, educational, service, senior citizens', fraternal,
17 or veterans' organization which operates without profit to its
18 members and which either has been in existence continuously as
19 such an organization for a period of three years or is exempt
20 from taxation by virtue of having been classified as a tax
21 exempt nonprofit organization by the Internal Revenue Service,
22 United States Government. This term includes a volunteer fire
23 department and a volunteer rescue squad.

24 "5. RACETRACK. A corporation, limited liability
25 company, or other business entity authorized by the Greene
26 County Racing Commission pursuant to law to operate and
27 conduct pari-mutuel wagering on live or simulcast races as of

1 January 1, 2016, in Greene County. The term includes any
2 business entity operating bingo games under agreement with a
3 racetrack.

4 "Section 2. Bingo games for prizes or money may be
5 operated by a ~~nonprofit organization~~ racetrack in Greene
6 County. The ~~sheriff~~ Greene County Gaming Commission shall
7 ~~promulgate~~ adopt rules and regulations for the licensing,
8 permitting, and operation of bingo games within the county.
9 The ~~sheriff~~ Greene County Gaming Commission shall insure
10 compliance with such rules or regulations and all of the
11 following:

12 "(1) No person under the age of 19 years shall be
13 permitted to play any game or games of bingo, nor shall any
14 person under the age of 19 years be permitted to conduct or
15 assist in the operation of any game of bingo.

16 "(2) Bingo games shall be operated exclusively on
17 the premises owned or leased by the ~~nonprofit organization~~
18 racetrack operating the bingo game. ~~Such location shall be~~
19 ~~specified in the application of the nonprofit organization.~~

20 "(3) A ~~nonprofit organization~~ racetrack may not
21 enter into ~~any~~ a contract with any individual, firm,
22 association, or corporation to have the individual or entity
23 operate bingo games or concessions on behalf of the ~~nonprofit~~
24 ~~organization~~ racetrack provided that the contract is approved
25 by the Greene County Gaming Commission. A ~~nonprofit~~
26 ~~organization~~ racetrack may not pay consulting fees to any

1 individual or entity for any services performed in relation to
2 the operation or conduct of ~~a bingo game~~ games.

3 "(4) A ~~nonprofit organization~~ racetrack may not lend
4 its name or allow its identity to be used by another person or
5 entity in the operating, promoting, or advertising of ~~a bingo~~
6 ~~game~~ games in which the ~~nonprofit organization~~ racetrack is
7 not directly and solely operating the bingo ~~game~~ games.

8 "(5) All equipment shall be ~~stamped or clearly~~
9 ~~marked in letters no less than one-half inch in height and~~
10 ~~one-fourth inch in width (except for the letter "I") with the~~
11 ~~name of the nonprofit organization using the equipment. A~~
12 ~~nonprofit organization or other person or entity may not use~~
13 ~~equipment marked with the name of another nonprofit~~
14 ~~organization~~ approved by the Greene County Gaming Commission.

15 "(6) ~~Prizes given by any nonprofit organization for~~
16 ~~the playing of bingo games shall not exceed ten thousand~~
17 ~~dollars (\$10,000) in cash or gifts of equivalent value during~~
18 ~~any bingo session.~~

19 "(7) A ~~nonprofit organization may not advertise~~
20 ~~bingo except to the extent and in the manner authorized by~~
21 ~~rule of the sheriff. If the sheriff allows a nonprofit~~
22 ~~organization to advertise bingo, the nonprofit organization~~
23 ~~shall indicate in the advertisement the purposes for which the~~
24 ~~net proceeds will be used by the nonprofit organization.~~

25 "(8) A ~~nonprofit organization shall display its~~
26 ~~bingo license conspicuously at the location where the bingo~~
27 ~~game is conducted.~~

1 ~~"(9) The sheriff shall determine by regulation the~~
2 ~~days of operation during any calendar week and the hours of~~
3 ~~operation.~~

4 "Section 3. State and Local Gross Receipts Tax.

5 "(a) (1) A state gross receipts tax of four percent
6 is levied on the gaming gross revenue of the racetrack.

7 "(2) The state gross receipts tax on gaming gross
8 revenue for each calendar month shall be paid by the racetrack
9 to the Department of Revenue on or before the twentieth day of
10 the next succeeding calendar month for deposit in the State
11 General Fund.

12 "(b) (1) A local gross receipts tax of eight and
13 one-half percent is levied on the gaming gross revenue of the
14 racetrack.

15 "(2) The local gross receipts tax on gaming gross
16 revenue for each calendar month shall be paid to the Greene
17 County Gaming Commission on or before the twentieth day of the
18 next succeeding calendar month.

19 "(3) The Greene County Gaming Commission shall
20 apportion the local gross receipts tax as follows:

21 "a. The proceeds from the tax of one-half of one
22 percent to be retained by the Greene County Gaming Commission
23 to provide for all reasonable and necessary expenses incurred
24 by the commission in the furtherance of its duties to license
25 and regulate bingo gaming in Greene County.

26 "b. The proceeds from the tax of one-half of one
27 percent to the Greene County Commission.

1 "c. The proceeds from the tax of one and one-half
2 percent to the Greene County Commission which shall be
3 apportioned among the municipalities in the county on the
4 basis of the ratio of the population of the municipality to
5 the population of all the municipalities in the county and pay
6 the amounts apportioned to the municipalities forthwith.

7 "d. The proceeds from the tax of one-half of one
8 percent to the Greene County Firefighters Association.

9 "e. The proceeds from the tax of two percent to the
10 Greene County Board of Education.

11 "f. The proceeds from the tax of one-half of one
12 percent to the Greene County E-911 Communications District.

13 "g. The proceeds from the tax of one percent to the
14 Greene County Hospital and Nursing Home.

15 "h. The proceeds from the tax of one-quarter of one
16 percent to the Greene County Industrial Development Board.

17 "i. The proceeds from the tax of one-quarter of one
18 percent to the Greene County Ambulance Service.

19 "j. The proceeds from the tax of three-quarters of
20 one percent to the Greene County Housing Authority.

21 "k. The proceeds from the remaining tax of
22 three-quarters of one percent from the local gross receipts,
23 tax based upon criteria adopted by the Greene County Gaming
24 Commission, shall be awarded by the Greene County Gaming
25 Commission to nonprofit organizations that provide services to
26 the residents of Greene County.

1 "(c) (1) A local bingo game vendor tax is hereby
2 levied on bingo game vendors conducting business in Greene
3 County in an amount equal to four percent of the gross
4 revenues collected by the bingo game vendor from leases or
5 other revenue sharing arrangements with a racetrack.

6 "(2) A bingo game vendor shall pay the local bingo
7 game vendor tax for each calendar month to the Greene County
8 Gaming Commission on or before the twentieth day of the next
9 succeeding calendar month for deposit in the County General
10 Fund. The local bingo game vendor tax shall be apportioned
11 between the Eutaw Police Department and the Greene County
12 Sheriff's Department on the basis of the ratio of the
13 population of the municipality to the population of the
14 county.

15 "(d) The state gross receipts of tax on gaming gross
16 revenue, the local gross receipts tax on gaming gross revenue,
17 and the local bingo game vendor tax shall be in lieu of all
18 other state or local taxes or license fees levied with respect
19 to the conduct of bingo games by a racetrack in Greene County.
20 Notwithstanding the foregoing, a racetrack is liable for all
21 income taxes, franchise taxes, property taxes, lodging taxes,
22 and sales and use taxes on merchandise, food, and beverage
23 generally applicable at uniform rates to all businesses
24 operating in the county in which the racetrack is licensed.

25 "Section 4. The Greene County Gaming Commission.

26 "(a) There is hereby created the Greene County
27 Gaming Commission. The commission shall regulate and supervise

1 the operation and conduct of bingo games in Greene County,
2 shall implement, regulate, administer, and supervise all laws
3 and rules related to the operation and conduct of bingo games
4 by a racetrack in Greene County, and shall cooperate with the
5 local district attorney in enforcing all laws related to
6 illegal gambling.

7 "(b) The Greene County Gaming Commission shall
8 consist of five members. One member of the commission shall be
9 appointed by the Governor, one member shall be appointed by
10 the United States Representative for the Seventh Congressional
11 District, one member shall be appointed by the state Senator
12 for the Twenty-fourth Senate District encompassing Greene
13 County, and two members shall be appointed by the Alabama
14 House of Representatives delegation for Greene County. The
15 members, where possible, shall represent the gender and racial
16 diversity of the state.

17 "(1) Members of the commission shall be residents of
18 the State of Alabama, residents in the congressional district
19 which includes Greene County, United States citizens, and
20 prominent persons in their businesses or professions, may not
21 have been convicted of a felony, and may not be the executive
22 director of or another employee of the commission, an officer
23 of or occupy an official position in any political party, an
24 elected official, or actively engaged in the business of, or
25 have a pecuniary interest in, a racetrack or casino. At least
26 two of the members must be residents of Greene County.

1 "(2) Members shall serve a term of five years and
2 may serve two complete terms and any portion of an initial
3 term of less than five years or any portion of an unexpired
4 term to which appointed. Any vacancy occurring on the
5 commission shall be filled for the unexpired term by the
6 appointing authority as described in this section. The initial
7 term of office upon the effective date of this amendment shall
8 be five years for the member appointed by the state Senator
9 from the Twenty-fourth Senate District, five years for the two
10 members appointed by the Alabama House of Representatives
11 delegation for Greene County, three years for the member
12 appointed by the United States Representative for the Seventh
13 Congressional District, and two years for the member appointed
14 by the Governor. Each member of the commission shall serve for
15 the duration of his or her term and until his or her successor
16 is duly appointed; provided, however, that if a successor is
17 not appointed within 120 days after the expiration of a
18 member's term, a vacancy shall be deemed to exist.

19 "(3) The commission and its members and employees
20 shall be subject to the Ethics Law, Section 36-25-1, et seq.,
21 Code of Alabama 1975; the Open Records Act, Section 36-12-40,
22 Code of Alabama 1975; the Open Meetings Act, Section 36-25A-1,
23 et seq., Code of Alabama 1975; and the Administrative
24 Procedure Act, Section 41-22-1, et seq., Code of Alabama 1975.

25 "(c) Nothing in this subsection prohibits, limits,
26 or alters the authority of any local racing commission with

1 respect to the continued regulation and supervision of racing
2 and pari-mutuel wagering at a racetrack.

3 ~~"A violation of this amendment is a Class A~~
4 ~~misdemeanor as specified by general law."~~

5 Section 2. An election upon the proposed amendment
6 shall be held in accordance with Sections 284 and 285 of the
7 Constitution of Alabama of 1901, now appearing as Sections 284
8 and 285 of the Official Recompilation of the Constitution of
9 Alabama of 1901, as amended, and the election laws of this
10 state.

11 Section 3. The appropriate election official shall
12 assign a ballot number for the proposed constitutional
13 amendment on the election ballot and shall set forth the
14 following description of the substance or subject matter of
15 the proposed constitutional amendment:

16 "Proposing an amendment to Amendment 743 of the
17 Constitution of Alabama of 1901, to authorize and further
18 regulate bingo gaming in Greene County to provide that the
19 game of bingo authorized by Amendment 743 may be played on any
20 electronic machine or device that is authorized by the
21 National Indian Gaming Commission pursuant to the Indian
22 Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., and which is
23 operated by any Native America tribe in Alabama; to limit
24 bingo gaming in Greene County to a licensed racetrack in
25 Greene County where pari-mutuel wagering is currently legal;
26 to levy a state gross receipts tax and a local gross receipts
27 tax on bingo gaming revenue of the racetrack; to levy a tax on

1 vendors of bingo gaming equipment; to provide for the
2 allocation of the local bingo gaming tax proceeds; and to
3 create the Greene County Gaming Commission to implement,
4 regulate, and administer bingo gaming.

5 "Proposed by Act _____."

6 This description shall be followed by the following
7 language:

8 "Yes () No ()."