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STATE OF ALABAMA
OFFICE OF THE ATTORNEY GENERAL

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Honorable Nancy L. Worley
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Votes – Elections – Counties – Political
Subdivisions – Constitutional Amendments

In an election held pursuant to amendment 555 of the Constitution of Alabama involving a proposed constitutional amendment that applies only to one political subdivision within a county, the total votes cast in the county should include the votes cast in the political subdivision located within the county.

Dear Ms. Worley:

This opinion of the Attorney General is issued in response to your request.

QUESTION

In an election held pursuant to amendment 555 of the Constitution of Alabama, should the votes cast in a political subdivision of a county be included in the overall total number of votes cast in the county, for or against an issue, or should the votes cast in the political subdivision be excluded from the comprehensive county totals and considered only in the tabulation of the votes cast within that political subdivision?

FACTS AND ANALYSIS

Your request states that the Alabama Local Constitutional Amendment Commission recently reviewed several acts from the 2004 Regular Legislative

Session and determined that some of the amendments were local in nature and should be submitted to the voters in only one county, and some related only to a specific political subdivision within a county. Amendment 555 of the Constitution of Alabama provides, in pertinent part, as follows:

Any proposed constitutional amendment which affects or applies to only one political subdivision within a county or counties shall be adopted as a valid part of the constitution by a favorable vote of a majority of the qualified electors of both the county and the political subdivision affected by the amendment who vote on the amendment. The proposed amendment may provide for a separate referendum in a political subdivision of less than a county if a simultaneous referendum is not possible because of conflicting voting precincts.

ALA. CONST. amend. 555, § 2.

This Office has previously stated the following:

Pursuant to the specific language of Amendment No. 555, a proposed constitutional amendment that applies only to a political subdivision within a county is adopted as a valid part of the constitution only if the proposed amendment receives a favorable vote of a majority of the voters in both the political subdivision and the county.

Opinion to Honorable Fob James, Jr., Governor, State of Alabama, dated January 5, 1999, A.G. No. 99-00068. That opinion did not address the question presented in this request. The opinion stated that the proposed local amendment received a favorable vote from a majority of the electors in Calhoun County, but the election officials did not certify whether the amendment received a favorable vote from the majority of the electors residing in the City of Anniston, a political subdivision within Calhoun County. *Id.*

Words used in a statute must be given their natural, plain, ordinary, and commonly understood meaning, and where plain language is used, a court is bound to interpret that language to mean exactly what it says. *Ex parte Cove Properties, Inc.*, 796 So. 2d 331, 333-34 (Ala. 2000); *Ex parte T.B.*, 698 So. 2d 127, 130 (Ala. 1997); *State Dep't of Transp. v. McLelland*, 639 So. 2d 1370, 1371 (Ala. 1994). The plain language of amendment 555 requires that a proposed constitutional amendment that applies only to a political subdivision

within a county must receive a favorable vote of a majority of the voters in both the political subdivision and the county to be adopted as a valid part of the Constitution. This amendment does not state that the voters from the political subdivision are to be excluded in determining the majority of the votes cast in the county. The votes cast in the political subdivision are part of the total votes cast in the county in which the political subdivision is located. Accordingly, the total votes cast in the county should include the votes cast in the political subdivision located within the county.

CONCLUSION

In an election held pursuant to amendment 555 of the Constitution of Alabama involving a proposed constitutional amendment that applies only to one political subdivision within a county, the total votes cast in the county should include the votes cast in the political subdivision located within the county.

I hope this opinion answers your question. If this Office can be of further assistance, please contact Brenda F. Smith of my staff.

Sincerely,

TROY KING
Attorney General

By:



CAROL JEAN SMITH
Chief, Opinions Division