

**AN EDUCATIONAL UPDATE FROM
THE SOUTHEAST LAW INSTITUTE™, INC.**

To: Interested Persons
Date: May 2025
From: A. Eric Johnston
RE: SB90-Senator Singleton-Greene County Computerized Gambling

SB90 seeks to redefine pari-mutuel wagering in Greene County. It presents as a bill to amend a statute, but in reality, it must be a constitutional amendment if it legalizes gambling.

Pari-mutuel horse and dog wagering is already regulated in Greene County by statute, *viz.*, §§45-32-150, *et seq.* Ala. Code. The Alabama Supreme Court ruled pari-mutuel wagering is not gambling, holding there is a ***“significant degree of skill involved in picking the winning dog ... and that the pari-mutuel system of betting used is not determinative of the winner, but of the purse.”*** *Opinion of the Justices*, no. 205. This reasoning has since been refined by several cases including *State v. \$223,405.86*, 203 So.3d 816, 835 (Ala. 2016) saying “...§65 [Alabama Constitution anti-gambling provision] prohibits any game in which skill does not predominate over chance in determining the outcome.”

This bill proposes to make “unskilled wagering” legal in Greene County. To be effective it must amend §65. Senator Singleton previously relied on two Attorney General opinions that computerized pari-mutuel wagering is not a game of chance. In opinion 2001-114, for a Mobile County law and opinion 2009-020, for a Jefferson County law, the Attorney General reviewed specific language permitting computerized pari-mutuel wagering. These opinions were based on restrictive defining language contained in the laws, and the italicized statement above. The statements that these two opinions support a definition as stated in this bill is a material misrepresentation meant to mislead members on what is being proposed.

This is demonstrated on pages 19-20 of the bill which says the ***“pari-mutuel wagering on historical horse racing computerized machines may be conducted without regard to any of the following: (i) the type of graphics on the machine used to conduct the activity, (ii) whether the patron chooses a specific horse upon which to wager and (iii) whether he watches all or part of the historical race.”*** There is absolutely no skill involved in the selection of the winning animal. It creates a pure game of chance. It is a slot machine by any other name.

Several CA’s permitting traditional charitable bingo passed in the 1980s which morphed into unlawful computerized machines called bingo. After about a dozen Alabama Supreme Court cases these were determined to be unlawful slot machines. The bingo CA’s clearly limited the activity to traditional paper card bingo. The problem with this bill is greater. It creates an exception to §65, allowing computerized gambling without regard to the restrictions of pari-mutuel wagering. It is computerized gambling with no limitations. This cannot be done except by a CA. This bill does not propose a CA. If it passes, it will be unconstitutional.

Also, this bill declares a tax (line 523) to be collected (lines 537-555). It is “an act to amend an existing act... to raise revenue by which the amount to be collected under the latter act as amended is decreased or increased, is an act to raise revenue and by the terms of §70 must originate in the House...” See, *Opinion of the Justices*, 379 So.2d 1267, 1269 (Ala.1980).

The last problem is that legislators give deference to members for their local laws. SB90 may be passed as a local law. This is not a “local law.” It is gambling that affects the entire state and violates its public policy. “Local law deference” should not be given to it.

Further, when any local bill attempts to modify a general law like the criminal code, it is something that affects the entire state and it is unconstitutional. This is not the first time that such a perverse strategy has been undertaken by gambling interests. If SB90 is not stopped this year, we will see many such bills to follow.

In summary, SB90 violates three Alabama Constitution sections:

- (1) it attempts to create a game of chance in violation of Article IV, §65;
- (2) it appears to be a revenue raising bill that has arisen in the Senate in violation of Article IV §70; and
- (3) it attempts by a local law to allow gambling in conflict with general laws criminalizing gambling *viz.*, §13a-12-20, *et. seq.* in violation of Article IV, §105.

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