

Special legislative session a waste: It's the constitution, stupid

Posted by Craig H. Baab August 16, 2009 5:31 AM

The Legislature approved a "fix" for Jefferson County's fiscal crisis in last week's special session, and it did.

While essential in the near term, this is bad news for the county long term, for all of us citizens in Alabama, for the education system and for democracy. What most of us don't understand, but must, is that the underlying reason this special session had to be called in the first place is Alabama's anti-democratic and dysfunctional 1901 Constitution.

A central tenet of the 1901 framers, which they brilliantly accomplished, was to give no real authority to county governments, but instead to require counties to come to Montgomery for state-level approval for virtually every local decision. This plan by the framers takes from each of us in all 67 counties the God-given power to control our own lives and welfare by voting what we consider our best interests.

Why is this bad for Jefferson County and the rest of us? As long as we continue to be forced to take local decisions to Montgomery, we will never have the control we as citizens inherently have.

As long as we go to 140 legislators in Montgomery to solve our problems, we will never have the courage to demand the kind of a 21st century constitution we all deserve. As we all teach our kids, as long as mom and dad give our kids the keys to the car, they will never have to go out and earn their own car.

The constitution's severe limit on county power to tax and run its own business forced Jefferson County to go to Montgomery in 1967 hat in hand and ask the Legislature for the authority to levy a countywide occupational tax. When that authority was granted by a constitutional amendment that citizens of the entire state were required to approve (approximately 86 percent of whom did not live in Jefferson County), the county was allowed to pass its own ordinance levying an occupational tax. However, in 1999, the Legislature again intruded into the county's business, repealing the original taxing authority. Since then, the matter has been in and out of the courts and the Legislature.

In order to regain the millions of dollars lost from the invalidation of this tax, Jefferson County legislators again had to ask the Legislature to pass bills to clear up the financial mess. Our elected legislators, however, did nothing during the regular session last spring and left Jefferson County to hang out to dry in its own financial drought. So with Jefferson County's government almost closed down and bankrupt, Gov. Bob Riley called a special session so the Jefferson County delegation could convince its legislative colleagues from around the state, most of whom do not live or work in Birmingham or Jefferson County, to pass an occupational tax that applies only to Jefferson County.

Why was this special session bad news for Alabama's children? As members of the Legislature returned to the State House (at taxpayer expense), they did not examine serious education-funding issues currently plaguing the state. Students and educators are flocking back to their classrooms. With the start of the next fiscal year this fall, those educators will experience 11 percent cuts that will further undercut the good our teachers are trying to do. Despite pleas from superintendents in Pell City and Elba, as well as some legislators themselves, the crisis in education funding won't be addressed.

Rather than tackling a problem with enormous statewide implications that, by definition, is a major responsibility of the Legislature, the special session dealt with an issue that confronts only a single county. Is that smart governing?

Now is the time for the people of Jefferson County, and of the other 66 counties, to stand up and demand the return of control over our own affairs and property. Some have suggested the endless incompetence and waste in Jefferson County show why we do not need to give more authority to local governments. To the contrary, most of the current problems resulted from relentless Legislative meddling in local affairs, and the continuing "trail of tears to Montgomery" from all counties resulting in more than 830 amendments, most of them local amendments. County officials are elected, and if they make imprudent or foolish decisions, they can be voted out of office.

In the 2009 legislative session, 396 bills were introduced that had local rather than statewide implications. Sixty-four of the 198 bills that passed (32 percent), affected only localities. More alarming is that 332 local bills concerning matters important to 58 counties also did not pass.

So, sorry, Etowah, about no more money going to Gadsden State. Sorry, Autauga, Chilton and Elmore, that your request for greater arrest power will have to wait. Sorry, Lee, that additional judge is not going to happen yet. Sorry, Mobile, Board of Education security officers can't be armed, at least not this year. And sorry, Calhoun, we just can't find the time to pass your special tax appropriation for the education foundation. And so it goes.

Let's hope this special session was the last held for such local legislation. Now is the time for all Alabamians to demand that our

elected state officials and legislators forge a new state constitution that will return democratic rule to the people and provide a constitutional framework to assure good governance, adequate resources to meet the needs of the people and equal rights and protections for all.

Insist that every legislative and gubernatorial candidate in 2010 support a better constitution. Now.

Craig H. Baab is senior fellow for policy and development for the Alabama Appleseed Center for Law & Justice.