No. 1190470

IN THE SUPREME COURT OF ALABAMA

VERNON BARNETT, RAY LONG, JEFF CLARK, RANDY VEST, DON STISHER, GREG ABERCROMBIE,

Defendants/Appellants.

v.

DR. DANA JONES, VANITA JONES, DANA GLADDEN, HARTSELLE CITY EDUCATION ASSOCIATION, RODNEY RANDELL, DECATUR EDUCATION ASSOCIATION, RONA BLEVINS, MORGAN COUNTY EDUCATION ASSOCIATION, MORGAN COUNTY BOARD OF EDUCATION, DECATUR CITY BOARD OF EDUCATION,

Plaintiffs/Appellees.

On Appeal from the Circuit Court of Montgomery County
CV-2019-477

MOTION AND BRIEF OF AMICUS CURIAE SENATOR JIMMY HOLLEY, CHAIR OF THE LEGISLATIVE COUNCIL OF THE LEGISLATURE OF ALABAMA, IN SUPPORT OF APPELLEES

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MOTION FOR LEAVE TO APPEAR AS AMICUS CURIAE AND TO FILE BRIEF OF AMICUS CURIAE IN SUPPORT OF APPELLEES

Comes now Senator Jimmy Holley, Chair of the Legislative Council for the Legislature of Alabama (hereafter, "Amicus"), and hereby respectfully moves this Court for leave to appear as *amicus curiae* and to file an Amicus Brief in support of the Appellees in the above-styled matter. Because of the impact and importance of this matter to the validity and enforceability of local legislative enactments, Amicus desires to file the conditionally attached Brief of Amicus Curiae with this Court for this Court's consideration as it deliberates the merits of Appellants' appeal. Amicus shows the following in support of this motion:

1. The determinations in this case directly and substantially impact the Legislature's legal and technical interpretations of the scope and application of Section 105 of Alabama's 1901 Constitution.

2. The determinations in this case directly and substantially impact the enforceability and effectiveness of the local laws enacted by the Legislature, both past, present, and future.

3. The passage and enactment of valid and enforceable local laws is constitutionally within the sole powers and discretion of the Legislature and is the direct responsibility of the Legislative Branch of our government to exercise any such powers and authority on behalf of the people of our state.

4. The outcome of this case directly impacts the duties, responsibilities, and activities of the Legislature and its agencies in regard to the development and passage of local legislation. Thus, Amicus has a compelling interest in this case and this Court's interpretation of the requirements and qualifications for valid and enforceable local legislation within the parameters of § 105.

5. Through the conditionally attached Brief of Amicus Curiae, Amicus seeks to represent the interests of the Legislature as an institution (and not individual legislators) in regard to the constitutional requirements for valid and enforceable local legislation.

6. Although the conditionally attached Brief of Amicus Curiae is filed in support of the Appellees in this matter, Amicus reiterates that other than the aforementioned legislative interest and concern of a general and principled

nature, Amicus has no specific or pecuniary interest in the outcome of this matter as related to the interests of the individual parties to this case.

7. Amicus recognizes that this motion for leave to file the Brief of Amicus Curiae falls outside the time prescribed by Rule 29(d), Alabama Rules of Appellate Procedure ("ARAP"). In light of the Legislature's unique institutional interests in the rules and standards governing how constitutionally sound legislation is passed, and because the standard briefing timelines have only recently passed, Amicus respectfully requests that this Court grant this motion despite it being filed out of time.

For the foregoing reasons, Amicus moves the Court to allow Amicus to appear as Amicus Curiae for the purpose of filing the conditionally attached Brief of Amicus Curiae, and, if appropriate and applicable, participating in oral argument.

Alternatively, Amicus moves the Court to allow the same under Act 2019-443, now appearing as Section 12-1-6.1, Code of Alabama 1975.

Respectfully submitted on this 9th day of September, 2020.

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BRIEF OF AMICUS CURIAE IN SUPPORT OF APPELLEES

STATEMENT REGARDING ORAL ARGUMENT

Amicus hereby adopts the Statement Regarding Oral Argument set forth in Appellees' Brief.

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SUMMARY OF THE ARGUMENT

It is unquestioned that counties and county governments are creatures of the Legislature, and completely subject to the sovereignty of the Legislature as instrumentalities of state government created under law by the Legislature for the administration of government at a more localized level. Subject only to appropriate and qualified constitutional limitations, like that of Section 105 of Alabama's Constitution, the Legislature has plenary power to direct the activities of and policies of county governments, including the use and expenditure of funds held in a County Commission's General Fund.

In Act 2019-272 (hereafter, "the Local Law" or "the Act"), the Legislature exercised its authority to enact a lawful and constitutionally sound local law that directed the Morgan County Commission to use funds received into its General Fund from the state's Simplified Sellers Use Tax Remittance Act, specifically Alabama Code Section 40-23-197(b) (hereafter generally referred to as "the SSUT General Law"), for specified purposes (i.e., to the school boards and volunteer fire departments in Morgan County) and leaving a small percentage of such funds for use at the County

Commission's discretion. The Local Law did not in any way deal with the amount or percentage of funds allocated or distributed to the County Commission under the SSUT General or any other state law. Contrary to Appellants' assertions, in accordance with this Court's established standards, the matter contained in the Local Law and its effect/end result is not a matter that is "provided for" by a general law or prohibited under § 105.

Article IV, Section 105 of Alabama's 1901 Constitution prohibits local laws that entail a case or matter that is provided for by a general law, and authorizes this Court as the exclusive arbiter of whether a general law provides for a matter contained in a local law. Since this Court's decision in Peddycoart v. City of Birmingham, 354 So.2d 808 (Ala. 1978), this Court has established well balanced standards for the scope and application of § 105 that should be reaffirmed by this Court. These standards focus on the object or substance of a local law and whether the local law creates a variance from the provisions of a general law, and it is not the overall subject matter dealt with in a general law that precludes the enforceability of a local law under the dictates of § 105. In summation, this Court's standards

have established that § 105 operates to restrict local laws only where both a general law and a local law both actually regulate or address a particular object or matter, and the "effect" or end results of the local law accomplishes or allows a substantially different result for that object or matter than what is called for by the provisions of the general law.

The Court's § 105 standards as set forth in caselaw fully support the trial court's determination that the Local Law does not violate the restrictions of § 105. In addition, the obligation of this Court to favor the constitutionality of legislative acts also warrants an affirmation of this matter. Amicus urges this Court to affirm the trial court's decision and in doing so to reaffirm its balanced requirements for the application of § 105 as expressed in its recent jurisprudence. Amicus also urges this Court to reject the expansive subject matter theory espoused by Appellants as contrary to the intent and function of § 105.

Furthermore, this Court should also reject Appellants' assertion that, as a general standard, the absence of general law provisions allowing local law supplementation or deviation evidences a legislative intent for the general law

to subsume the subject matter so as to preclude any local law deviation or supplementation. Amicus is aware of no such authority supporting such a claim. Rather, the plain language rule applies, and the intent of the Legislature is to be found in the plain language of its enactments, or directly and plainly emanating therefrom.

Alternatively, if this Court were to determine that it is bound to overcome the extremely high deference afforded to the constitutionality of legislative acts such as this one, Amicus strongly urges this Court to adopt its approach from Peddycoart, supra, and to make any changes to the applicable standards for § 105 compliance to be prospective only and not retrospective.

ARGUMENT

Counties and county governments are creatures of the Legislature, they are instrumentalities of the state created under law by the Legislature for the administration of government at a more localized level, and the Legislature has plenary power to direct the activities of and policies of county governments, subject only to appropriate and qualified constitutional limitations. See Robbins v. Cleburne Cty. Comm'n, No. 1180106, 2020 WL 502541, at *2 (Ala. Jan. 31, 2020)(citing Arledge v. Chilton Cty., 185 So. 419, 421 (1938); and Kendrick v. State, 54 So. 2d 442, 451 (1951). It is also undisputed and well-settled law that the Legislature has the power and authority, by legislative act, to "designate and control public revenues being held in county funds" for public purposes, including county funds held in a County Commission's General Fund, because "county funds are in reality state funds, subject to state control." Clay Cty. Comm'n v. Clay Cty. Animal Shelter, Inc., 283 So. 3d 1218, 1234 (Ala. 2019)(discussing the complete sovereignty of the state over the county government, and the complete control over the funds of county governments). See also Jefferson Cty. v. City of Birmingham, 38 So. 2d 844, 848 (1948)("It is

well settled that the State may appropriate county funds by act of the legislature for public purposes."). The Appellants even state in their brief that it is agreed by all parties that "the Legislature can tell county commissions what to do with money in their General Funds." Blue Br. at 29. Finally, it is also undisputed that, with some exceptions, Section 105 of the 1901 Constitution generally operates to restrain the Legislature from enacting an enforceable local law when the Legislature has tied its own hands from doing so by an applicable general law (which is a general law that triggers the application of Section 105). The Section states, in pertinent part, that "[n]o … local law… shall be enacted in any case which is provided for by a general law, … and the courts, and not the legislature, shall judge as to whether the matter of said law is provided for by a general law…." Art. IV, § 105, Ala. Const. 1901.

Where the parties disagree (in addition to the actual determination of whether § 105 applies to this case and renders the local law unenforceable) is in regard to this Court's expressed standards of the scope and application of Section 105's constraints. While Appellants assert that this Court's § 105 jurisprudence requires a triggering of § 105

anytime a local law broadly touches on the subject matter, completely preempting the entirety of the subject matter, the Appellees assertions regarding these standards underscore that this Court has established a more balanced standard for the application of § 105 that is less expansive and broad than what the Appellants would suggest; namely that the subject of a local law is only provided for, or subsumed by, a general law if the effect of the local law would create a variance in the provisions or application of the general law.

Although Amicus has no interest in this matter other than the upholding of legislative acts when enacted pursuant to established constitutional authority and requirements, Amicus asserts that the standards established by this Court's caselaw regarding the scope and application of § 105 fully support the trial court's determination that the Local Law at issue in this matter did not violate § 105. In addition, the obligation of this Court to favor the constitutionality of legislative acts, warrants an affirmation of this matter. In doing so, Amicus urges this Court to reaffirm its balanced requirements for the application of § 105 as expressed in its recent jurisprudence, and to reject the expansive subject

matter theory espoused by Appellants as contrary to the intent and function of § 105.

1. *This Court has established well balanced standards regarding the scope and application of § 105.*

This Court has established well balanced standards for the application of Section 105 of Alabama's Constitution. The bedrocks of these standards can be summarized quite succinctly.

Once it has been established that a local law has been enacted by the Legislature (the fact that Act Number 2019-272 is a local law is not in dispute, so this part of a § 105 analysis is not at issue in this matter), § 105 operates to prohibit its constitutional enforceability only if the **case or matter** has been **provided for** by a general law. See Art. IV, § 105, Ala. Const. 1901; Jefferson Cty. v. Taxpayers & Citizens of Jefferson Cty., 232 So. 3d 845 (Ala. 2017); City of Homewood v. Bharat, LLC, 931 So.2d 697 (Ala. 2005); and Peddycoart, supra. A breakdown of the material provisions as emphasized above is as follows:

1) A particular case or matter that is dictated or engaged by a local law is applicable to § 105 considerations if such case or matter is "of the same import ***dealt***

with in the general law." Peddycoart, 354 So. 2d at 811 (emphasis added).

2) A particular case or matter has been "dealt with" by a general law, and thus is regulated by § 105, where the case or matter has been "**provided for**" by the dictates of that general law. See Bharat, 931 So. 2d at 701 (emphasis added).

3) A case or matter is "provided for" (or "subsumed") by a general law if the "**effect** of the local law … **create[s] a variance from the provisions of the general law**." Taxpayers & Citizens of Jefferson Cty., 232 So. 3d 845, 864-65 (Ala. 2017)(quoting Bharat, id at 701-02; other internal citations omitted)(emphasis added). Furthermore, "[a] local law violates § 105 only when the substance of the local law is already substantially provided for under an existing general law." City of Birmingham v. City of Vestavia Hills, 654 So. 2d 532, 540 (Ala. 1995). By the Court's expressed standard, § 105 only concerns variations created by the local law **from** the provisions of the general law, and not variations in the effectual state of affairs for those who might fall under the scope and application of a

local law. Indeed, a local law may very well alter the obligations, liberties, or requirements for certain persons or entities without violating § 105.

In summation, § 105 operates to restrict local laws only where both a general law and a local law both actively regulate or address a particular object or matter, and the "effect" or end results of the local law accomplishes or allows a substantially different result for that object or matter than what is called for by the provisions of the general law. See Bharat, 931 So. 2d at 703-04 (a local law created a variance from a general act where the local law changed "**the result** that would obtain without its application")(emphasis added); Vestavia Hills, 654 So. 2d at 540 (citing with approval Judge J. Russell McElroy, *No … Local Law … Shall be Enacted in Any Case Which is Provided for by a General Law*, 7 Ala. Law. 243, 259 (1946), "the advocates of this section of the Constitution never intended to abolish the Legislature's power to pass a local law when no general law provided **for [the local law's] result.**")(emphasis added); and Peddycoart, 354 So. 2d at 814-15 ("concluding that "[i]t is only when those local needs already have been responded to by general legislation that § 105 of our state Constitution prohibits special treatment by

local law."). In its simplest of terms, the effect of a local law cannot alter the landscape dictated by a general law.

Amicus asserts that its legislative interpretation of this Court's § 105 standards is a correct reflection of this Court's balanced approach to § 105 jurisprudence and is more closely in line with the meaning and purpose behind such expressed standards than that espoused by the Appellants. This framework allows the Court to cast aside rigid confinements and over-reaching interpretations of § 105's scope and application, and instead to utilize a balanced approach to analyzing the effects and results of various local laws to determine on a case by case basis whether a local law violates in one way or another the plain meaning and intent behind the intentions of § 105, or whether such laws are valid expressions of legislative authority.

2. ***This Court's expressed § 105 standards warrant affirming that Act No. 2019-272 did not violate § 105 of Alabama's Constitution.***

Amicus asserts that Amicus' above-described interpretation and legislative understanding of this Court's expressed standards regarding § 105's scope and application is a more correct and more balanced approach to this Court's § 105 jurisprudence than that suggested by Appellants in this

matter, and that such standards warrant affirming the trial court's determination that Act No. 2019-272, the Local Law, does not violate Section 105 of our State Constitution.

Considered under the appropriate standards, the Local Law was not "provided for" by the SSUT General Law and does not create a variance from said general law or otherwise result in an outcome different than anything provided for by the general law. In fact, the Local Law does not necessarily require a different result than that of either of the Appellants' referenced general laws.[1] After all, there is nothing in either general law that would prohibit the Appellants from using or spending the funds exactly how the Local Law mandates.

The substance, matter, or object of the Local Law in this case is the County's expenditure of SSUT funds in its General Fund, and does not include any provisions regarding the levying, collection, or distribution of SSUT funds in general. In contrast, the substance, matter, or object of the SSUT General Law specifically deals with the levying,

[1] Appellants additionally assert that § 11-8-3, Ala. Code 1975 somehow dictates the entirety of county commissions' ability to spend their general fund resources.

collection, and distribution of SSUT funds in general, but in no manner involves or dictates the expenditures or uses of any county commission's SSUT funds that have been distributed to their respective general funds.

As outlined above, it is undisputed that the Legislature has the complete authority to establish, manage, spend, or otherwise control county funds, from whatever source (unless the Constitution provides otherwise), including funds in a county's general fund. The SSUT General Law did not dictate, limit, or otherwise even tread into the matter of the uses or expenditures of SSUT funds accumulated in a county's general fund. Thus, the end result or object, matter, or substance of the Local Law, which places specific requirements on the expenditure of most of the county's accumulated SSUT funds, in no way creates a variance from the provisions of the SSUT General Law. Instead, the enacted Local Law regulates an area untouched and un-provided for by the SSUT General Law. Had the SSUT General Law provided that the SSUT funds were to be deposited into the general funds of the various county commissions to be spent at the discretion of the county commissions, then concededly Appellants would have a much stronger argument in this matter. But such is not the case.

Therefore, the Local Law appropriately provides for the use and expenditure of SSUT funds accumulated or deposited in the County's General Fund without wading into the limited scope and application of § 105.

Although Appellants proffer an additional or alternative general law (namely, Section 11-8-3 of the Code of Alabama 1975) to try and establish that the Legislature has already tied its own hands in regards to the matter of a county's use or expenditure of funds in its general funds (and thereby precluding a local law that deals with the same matter in a way that is provided for by the general law), Amicus agrees with and reiterates Appellees' position on this topic, and asserts that the County's assertion on this matter is incorrect or unexplainable at the very least. Amicus asserts that nowhere in the plain language or discernable intent of § 11-8-3 (nor anywhere else in Chapter 8 of Title 11 of the 1975 Code of Alabama) is there a requirement that money in the County's General Fund can only be spent or used for purposes listed in the statute. Rather, this code section simply includes non-exhaustive, minimum requirements for establishing an annual budget for the county commission. Thus, Appellants' assertions on this point do not apply to

trigger the application of § 105 in accordance with this Court's expressed standards.

3. *Appellants' assertion that this Court requires § 105 to be triggered when a local law encroaches upon the general subject of a general law should be rejected as contrary to this Court's expressed § 105 jurisprudence.*

Amicus asserts that Appellants incorrectly conclude that this Court's § 105 standards, post Peddycourt, now call for § 105 application where the subject of a local law falls under a general law's general subject matter, and that the constitutional provision then operates to bar any local law from covering any matter that falls under the general subject of that general law, whether the local law simply supplements the general law, or picks up where it left off. (Blue Br. at 5, 19). To the contrary, this Court stated in Vestavia Hills that "[i]t is not the broad, overall subject matter which is looked to in determining whether the local act, taken together with the general law, is violative of § 105; rather, it is whether the object of the local law is to accomplish an end not substantially provided for and effectuated by a general law." Id., 654 So. 2d at 540. Additionally, this Court as recently as 2017 rejected an argument by a group of taxpayers that a local law was void under § 105 because the local law

addressed a "subject matter" already addressed in a general law, and was thus "subsumed" by the general law. See Taxpayers & Citizens of Jefferson Cty., 232 So. 3d at 866. In that case, the County asserted that, when assessing a local law under § 105 standards, "a court looks to the goal of a local law, and not its generic subject matter, when determining whether § 105 has been violated," and that "where a local act 'represents the Legislature's response to demonstrated local needs … which had not previously been addressed by the general law, [the Court will] find no constitutional infirmity in the Act.'" Id. at 867-68 (citing State Bd. of Health v. Greater Birmingham Ass'n of Home Builders, Inc., 384 So. 2d 1058, 1062 (Ala. 1980)). This Court agreed with the County that the local act was not subsumed by the general law in question. Id. at 868.

Amicus asserts that Appellants' interpretation of § 105's scope and application is overly broad and rigid, and goes beyond the dictates, purpose, and meaning of § 105 which only prohibits a particular case or matter that has been provided for by a general law, not an entire field of operation in a subject matter. Taken to the extreme end of this interpretation, any statute involving a particular tax,

whether statewide or local, has the same general subject matter of taxation. Further, any prohibited or mandated conduct that contains a penalty or liability for failure to abide by its mandates could fall under is the general categories of civil disobedience or criminal disobedience, thereby eliminating just about every single local law under these extreme interpretations of § 105. This is clearly not the intent, purpose, or meaning behind § 105, and Amicus does not think that this Court nor any of the parties in this matter would suggest such an interpretation.

4. ***This Court should reject Appellants' assertion that the absence of general law provisions that expressly allow for supplementation or deviation by local law establishes legislative intent for the general law to subsume the subject matters contained in the general law.***

Appellants assert that where the Legislature desires to authorize local laws to deal with matters covered under the general subject matter of general laws, the Legislature specifies in the language of the general law that local laws are authorized to provide additional regulations, etc. Appellants further assert that the absence of any such provision shows that the Legislature intended that general law to exclusively subsume the entirety of the subject matter covered in such general law, thus preventing any local law on

the subject. Blue Br. at 36. Amicus strongly encourages this Court to reject such an assertion.

Amicus certainly agrees that where **expressly** stated in a general law, matters that fall under that express authorization for local laws to supplement or deviate from the provisions of a general law clearly establish legislative intent that the general law does not subsume the matters where delegation is allowed, and that § 105 should not apply in such cases to bar local laws. However, Amicus disagrees with Appellants that the absence of such provisions shows an intent to bar any local laws touching on the matters contained in the general law. Amicus is aware of no such authority supporting such a claim. Rather, the plain language rule applies and the intent of the Legislature is to be found in the expressed plain language of its enactments, or directly and plainly emanating therefrom. See generally, IMED Corp. v. Sys. Eng'g Assocs. Corp., 602 So. 2d 344, 346 (Ala. 1992)("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. If the language of the statute is unambiguous, then there is no room for judicial

construction and the clearly **expressed** intent of the legislature must be given effect.")(internal citations omitted)(emphasis added); and Gibbs v. State, 192 So. 514, 515 (Ala. Ct. App. 1939)("It is not for the courts to say what the Legislature should have done, or what was its intention, **unless such intention is contained in the legislative language.**")(emphasis added).

Appellants quote this Court's decision in Baldwin Cty. v. Jenkins, 494 So. 2d 584, 587 (Ala. 1986), in support of their assertion on this matter. In that decision, the Court did indicate that, in that particular case, if (i.e., hypothetically) the Legislature had not included a provision in the general law that sanctioned contrary local laws, such an absence would have been an indication of legislative intent for the subject of the general law to be entirely subsumed within that general law. Id. However, that statement was clearly meant only for the particular case and circumstances at hand, and did not establish a standard to be broadly applied to § 105 jurisprudence. In Jenkins, a provision of the general law that required county commissioners to be elected for four-year terms was in direct conflict with a local law that called for certain commissioners to be elected

for two-year terms, and **but for** the existence of a clause that sanctioned supplementary or contrary local laws (namely, "[u]nless provided by local law"), the general law would have completely provided for and subsumed the matter of the length of the commissioner's terms. Id. The point here is that the plain language of the general law in that case would have, in fact, expressed legislative intent for the general law to subsume the matter of the commissioner's elected terms of office. This case and the Court's language used by Appellants was simply fact-specific language applicable to that case, and was not based on a general principle applicable to all § 105 cases and controversies.

5. ***This Court's obligation to favor the constitutionality of legislative acts and other equitable considerations further warrant the affirmation of the trial court's decision in this matter.***

Amicus respectfully recognizes the equal and important role this Court holds in our state government, and as a part of that role this Court's duty to strike down legislative acts where plainly unconstitutional. However, Amicus also respectfully highlights this Court's duty to favor the constitutionality of legislative acts unless it is clear beyond a reasonable doubt to be unconstitutional.

In Taxpayers & Citizens of Jefferson Cty., 232 So. 3d 845 (Ala. 2017), this Court reaffirmed the Court's long-standing rules governing the favorability and constitutional deference afforded to legislative acts:

> In reviewing [a question regarding] the constitutionality of a statute, we approach the question with every presumption and intendment in favor of its validity, and seek to sustain rather than strike down the enactment of a coordinate branch of the government. … Moreover, [w]here the validity of a statute is assailed and there are two possible interpretations, by one of which the statute would be unconstitutional and by the other would be valid, the courts should adopt the construction [that] would uphold it. … All these principles are embraced in the simple statement that it is the recognized duty of the court to sustain the act unless it is clear beyond reasonable doubt that it is violative of the fundamental law. … **We must afford the Legislature the highest degree of deference, and construe its acts as constitutional if their language so permits.**

Id. at 857-58 (internal citations and quotations omitted)(emphasis added).

Amicus tips its cap to the Appellants' legal assertions and acknowledges that this area of law is one of multiple layers of nuance, given the complexities of modern government juxtaposed against the brevity of § 105's applicable language. Nevertheless, Amicus asserts that Appellants'

assertions against affirming the trial court's decision in this matter are tenuous and do not come close to the standards espoused above for overcoming the deference afforded to the Legislature. Rather, the circumstances clearly show that although the Legislature has unquestioned authority to control money and funds contained in a county commission's general fund, the SSUT General Law did not address that matter, and the Appellants' assertion that Ala. Code § 11-8-3 subsumes the matter of how and where county commissioners are to expend their resources is simply incorrect according the plain language of that statute and entire code section. In essence, Appellants ask this Court to invade the domain of the Legislature and its authority to provide for the expenditures of county funds. For this reason, as well as the other reasons expressed herein, the deference standards afforded to the Legislature alone warrant affirmation of the trial court's decision.

Equitable reasons further warrant affirmation in this matter (equitable reasons which Amicus asserts are strongly connected to the deferential standards afforded to the Legislature by this Court). Because of the direct mandate of § 105 that this Court establish the standards by which to

judge the scope and application of § 105, the Legislature is dependent and relies upon the Court's expressed standards to enact local laws that are in accordance with such standards. To overturn the trial court's determination in this matter and adopt the expansive standards espoused by Appellants would no doubt jeopardize countless local laws that have been passed in the years since these standards became more formalized in the post-Peddycoart era. Every resident of every legislative district in this state, in one way or another, relies on the validity of the local laws passed by the Legislature. Counties and county commissions are no different. In fact, in the aforementioned Taxpayers & Citizens of Jefferson Cty. case, the Jefferson County Commission argued in support of a local law establishing a local sales and use tax, and made the point that the courts § 105 standards do not look to the "generic subject matter" of a local law to determine its constitutionality, but rather to the goal of the local law. This is the exact opposite of the argument made on the same issue by the Appellant County Commissioners in this case. Id. at 867-68. Amicus asserts that these equitable reasons further warrant affirmation of the trial court's determination in this case.

Alternatively, if this Court were to determine that it is bound to overcome the extremely high deference afforded to the constitutionality of legislative acts such as this one, Amicus strongly urges this Court to adopt its approach from Peddycoart, supra, and to make any changes to the applicable standards for § 105 compliance to be prospective only and not retrospective. See Yancey & Yancey Const. Co. v. DeKalb Cty. Comm'n, 361 So. 2d 4, 5 (Ala. 1978)(acknowledging that Peddycoart was "expressly limited to legislation enacted after the date of that opinion."); and Peddycoart, id. at 814 ("With regard to legislation heretofore enacted, the validity of which is challenged, this Court will apply the rules which it has heretofore applied in similar cases.").

CONCLUSION

Amicus urges the Court to affirm the trial court's determination that the Morgan County Local Law is not unconstitutional under § 105, and to reject Appellants' expansive interpretation of this Court's standards regarding the scope and application of § 105. Amicus asserts that the Court's expressed standards represent a balanced approach to § 105's application and restraint on local laws whose subjects

have been provided for by general law. In this particular case, neither the SSUT General Law nor the Appellants' assertions regarding Ala. Code § 11-8-3 provide for the use and expenditure of SSUT funds in county commission's general funds. Thus, the Local Law, which only operates to direct the use and expenditure of such funds accumulated in Morgan County Commission's General Fund, does not create a variance from either general law, and is a clear assertion of legislative authority.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing motion and brief has been served on this 9th day of September, 2020, to the following by electronic mail or by U.S. Mail to their respective regular addresses as listed below:

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