

1 HB654  
2 118277-1  
3 By Representatives Wren and McClammy  
4 RFD: County and Municipal Government  
5 First Read: 02-MAR-10

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8 SYNOPSIS: This bill would authorize the levy of sales  
9 and use tax by the governing body of a municipality  
10 at different rates in different areas within the  
11 corporate limits of the municipality, in the  
12 settlement of a dispute regarding boundaries or  
13 territory or both, with a municipality with  
14 overlapping police jurisdiction; would authorize  
15 the sharing of sales and use tax revenues collected  
16 within any designated area within its corporate  
17 limits; and would permit certain municipalities  
18 with overlapping police jurisdictions in the  
19 settlement of a dispute over boundary lines and  
20 territory to enter into a contract for the sharing  
21 of sales and use tax revenues levied within the  
22 designated area.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
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1                   Relating to municipal taxation; to amend Section  
2                   11-51-200, Code of Alabama 1975, relating to sales tax, and  
3                   Section 11-51-202, Code of Alabama 1975, relating to excise or  
4                   use tax; to authorize the levy of sales and use tax by the  
5                   governing body of the municipality, in the settlement of a  
6                   dispute with a municipality with overlapping police  
7                   jurisdiction, with regard to boundaries or territory, at  
8                   different rates in different areas within the corporate limits  
9                   of the municipality and to provide for the sharing of sales  
10                  and use tax revenues collected within any designated area  
11                  within its corporate limits; and to amend Sections 11-102-1,  
12                  11-102-2, and 11-102-5, Code of Alabama 1975, to permit  
13                  certain municipalities with overlapping police jurisdictions  
14                  in the settlement of a dispute over boundary lines and  
15                  territory to enter into a contract for the sharing of sales  
16                  and use tax revenues levied within the designated area.

17                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18                         Section 1. Sections 11-51-200, 11-51-202, 11-102-1,  
19                         11-102-2, and 11-102-5, Code of Alabama 1975, are amended to  
20                         read as follows:

21                                 "§11-51-200.

22                                 "(a) The governing body of any municipality within  
23                                 the State of Alabama may provide by ordinance for the levy and  
24                                 assessment of sales taxes, parallel to the state levy of sales  
25                                 taxes as levied by Sections 40-23-1, 40-23-2, 40-23-2.1,  
26                                 40-23-4 to 40-23-31, inclusive, 40-23-36, 40-23-37, except for  
27                                 those provisions relating to the tax rate, and 40-23-38,

1 except where inapplicable or where otherwise provided in this  
2 article; provided, that no municipality may levy any such tax  
3 against the Alcoholic Beverage Control Board of the State of  
4 Alabama in the sale of alcoholic beverages. The phrase "except  
5 where inapplicable," contained herein and in Sections  
6 11-51-201, 11-51-202, and 11-51-203, shall not be construed to  
7 permit a self-administered municipality to adopt or interpret  
8 an ordinance, resolution, policy, or practice that relies on  
9 that phrase, either directly or indirectly, in order to  
10 disavow, disregard, or attempt to disavow or disregard the  
11 mandate provided in this and the following sections for  
12 conformity with the corresponding state tax levy, unless the  
13 self-administered municipality can demonstrate that the  
14 ordinance, resolution, policy, or practice will simplify  
15 collection or administration of the tax or is being made for  
16 the convenience of the taxpayer.

17 "(b) The governing body of any municipality which  
18 alters or changes its boundaries and annexes territory into  
19 its corporate limits in settlement of any dispute or disputes  
20 over its boundaries or territory with a municipality with  
21 overlapping police jurisdiction shall have, in addition to any  
22 other authority, the authority within its corporate limits by  
23 ordinance to levy and assess a sales tax authorized by  
24 subsection (a), in one or more designated areas acquired by  
25 the annexation, at the same or a different rate as levied and  
26 assessed within all other parts of the municipality which lie  
27 outside of the designated area or areas. This authority may

1 only be exercised as part of a revenue sharing agreement  
2 authorized by Section 11-102-1, as amended.

3 "§11-51-202.

4 "(a) The governing body of any municipality within  
5 the State of Alabama may provide by ordinance for the levy and  
6 assessment of an excise tax or use tax parallel to the state  
7 levy and assessment of excise or use taxes as levied by  
8 Article 2 of Chapter 23 of Title 40, except where inapplicable  
9 or where otherwise provided in this article.

10 "(b) The governing body of any municipality within  
11 the State of Alabama may provide by ordinance for the levy and  
12 assessment of a privilege or license tax in the nature of a  
13 lodgings tax, parallel to the state levy and assessment of the  
14 privilege or license tax as levied by Chapter 26 of Title 40,  
15 except where inapplicable or where otherwise provided by this  
16 article.

17 "(c) The governing body of any municipality which  
18 alters or changes its boundaries and annexes territory into  
19 its corporate limits in settlement of any dispute or disputes  
20 over its boundaries or territory with a municipality with  
21 overlapping police jurisdiction shall have, in addition to any  
22 other authority, the authority within its corporate limits by  
23 ordinance to levy and assess an excise or use tax authorized  
24 by subsection (a), in one or more designated areas acquired by  
25 such annexation, at the same or a different rate as levied and  
26 assessed within all other parts of the municipality which lie  
27 outside of the designated area or areas. This authority may

1 only be exercised as part of a revenue sharing agreement  
2 authorized by Section 11-102-1, as amended.

3 "§11-102-1.

4 "(a) Except as otherwise provided in this chapter or  
5 as otherwise prohibited by law, any county or incorporated  
6 municipality of the State of Alabama may enter into a written  
7 contract with any one or more counties or incorporated  
8 municipalities for the joint exercise of any power or service  
9 that state or local law authorizes each of the contracting  
10 entities to exercise individually. For purposes of this  
11 chapter, it is sufficient if each of the contracting entities  
12 has the authority to exercise or perform the power or service  
13 which is the subject of the contract regardless of the manner  
14 in which the power or service shall be exercised or performed,  
15 provided that at least one of the contracting parties has the  
16 authority to exercise the power or service in the manner  
17 agreed upon by the parties. The joint contract may provide for  
18 the power or service to be exercised by one or more entities  
19 on behalf of the others or jointly by the entities.

20 "(b) In addition to any rights and authorities  
21 granted to municipalities pursuant to subsection (a), any  
22 incorporated municipality of the State of Alabama in the  
23 settlement of a dispute or disputes concerning boundary lines  
24 or territory may enter into a written agreement with the other  
25 settling municipality regarding the sharing of any revenues  
26 collected from, and the rate of taxation of, taxes levied in a  
27 designated area or areas pursuant to subsection (b) of Section

1 11-51-200 and subsection (c) of Section 11-51-202, agreeing to  
2 share such tax revenue in any percentage ratio on which they  
3 agree. The revenue sharing agreement must be approved by the  
4 governing body of each of the sharing municipalities.

5 "§11-102-2.

6 "Any contract entered into pursuant to this chapter  
7 shall be in writing. The contract shall specify the duration  
8 of the contract, which shall not exceed three years, provided  
9 that any contract to share tax revenue as provided in  
10 subsection (b) of Section 11-102-1 may have duration in  
11 perpetuity. The parties may renew the contract for another  
12 term of not more than three years on the same or amended terms  
13 by the same method by which the original contract was adopted.  
14 Any party to the contract shall have the power to refuse to  
15 renew the contract. The refusal shall not affect the authority  
16 of the remaining parties to enter into a contract with each  
17 other with the same or similar terms of the original contract  
18 as provided in this chapter. The contract shall also specify  
19 the purpose of the contract; the method to be used to  
20 partially or completely terminate the contract; the method to  
21 be used to dispose of any property belonging to the parties as  
22 a result of the contract upon termination of the contract; the  
23 manner of financing the joint undertaking and of establishing  
24 and creating a budget for the undertaking, except that no  
25 party to the contract shall have any power to incur any debt  
26 which shall become the responsibility of any other contracting

1 party; and any other matter necessary and proper to jointly  
2 exercise the contract.

3 "§11-102-5.

4 "Nothing in this chapter shall be construed to  
5 authorize the joint exercise of the power to levy taxes or to  
6 zone real property. Additionally, nothing in this chapter  
7 shall be construed to authorize the joint exercise of the  
8 power to tax, the power to exercise planning authority, or the  
9 power to zone real property in the unincorporated areas of a  
10 county unless authorized by act of the Legislature.

11 Notwithstanding this prohibition, counties and municipalities  
12 may contract (i) with each other to zone flood prone areas as  
13 mandated by the federal government pursuant to Title 11,  
14 Chapter 19, or (ii) share revenues pursuant to subsection (b)  
15 of Section 11-102-1 or as otherwise provided by statute."

16 Section 2. Nothing in this legislation shall be  
17 construed or interpreted to grant one municipality any rights  
18 or authorities in the corporate limits of another  
19 municipality.

20 Section 3. All laws or parts of laws which conflict  
21 with this act are repealed.

22 Section 4. This act shall become effective  
23 immediately following its passage and approval by the  
24 Governor, or its otherwise becoming law.