

1 SB474
2 118277-1
3 By Senator Ross
4 RFD: Governmental Affairs
5 First Read: 25-FEB-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
27

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.