

1 SB23
2 196841-2
3 By Senator Elliott
4 RFD: Governmental Affairs
5 First Read: 05-MAR-19
6 PFD: 02/05/2019

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8 SYNOPSIS: Under existing law, the police jurisdiction
9 of a municipality having a population of 6,000
10 persons or more extends for three miles from the
11 corporate limits and the police jurisdiction of a
12 municipality having less than 6,000 persons extends
13 for one and one half miles from the corporate
14 limits.

15 This bill would provide that the police
16 jurisdiction of a municipality would include only
17 property in the corporate limits of the
18 municipality.

19 Under existing law, the planning
20 jurisdiction of a municipality, including the
21 approval of subdivisions, extends for five miles
22 from the corporate limits.

23 This bill would limit the jurisdiction of a
24 municipal planning commission to the corporate
25 limits of a municipality.

26 This bill would also repeal a law that
27 authorizes a municipality to levy business license

1 taxes and sales and use taxes in the police
2 jurisdiction of the municipality at one-half the
3 rate as levied in the corporate limits.
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5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 Relating to municipalities; to amend Section
10 11-40-10 of the Code of Alabama 1975, to limit the police
11 jurisdiction of a municipality to territory within the
12 corporate limits of the municipality; to amend Section
13 11-52-30 of the Code of Alabama 1975, to provide that the
14 jurisdiction of any municipal planning commission would only
15 include all land in the corporate limits of the municipality;
16 and to repeal Section 11-51-90 and Section 11-51-206 of the
17 Code of Alabama 1975, authorizing a municipality to levy
18 certain taxes in the police jurisdiction of the municipality
19 outside of the corporate limits of the municipality.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 11-40-10 of the Code of Alabama
22 1975, is amended to read as follows:

23 "§11-40-10.

24 "(a) ~~(1)~~ The police jurisdiction in municipalities
25 ~~having 6,000 or more inhabitants shall cover all adjoining~~
26 ~~territory within three miles of the corporate limits, and in~~
27 ~~municipalities having less than 6,000 inhabitants and in~~

1 ~~towns, the police jurisdiction shall extend also to the~~
2 ~~adjoining territory within a mile and a half of the corporate~~
3 ~~limits of the municipality or town.~~

4 ~~"(2) After May 12, 2016, and in addition to any~~
5 ~~other requirements of this section, any extension of the~~
6 ~~police jurisdiction of any municipality as otherwise provided~~
7 ~~in subdivision (1) shall not be effective beyond the corporate~~
8 ~~boundaries of the municipality without an affirmative vote of~~
9 ~~the municipal governing body. Notwithstanding the foregoing,~~
10 ~~this subdivision shall not affect the boundaries of the police~~
11 ~~jurisdiction of a municipality existing on May 12, 2016.~~

12 ~~"(3) Any municipality which has a three mile police~~
13 ~~jurisdiction pursuant to subdivision (1) may reduce its police~~
14 ~~jurisdiction to a mile and a half by ordinance of the~~
15 ~~municipality, which shall take effect on the first day of~~
16 ~~January following its adoption on or before the preceding~~
17 ~~first day of October. Once a municipality has adopted an~~
18 ~~ordinance to reduce its police jurisdiction to a mile and~~
19 ~~one-half, that ordinance cannot amended, altered or repealed~~
20 ~~except by local law.~~

21 ~~"(b) Ordinances of a city or town enforcing police~~
22 ~~or sanitary regulations and prescribing fines and penalties~~
23 ~~for violations thereof shall have force and effect in the~~
24 ~~limits of the city or town and on any property or~~
25 ~~rights-of-way belonging to the city or town. In order for an~~
26 ~~ordinance adopted after September 1, 2015, to have force and~~
27 ~~effect in a police jurisdiction of a municipality or town, the~~

1 ~~municipal governing body shall provide a 30-day notice that~~
2 ~~the ordinance shall be effective in the police jurisdiction.~~
3 ~~The notice given shall be the same as required for adoption of~~
4 ~~an ordinance under Section 11-45-8. Additionally, if available~~
5 ~~at no cost to the municipality, the notice shall be submitted~~
6 ~~to the Atlas Alabama state website or any successor~~
7 ~~state-operated website providing information to businesses. No~~
8 ~~ordinance adopted after September 1, 2015, may be enforced~~
9 ~~against an individual or entity in the police jurisdiction~~
10 ~~affected by the ordinance until and unless the municipality~~
11 ~~has complied with the notice requirements provided for in this~~
12 ~~section.~~

13 ~~"(c) The police jurisdiction of any municipality~~
14 ~~which pursuant to this section extends to include part of any~~
15 ~~island which has water immediately offshore adjacent to the~~
16 ~~boundary of the State of Florida, upon approval of the council~~
17 ~~of the municipality, shall extend to include the entire island~~
18 ~~including the water adjacent to the island extending to the~~
19 ~~existing police jurisdiction of the municipality and extending~~
20 ~~to the Florida state boundary where applicable.~~

21 ~~"(d) Any alterations to a police jurisdiction based~~
22 ~~upon the annexation or deannexation of property after~~
23 ~~September 1, 2015, shall take effect the first day of January~~
24 ~~and shall take effect for any annexation or deannexation which~~
25 ~~was finalized on or before the preceding first day of October.~~
26 ~~No later than the first day of January in each year, a map~~
27 ~~showing the boundaries of the municipal limits and police~~

1 ~~jurisdiction of the municipality shall be submitted to, if~~
2 ~~available at no cost to the municipality, the Atlas Alabama~~
3 ~~state website or any successor state-operated website~~
4 ~~providing information to businesses. No ordinance, license,~~
5 ~~permit, or tax levy may be enforced against an individual or~~
6 ~~entity included in the alteration of the police jurisdiction~~
7 ~~unless the municipality has complied with the notice~~
8 ~~requirements provided for in this section.~~

9 ~~"(e) The annexation of property by general or local~~
10 ~~law may not extend the police jurisdiction of a municipality~~
11 ~~except as expressly provided in general or local law. Any~~
12 ~~extension of a police jurisdiction expressly provided for in~~
13 ~~general or local law is subject to subsection (d) and (f) and~~
14 ~~shall take effect only on the next January 1 following the~~
15 ~~annexation by general or local law.~~

16 ~~"(f) When any noncontiguous property has been~~
17 ~~annexed or is annexed into a municipality, the municipal~~
18 ~~governing body shall not exercise any jurisdiction or~~
19 ~~authority in any portion of the police jurisdiction extended~~
20 ~~as a result of the annexation, notwithstanding any other law~~
21 ~~to the contrary.~~

22 Section 2. Section 11-52-30 of the Code of Alabama
23 1975, is amended to read as follows:

24 "§11-52-30.

25 ~~"(a)~~ Except as otherwise provided herein, the
26 territorial jurisdiction of any municipal planning commission
27 shall only include all land located in the corporate limits of

1 ~~the municipality, and all land lying within five miles of the~~
2 ~~corporate limits of the municipality and not located in any~~
3 ~~other municipality; except that, in the case of any~~
4 ~~nonmunicipal land lying within five miles of more than one~~
5 ~~municipality having a municipal planning commission, the~~
6 ~~jurisdiction of each municipal planning commission shall~~
7 ~~terminate at a boundary line equidistant from the respective~~
8 ~~corporate limits of such municipalities. Any alterations of a~~
9 ~~municipal planning commission based upon annexation or~~
10 ~~deannexation of property within the corporate limits of a~~
11 ~~municipality shall occur once a year on the first day of~~
12 ~~January and shall take effect for any annexations which were~~
13 ~~finalized on or before the preceding first day of October. In~~
14 ~~all counties having a population of 600,000 or more according~~
15 ~~to the 1950 federal census or any succeeding decennial federal~~
16 ~~census, the county planning and zoning commission shall be~~
17 ~~invested with the authority, except and unless the~~
18 ~~municipality or municipalities in question are actively~~
19 ~~exercising zoning jurisdiction and control within the police~~
20 ~~or five mile jurisdiction or, in the case of a municipality~~
21 ~~subsequently incorporated, within 180 days from the date of~~
22 ~~its incorporation; provided, further, Provided, that in all~~
23 ~~counties having a population of 600,000 or more inhabitants~~
24 ~~according to the 1950 federal census or any succeeding~~
25 ~~decennial federal census, the county commission of the county~~
26 ~~may establish minimum specifications and regulations governing~~
27 ~~the lay-out, grading, and paving of all streets, avenues, and~~

1 alleys and the construction or installation of all water,
2 sewer, or drainage pipes or lines in any subdivision lying
3 wholly or partly in areas outside the corporate limits of any
4 municipality in the counties and relating to subdivisions
5 lying within the corporate limits of any municipality in the
6 counties which has declined or failed to exercise zoning
7 jurisdiction and control as provided in this section.

8 ~~"(b) A municipal planning commission, by resolution~~
9 ~~properly adopted no later than the first day of October of any~~
10 ~~year, may provide that, effective on the first day of January,~~
11 ~~the territorial jurisdiction of the municipal planning~~
12 ~~commission shall include all land lying within a radius less~~
13 ~~than the five miles permitted by this section. The resolution~~
14 ~~shall establish the territory within which the municipal~~
15 ~~planning commission will exercise jurisdiction to a boundary~~
16 ~~line equidistant from the corporate limits of the~~
17 ~~municipality, except, that in the case of any nonmunicipal~~
18 ~~land lying within the territorial jurisdiction of more than~~
19 ~~one municipality with a municipal planning commission~~
20 ~~exercising jurisdiction outside the municipal corporate~~
21 ~~limits, the jurisdiction of each municipal planning commission~~
22 ~~shall terminate at a boundary line equidistant from the~~
23 ~~respective corporate limits of each municipality. A copy of~~
24 ~~the resolution altering the territorial jurisdiction shall be~~
25 ~~forwarded to the county commission within five days of~~
26 ~~adoption. Additionally, nothing in this subsection shall be~~
27 ~~construed to alter the provisions of Article 5 of Chapter 49,~~

1 ~~which require a municipality to assume responsibility for~~
2 ~~roads annexed into the municipality under certain~~
3 ~~circumstances.~~

4 ~~"(c) (1) If a county commission has adopted~~
5 ~~subdivision regulations pursuant to Chapter 24, those~~
6 ~~subdivision regulations shall apply to the development of~~
7 ~~subdivisions within the territorial jurisdiction of a~~
8 ~~municipal planning commission outside the corporate limits of~~
9 ~~a municipality and shall be regulated and enforced by the~~
10 ~~county commission in the same manner and to the same extent as~~
11 ~~other subdivision development governed by the county's~~
12 ~~subdivision regulations. Notwithstanding the foregoing, a~~
13 ~~county commission and the municipal planning commission may~~
14 ~~enter into a written agreement providing that the municipal~~
15 ~~planning commission shall be responsible for the regulation~~
16 ~~and enforcement of the development of subdivisions within the~~
17 ~~territorial jurisdiction of the municipal planning commission~~
18 ~~under the terms and conditions of the agreement. In order to~~
19 ~~be effective, the agreement shall be approved by a resolution~~
20 ~~adopted by the county commission, the municipal governing~~
21 ~~body, and the municipal planning commission of the~~
22 ~~municipality, respectively.~~

23 ~~"(2) In those counties in which the county~~
24 ~~commission has adopted subdivision regulations pursuant to~~
25 ~~Chapter 24 and the municipal planning commission has been~~
26 ~~unsuccessful in reaching an agreement to exercise its~~
27 ~~jurisdiction as provided in subdivision (1), the governing~~

1 ~~body of the municipality and the municipal planning commission~~
2 ~~may override the county's enforcement of the regulation of~~
3 ~~subdivisions within the planning jurisdiction by fully~~
4 ~~complying with all of the following requirements:~~

5 ~~"a. The municipal governing body and the municipal~~
6 ~~planning commission shall each adopt separate resolutions~~
7 ~~expressing intent to exercise jurisdiction over the~~
8 ~~construction of subdivisions initiated after the effective~~
9 ~~date of the resolutions, despite the county commission's~~
10 ~~objections to the exercise of that authority.~~

11 ~~"b. The municipal planning commission shall at all~~
12 ~~times thereafter employ or contract with a licensed~~
13 ~~professional engineer who shall notify the county commission~~
14 ~~of the initiation of subdivisions; conduct inspections of the~~
15 ~~construction of the subdivision; and shall certify, in~~
16 ~~writing, the compliance with the subdivision regulations~~
17 ~~governing the development of the subdivision.~~

18 ~~"c. The county commission shall retain the authority~~
19 ~~to require a performance and maintenance bond from the~~
20 ~~developer, consistent with the requirements for the bonds in~~
21 ~~the county subdivision regulations, which shall be payable to~~
22 ~~the county.~~

23 ~~"d. The county commission shall retain the authority~~
24 ~~to execute on the bond to make necessary improvements to the~~
25 ~~public roads and drainage structures of the subdivision while~~
26 ~~it remains in the unincorporated area of the county.~~

1 ~~"e. The municipal governing body and the municipal~~
2 ~~planning commission exercising the authority granted in this~~
3 ~~subsection may thereafter withdraw their exercise of~~
4 ~~jurisdiction over future subdivisions located outside the~~
5 ~~corporate limits of the municipality after not less than six~~
6 ~~months' notice to the county commission. After withdrawal, the~~
7 ~~municipal planning commission of the municipality may not~~
8 ~~reinstate the authority granted in this subsection for 24~~
9 ~~months after the effective date of its withdrawal.~~

10 ~~"(d) If a county commission has not adopted~~
11 ~~subdivision regulations pursuant to Chapter 24, the municipal~~
12 ~~planning commission shall have sole jurisdiction for the~~
13 ~~regulation and enforcement of the development of subdivisions~~
14 ~~within the territorial jurisdiction of the municipal planning~~
15 ~~commission.~~

16 ~~"(e) If the municipal planning commission accepts~~
17 ~~responsibility for the development of a subdivision within its~~
18 ~~territorial jurisdiction as provided in subsection (c), the~~
19 ~~county commission shall not accept any roads or bridges within~~
20 ~~the subdivision for county maintenance unless the county~~
21 ~~engineer certifies to the county commission that the road or~~
22 ~~bridge meets the minimum road and bridge standards of the~~
23 ~~county. This section shall not apply to any roads or bridges~~
24 ~~which the county has accepted for maintenance prior to October~~
25 ~~1, 2012.~~

26 ~~"(f) If the county commission is responsible for the~~
27 ~~regulation and enforcement of a subdivision development within~~

1 ~~the territorial jurisdiction of a municipal planning~~
2 ~~commission outside the corporate limits of a municipality, the~~
3 ~~recording of any map or plat related to the subdivision shall~~
4 ~~be governed by Chapter 24.~~

5 ~~"(g) If the municipal planning commission is~~
6 ~~responsible for the regulation and enforcement of a~~
7 ~~subdivision development within the territorial jurisdiction of~~
8 ~~the municipal planning commission outside the corporate limits~~
9 ~~of the municipality, no map or plat of any subdivision shall~~
10 ~~be recorded, and no property shall be sold referenced to the~~
11 ~~map or plat, until and unless it has been first submitted to~~
12 ~~and approved by the municipal planning commission, pursuant to~~
13 ~~Section 11-52-32 and its adopted procedures, and then~~
14 ~~certified by the county engineer or his or her designee as~~
15 ~~follows within 30 days of being submitted to the county~~
16 ~~engineer: "The undersigned, as County Engineer of the County~~
17 ~~of _____ of Alabama, hereby certifies on this _____ day~~
18 ~~of _____, 20____, that the _____ Planning Commission~~
19 ~~approved the within plat for the recording of same in the~~
20 ~~Probate Office of _____ County, Alabama."~~

21 ~~"(h) Approval by the county engineer pursuant to~~
22 ~~this subsection shall not constitute approval in lieu of or on~~
23 ~~behalf of any municipality with respect to subdivision~~
24 ~~development regulated and enforced by the municipal planning~~
25 ~~commission, wherein all maps or plats must be first submitted~~
26 ~~to and approved by the municipal planning commission or other~~

1 ~~appropriate municipal agency exercising jurisdiction over the~~
2 ~~subdivision.~~

3 ~~"(i) Nothing in this section shall be interpreted as~~
4 ~~allowing a municipal planning commission or a municipality to~~
5 ~~exercise the power of eminent domain outside of its corporate~~
6 ~~limits.~~

7 ~~"(j) Nothing in this section shall be interpreted as~~
8 ~~allowing a municipal planning commission or a municipality to~~
9 ~~levy taxes or fees outside of its corporate limits.~~

10 ~~"(k) Nothing in this section shall limit or impair~~
11 ~~the authority of a municipality to regulate the construction~~
12 ~~of buildings within the police jurisdiction of the~~
13 ~~municipality, including, but not limited to, the issuing of~~
14 ~~building permits, the inspection of building construction, and~~
15 ~~the enforcement of building codes.~~

16 ~~"(l) Nothing in this section shall be construed to~~
17 ~~grant the county commission or county engineer the authority~~
18 ~~to regulate subdivision development or approve maps or plats~~
19 ~~for any developments within the corporate limits of a~~
20 ~~municipality."~~

21 Section 3. Section 11-51-90 and Section 11-51-206 of
22 the Code of Alabama 1975, are repealed.

23 Section 4. (a) Section 2 shall not apply to any
24 subdivision submitted to a municipal planning commission for
25 approval prior to the effective date of this act.

26 (b) Section 1 shall not be operative until October
27 1, 2020, in any police jurisdiction of a municipality

1 providing police and fire protection in the police
2 jurisdiction as it existed prior to October 1, 2019.

3 Section 5. This act shall be effective October 1,
4 2019, following its passage and approval by the Governor, or
5 its otherwise becoming law.