

1 SB207
2 171975-2
3 By Senator Whatley
4 RFD: County and Municipal Government
5 First Read: 11-FEB-16

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8 SYNOPSIS: Under existing law, neither a municipality
9 nor a municipal public industrial authority may
10 abate county taxes unless the municipality or
11 authority also abates the corresponding municipal
12 taxes.

13 This bill would clarify that the prohibition
14 was not intended to apply if the municipality does
15 not levy or impose one or more of the taxes to be
16 abated or if the property is outside of the taxing
17 jurisdiction of the municipality.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT
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23 To amend Section 40-9B-5 of the Code of Alabama
24 1975, as amended by Act 2015-24, 2015 Regular Session,
25 relating to the granting of abatement; to clarify that the
26 prohibitions contained in the section do not apply if the
27 municipality in question does not levy or impose one or more

1 of the taxes to be abated or the property is outside of the
2 taxing jurisdiction; and to provide for a retroactive
3 effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 40-9B-5 of the Code of Alabama
6 1975, as amended by Act 2015-24, 2015 Regular Session, is
7 amended to read as follows:

8 "§40-9B-5.

9 "(a) Subject to the geographical or jurisdictional
10 or other limitations specified in subsections (b), (c), and
11 (d), the governing body of a municipality, a county, or a
12 public industrial authority may grant abatements of all of the
13 taxes allowed to be abated under Section 40-9B-4 with respect
14 to private use industrial property.

15 "(b) (1) The abatements authorized to be granted
16 pursuant to subsection (a) for construction related
17 transaction taxes and for ad valorem taxes for a period not to
18 exceed 10 years may be granted:

19 "a. By the governing body of a municipality, with
20 respect to private use industrial property located within the
21 limits of the municipality or within the police jurisdiction
22 of the municipality; provided, however, that the governing
23 body shall not grant an abatement of any county taxes unless
24 the body has also abated the corresponding municipal taxes;
25 provided further, however, that the foregoing prohibition
26 shall not apply in either of the following cases:

1 "1. The municipality does not levy or impose one or
2 more of the taxes to be abated.

3 "2. The municipality is precluded from collecting
4 one or more of the taxes because the private use industrial
5 property is located outside of the taxing jurisdiction of the
6 municipality.

7 "b. By the governing body of a county, with respect
8 to private use industrial property located in the county and
9 not within a municipality or the police jurisdiction of a
10 municipality, unless consented to by resolution of the
11 governing body of the municipality.

12 "c. By the governing body of a public industrial
13 authority, with respect to private use industrial property
14 located within the jurisdiction of the public industrial
15 authority; provided, however, that any municipal public
16 industrial authority shall not grant an abatement of any
17 county taxes unless the authority has also abated the
18 corresponding municipal taxes; provided further, however, that
19 the foregoing prohibition shall not apply in either of the
20 following cases:

21 "1. The municipality does not levy or impose one or
22 more of the taxes to be abated.

23 "2. The municipality is precluded from collecting
24 one or more of the taxes because the private use industrial
25 property is located outside of the taxing jurisdiction of the
26 municipality.

1 "(2) The abatements authorized to be granted
2 pursuant to subsection (a) for ad valorem taxes for a period
3 longer than 10 years may be granted:

4 "a. By the governing body of a municipality, with
5 respect to private use industrial property located within the
6 limits of the municipality or within the police jurisdiction
7 of the municipality, but only as to municipal noneducational
8 taxes.

9 "b. By the governing body of a county, with respect
10 to private use industrial property located in the county, but
11 only as to county noneducational taxes.

12 "c. By the Governor, with respect to private use
13 industrial property located in the state, but only as to state
14 taxes.

15 "The governing body of a county and a municipality
16 may separately authorize one or more public industrial
17 authorities to provide by resolution for such consent on its
18 behalf.

19 "(3) Notwithstanding the provisions of this
20 subsection, abatements authorized to be granted pursuant to
21 subsection (a) for data processing centers may be granted in
22 accordance with subdivision (1) without regard to the time
23 limitation stated in subdivision (1).

24 "(c) If a tax is abated pursuant to this chapter,
25 any payment, contribution, or other financial or in-kind award
26 received from a private user or related party shall be divided
27 between the parties whose taxes were abated based upon the tax

1 proceeds which would have been paid if the taxes had not been
2 abated, unless the party receiving such award can prove that
3 the award was not related to the granting of any abatement.

4 "(d) Any abatement of county taxes granted by a
5 municipality or municipal industrial authority shall not be
6 valid until the expiration of (1) 10 days following the date
7 of physical delivery to the county commission or (2) 13 days
8 following the date of mailing by certified mail to the county
9 commission of a copy of the resolution granting such
10 abatement. Proof of delivery by affidavit of service, in the
11 case of physical delivery, or by certified mail receipt, in
12 the case of mailing by certified mail, shall be furnished to
13 the Department of Revenue at the same time as the filing of
14 the abatement agreement under Section 40-9B-6. If the
15 procedures herein prescribed are followed, any such abatement
16 shall be effective as of the date granted."

17 Section 2. This act shall become effective
18 retroactive to April 4, 2002, following its passage and
19 approval by the Governor, or its otherwise becoming law.