

1 SB336
2 174357-1
3 By Senator Sanford
4 RFD: County and Municipal Government
5 First Read: 08-MAR-16

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8 SYNOPSIS: Under existing law, in all counties having a
9 population of 600,000 or more inhabitants, the
10 county planning and zoning commission has certain
11 powers and duties, including certain territorial
12 jurisdiction limitations and the county commission
13 of the county may establish minimum specifications
14 and regulations governing the lay-out, grading, and
15 paving of all streets, avenues, and alleys and the
16 construction or installation of all water, sewer,
17 or drainage pipes or lines in any subdivision.

18 This bill would reduce the population
19 threshold to 300,000 or more inhabitants and would
20 remove certain exceptions relating to the exercise
21 of certain zoning jurisdiction and control by
22 municipalities.

23 This bill would also remove certain
24 provisions allowing the governing body of a
25 municipality and the municipal planning commission
26 to override the county's enforcement of the

1 regulation of subdivisions within the planning
2 jurisdiction under certain conditions.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

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8 Relating to planning and zoning; to amend Section
9 11-52-30, Code of Alabama 1975, as last amended by Act
10 2015-361, 2015 Regular Session, to revise the jurisdictional
11 limits of county planning and zoning commissions; to remove
12 certain exceptions relating to the exercise of certain zoning
13 jurisdiction and control by municipalities; and to remove
14 certain provisions allowing the governing body of a
15 municipality and the municipal planning commission to override
16 the county's enforcement of the regulation of subdivisions
17 within the planning jurisdiction under certain conditions.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 11-52-30, Code of Alabama 1975,
20 as last amended by Act 2015-361, 2015 Regular Session, is
21 amended to read as follows:

22 "§11-52-30.

23 "(a) Except as otherwise provided herein, the
24 territorial jurisdiction of any municipal planning commission
25 shall include all land located in the municipality and all
26 land lying within five miles of the corporate limits of the
27 municipality and not located in any other municipality; except

1 that, in the case of any nonmunicipal land lying within five
2 miles of more than one municipality having a municipal
3 planning commission, the jurisdiction of each municipal
4 planning commission shall terminate at a boundary line
5 equidistant from the respective corporate limits of such
6 municipalities. Any alterations of a municipal planning
7 commission based upon annexation or deannexation of property
8 within the corporate limits of a municipality shall occur once
9 a year on the first day of January and shall take effect for
10 any annexations which were finalized on or before the
11 preceding first day of October. In all counties having a
12 population of ~~600,000~~ 300,000 or more according to the 1950
13 federal census or any succeeding decennial federal census, the
14 county planning and zoning commission shall be invested with
15 the authority, ~~except and unless the municipality or~~
16 ~~municipalities in question are actively exercising zoning~~
17 ~~jurisdiction and control within the police or five mile~~
18 ~~jurisdiction or, in the case of a municipality subsequently~~
19 ~~incorporated, within 180 days from the date of its~~
20 ~~incorporation~~; provided, further, that in all counties having
21 a population of ~~600,000~~ 300,000 or more inhabitants according
22 to the 1950 federal census or any succeeding decennial federal
23 census, the county commission of the county may establish
24 minimum specifications and regulations governing the lay-out,
25 grading, and paving of all streets, avenues, and alleys and
26 the construction or installation of all water, sewer, or
27 drainage pipes or lines in any subdivision lying wholly or

1 partly in areas outside the corporate limits of any
2 municipality in the counties and relating to subdivisions
3 lying within the corporate limits of any municipality in the
4 counties which has declined or failed to exercise zoning
5 jurisdiction and control as provided in this section.

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

1 roads annexed into the municipality under certain
2 circumstances.

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

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

1 may override the county's enforcement of the regulation of
2 subdivisions within the planning jurisdiction by fully
3 complying with all of the following requirements:

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

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

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

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

26 "e. The municipal governing body and the municipal
27 planning commission exercising the authority granted in this

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

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

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

24 "(f) If the county commission is responsible for the
25 regulation and enforcement of a subdivision development within
26 the territorial jurisdiction of a municipal planning
27 commission outside the corporate limits of a municipality, the

1 recording of any map or plat related to the subdivision shall
2 be governed by Chapter 24.

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

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

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

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

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

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

19 Section 2. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.