

1                   HB690  
2                   141048-1  
3                   By Representative McMillan  
4                   RFD: County and Municipal Government  
5                   First Read: 17-APR-12

8 SYNOPSIS: Under existing law, the territorial  
9 jurisdiction of a municipal planning commission  
10 over the subdivision of land generally extends to  
11 land within five miles of the corporate limits of  
12 the municipality. However, in counties having a  
13 population of 600,000 or more according to the 1950  
14 federal decennial census, or a succeeding federal  
15 decennial census, under certain conditions, the  
16 county planning and zoning commission or the county  
17 commission performs certain functions relating to  
18 planning and subdivisions.

19 This bill would change the population for  
20 the exceptions to apply to counties having a  
21 population of 400,000 or more according to the 2010  
22 federal decennial census or a succeeding federal  
23 decennial census.

24  
25 A BILL  
26  
27 TO BE ENTITLED

AN ACT

To amend Section 11-52-30 of the Code of Alabama 1975, relating to municipal planning commissions and the jurisdiction of municipal planning commissions outside of the corporate limits of municipalities, to further provide for exceptions for counties having a population of 400,000 or more inhabitants according to the 2010 federal decennial census or a succeeding federal decennial census.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 11-52-30 of the Code of Alabama 1975, is amended to read as follows:

"§11-52-30.

"(a) The territorial jurisdiction of any municipal planning commission over the subdivision of land shall include all land located in the municipality and all land lying within five miles of the corporate limits of the municipality and not located in any other municipality; except that, in the case of any nonmunicipal land lying within five miles of more than one municipality having a planning commission, the jurisdiction of each municipal planning commission shall terminate at a boundary line equidistant from the respective corporate limits of such municipalities; provided further, that in all counties having a population of ~~600,000~~ 400,000 or more according to the ~~1950~~ 2010 federal census or any succeeding decennial federal census, the county planning and zoning commission shall be invested with such authority, except and unless the municipality or municipalities in question are actively

1 exercising zoning jurisdiction and control within the police  
2 or five mile jurisdiction or, in the case of a municipality  
3 subsequently incorporated, within 180 days from the date of  
4 its incorporation; provided, further, that in all counties  
5 having a population of ~~600,000~~ 400,000 or more inhabitants  
6 according to the ~~1950~~ 2010 federal census or any succeeding  
7 decennial federal census, the county commission of such county  
8 may establish minimum specifications and regulations governing  
9 the lay-out, grading, and paving of all streets, avenues, and  
10 alleys and the construction or installation of all water,  
11 sewer, or drainage pipes or lines in any subdivision lying  
12 wholly or partly in areas outside the corporate limits of any  
13 municipality in the counties and relating to subdivisions  
14 lying within the corporate limits of any municipality in the  
15 counties which has declined or failed to exercise zoning  
16 jurisdiction and control as provided in this section.

17                   "(b) A municipal planning commission, by properly  
18 adopted regulation, may provide that the territorial  
19 jurisdiction of the municipal planning commission over the  
20 subdivision of land shall include all land lying within an  
21 area less than the five miles permitted by this section. The  
22 regulation shall establish the territory within which the  
23 planning commission will exercise jurisdiction over the  
24 subdivision of land to a boundary line equidistant from the  
25 corporate limits of the municipality, except, that in the case  
26 of any nonmunicipal land lying within the territorial  
27 jurisdiction of more than one municipality with a planning

1 commission exercising jurisdiction over the subdivision of  
2 land outside the municipal corporate limits, the jurisdiction  
3 of each planning commission shall terminate at a boundary line  
4 equidistant from the respective corporate limits of each  
5 municipality. A copy of the resolution altering the  
6 territorial jurisdiction shall be forwarded to the county  
7 commission within five days of adoption. Additionally, nothing  
8 in this subsection shall be construed to alter the provisions  
9 of Article 5 of Chapter 49, which require a municipality to  
10 assume responsibility for roads annexed into the municipality  
11 under certain circumstances.

12 "(c) No map or plat of any subdivision shall be  
13 recorded, and no property shall be sold referenced to such map  
14 or plat, until and unless it has been first submitted to and  
15 approved by the county engineer or, in his or her absence, by  
16 the acting county engineer of the county, who shall examine  
17 same for compliance with the specifications and regulations of  
18 the county commission of the county and, if it is in  
19 compliance, shall note his or her approval on the map or plat  
20 by noting thereon "approved," giving the date of approval and  
21 signing same in his or her official capacity.

22 "(d) Where any subdivision lies within the  
23 extraterritorial planning jurisdiction of any municipality  
24 having exercised extraterritorial jurisdiction, the  
25 requirement for approval of improvements in the subdivision by  
26 the county engineer shall in no way diminish, waive, or  
27 otherwise lessen the requirements of the municipality. The

1 more strict requirements, whether of the municipality or of  
2 the county, must be complied with by the developer. Approval  
3 by the county engineer shall in no way constitute approval in  
4 lieu of or on behalf of any municipality with respect to  
5 subdivisions lying within its extraterritorial planning  
6 jurisdiction. All maps or plats must be first submitted to and  
7 approved by the municipal planning commission or other  
8 appropriate municipal agency exercising jurisdiction over any  
9 subdivision lying within the extraterritorial planning  
10 jurisdiction and, following approval by such municipal  
11 planning commission, must then be approved by the county  
12 engineer or, in his or her absence, by the acting county  
13 engineer.

14                         "(e) Nothing in this section shall be interpreted as  
15 allowing a municipal planning commission or a municipality to  
16 exercise the power of eminent domain outside of its corporate  
17 limits.

18                         "(f) Nothing in this section shall be interpreted as  
19 allowing a municipal planning commission or a municipality to  
20 levy taxes or fees outside of its corporate limits."

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