

1 SB297
2 135878-1
3 By Senator Waggoner
4 RFD: Governmental Affairs
5 First Read: 14-FEB-12

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8 SYNOPSIS: Under existing law, any attempted
9 incorporation of a municipality prior to June 13,
10 2007, which may have had some irregularity in the
11 procedures for incorporation has been validated.

12 This bill would extend the date of
13 validation of any attempted incorporation of a
14 municipality to the effective date of the enactment
15 of this bill.

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17 A BILL
18 TO BE ENTITLED
19 AN ACT
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21 To amend Section 11-41-8 of the Code of Alabama
22 1975, to further provide for the validation of any prior
23 incorporations of municipalities.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 11-41-8 of the Code of Alabama
26 1975, is amended to read as follows:

27 "§11-41-8.

1 "(a) In all cases prior to ~~June 13, 2007~~ the
2 effective date of the act adding this language, where there
3 has been an attempt to organize the inhabitants of any
4 territory as a municipal corporation under this article, and
5 the judge of probate of the county in which the territory is
6 situated has entered an order that the inhabitants of the
7 territory are incorporated as a town or city, as the case may
8 be, pursuant to Section 11-41-4, but the attempted
9 incorporation is invalid because of some irregularity in the
10 procedure followed, the incorporation of that municipality so
11 attempted to be organized and with respect to which the order
12 has been made is validated ab initio in accordance with the
13 description of the territory attempted to be incorporated as
14 the description is contained in the order or, if the
15 description of the territory attempted to be incorporated is
16 not contained in the order in accordance with the description
17 of the territory contained in the petition of the electors
18 filed with the judge of probate, notwithstanding any failure
19 to comply with the requirements respecting the signatures to
20 or contents of the petition for incorporation, any
21 irregularities as to publication or posting, or any other
22 failure to comply with the procedures set forth in that
23 article or otherwise required by law. This section shall not
24 apply to the incorporation of any municipality held to be
25 invalid by a court of competent jurisdiction by judgment
26 entered prior to ~~June 13, 2007~~ the effective date of the act

1 adding this language, or in any matter where litigation is
2 pending relating to the incorporation of the municipality.

3 "(b) In addition to the provisions of subsection
4 (a), in all cases in which there has been after the year 1990,
5 an attempt to organize the inhabitants of any territory as a
6 municipal corporation under the laws of this state and the
7 judge of probate of the county in which the territory is
8 situated has entered an order that the inhabitants of the
9 territory are incorporated as a town or city, as the case may
10 be, the incorporation is hereby validated ab initio, and any
11 extensions or other alterations of the corporate limits of the
12 municipality which occurred prior to May 29, 2008, are also
13 validated ab initio and the territory is confirmed as a part
14 of the corporate limits of the municipality, any law to the
15 contrary notwithstanding. Any municipality validated pursuant
16 to this subsection, including any extensions or alterations of
17 the corporate limits, shall be subject to provisions in
18 Sections 11-41-1 and 11-49-80 with regard to assuming
19 responsibility to control, manage, supervise, regulate,
20 repair, maintain, and improve all public streets or parts
21 thereof lying within the incorporated limits. This subsection
22 shall not apply to the incorporation of any municipality held
23 to be invalid in a court of competent jurisdiction by judgment
24 entered prior to May 29, 2008, or in a matter where litigation
25 is pending on May 29, 2008, relating to the incorporation of
26 the municipality, or to any extension or alteration of its
27 corporate limits which occurred prior to May 29, 2008, where

1 litigation is pending on the incorporation prior to May 29,
2 2008."

3 Section 2. This act shall become effective
4 immediately upon its passage and approval by the Governor, or
5 its otherwise becoming law.