

1 SB96
2 164479-3
3 By Senator Chambliss
4 RFD: County and Municipal Government
5 First Read: 03-MAR-15

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 To amend Sections 11-1-10, 11-3-5, 11-30-1,
12 11-49-80, and 11-98-4, Code of Alabama 1975, relating to
13 county government; to authorize counties to contract with
14 municipalities; to clarify provisions related to contracts
15 with related family and business interests; to authorize
16 counties to self-fund property insurance; to further provide
17 for maintenance of roads annexed by a municipality; and to
18 provide for bonding of emergency communication district
19 employees.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 11-1-10, 11-3-5, 11-30-1,
22 11-49-80, and 11-98-4, Code of Alabama 1975, are amended to
23 read as follows:

24 "§11-1-10.

25 "(a) The county commission in addition to all other
26 powers and authority is hereby authorized and empowered to
27 enter into contracts, leases, compacts, or any other form of

1 agreement with the United States of America or any of its
2 agencies, departments, bureaus, divisions, or institutions,
3 with the State of Alabama or any of its agencies, departments,
4 bureaus, divisions, or institutions and with any other county
5 or municipality within or without the state for the purpose of
6 receiving or acquiring funds, matching funds, services,
7 materials, supplies, buildings, structures, waterways and
8 docking facilities, and any and all other benefits deemed for
9 the public interest in the promotion of industrial,
10 agricultural, recreational, or any other beneficial
11 development.

12 " (b) ~~Such~~ The contracts, leases, compacts, or other
13 forms of agreement may contain such covenants and
14 considerations as considered reasonable and necessary and for
15 public use only, including, but not limited to, contributions
16 by the county either in funds or materials, supplies,
17 machinery, services, labor, rights-of-way, easements,
18 buildings, terminals, and related facilities for waterway
19 improvements and expansion and may contain ~~such~~ other
20 provisions ~~of maintenance, indemnification, and utility~~
21 ~~facilities as may be~~ required by the contracting agencies to
22 provide a useful and feasible development for use by the
23 public.

24 "§11-3-5.

25 "Any (a) Except where a contract for goods or
26 services is competitively bid regardless of whether bidding is
27 required under Alabama's competitive bid law, no member of any

1 county commission ~~who~~ and no business with which any county
2 commissioner is associated shall award be a party to any
3 contract in which with the county of such commissioner is
4 interested commission on which he or she serves. Except where
5 a contract for goods or services is competitively bid
6 regardless of whether bidding is required under Alabama's
7 competitive bid law, no county commission shall award any
8 contract to any person related either by blood or marriage
9 within the fourth degree to such a family member of a county
10 commissioner. Under no circumstances shall a county
11 commissioner participate in the bid preparation or review of a
12 bid received from the county commissioner, a business with
13 which he or she is associated, or a family member of the
14 county commissioner and a county commissioner shall not
15 deliberate or vote on acceptance of a bid submitted by the
16 county commissioner, a business with which he or she is
17 associated, or a family member of the county commissioner. (b)
18 No county commissioner or who shall employ any such relative a
19 family member to do any work for said the county or to act as
20 agent for any such member in any work in which such county is
21 interested; provided, however, the family member of a county
22 commissioner may be employed by the county if the family
23 member is hired pursuant to a county personnel policy that
24 does not require a vote of the county commission or if the
25 county commissioner does not participate in the hiring process
26 through recommendation, deliberation, vote, or otherwise. (c)
27 Any county commissioner in violation of this section shall be

1 guilty of a misdemeanor ~~and, on conviction, shall be fined not~~
2 ~~less than \$10.00 nor more than \$100.00.~~ In compliance with
3 Section 36-25-11, any contract executed with a member of the
4 county commission or with a business with which a county
5 commissioner is associated shall be filed with the Ethics
6 Commission within 10 days after the contract has been
7 executed. Any contract executed in violation of this section
8 shall be void by operation of law and any person employed by
9 the county in violation of this section shall forfeit his or
10 her employment by operation of law. For the purposes of this
11 section, the definition of "family member" shall be the same
12 as the definition in subdivision (15) of Section 36-25-1 for
13 the family member of a public official.

14 "§11-30-1.

15 "For the purpose of this chapter the following terms
16 shall have the meanings subscribed to them by this section:

17 "(1) LIABILITY SELF-INSURANCE FUND. An entity or
18 entities, to be formed by two or more counties of Alabama for
19 the purpose of pooling resources and funds to self-insure such
20 counties and/or their officers and employees acting in the
21 line and scope of their employment against:

22 "a. loss Loss for money damages which any person or
23 other entity is legally entitled to recover from a member
24 county or its officers and employees for damages suffered as a
25 result of a claim as defined under this chapter.

26 "b. Damage to or loss of property owned or leased by
27 a member county.

1 "(2) MEMBER COUNTY. A county which elects to pool
2 its resources and funds with one or more other counties for
3 the purpose of forming a liability self-insurance fund.

4 "(3) CLAIM. Any claim or suit filed against a member
5 county ~~or suit against a member county~~ for money damages which
6 any person or other entity is legally entitled to recover for
7 damages suffered as a result of bodily injury, death or
8 property damage caused by a negligent or wrongful act or
9 omission committed by any employee, officer, or servant of the
10 member county while acting within the line and scope of his
11 employment under circumstances where the member county would
12 be liable to the claimant for such damages under the laws of
13 the State of Alabama or any claim filed by a member county for
14 damage to or loss of county property covered by the liability
15 self-insurance fund.

16 "§11-49-80.

17 "(a) For the purposes of this article, the following
18 terms shall have the following meanings:

19 "(1) COUNTY-MAINTAINED STREET. A public street,
20 road, or bridge that the county commission has the authority
21 or responsibility to control, manage, supervise, regulate,
22 repair, maintain, or improve.

23 "(2) MUNICIPAL STREET. A public street, road, or
24 bridge that the municipality has the authority or
25 responsibility to control, manage, supervise, regulate,
26 repair, maintain, or improve.

1 "(3) RESPONSIBILITY FOR A STREET. The authority or
2 responsibility to control, manage, supervise, regulate,
3 repair, maintain, or improve a public street, road, or bridge.

4 "(4) STREET. A public street, road, bridge, or
5 portion thereof.

6 "~~(a)(b)~~ Where the ~~authority to control, manage,~~
7 ~~supervise, regulate, repair, maintain, and improve~~
8 ~~responsibility for a public street or streets or part thereof~~
9 ~~lying within a municipal corporation~~ municipality is vested in
10 the county commission of the county within which ~~a municipal~~
11 ~~corporation~~ the municipality is located, ~~a municipal~~
12 ~~corporation~~ the municipality may ~~resume or take over the~~
13 ~~authority to control, manage, supervise, repair, maintain, and~~
14 ~~improve such~~ assume responsibility for the public street or
15 ~~streets or part thereof~~ designated in the resolution adopted
16 by the governing body of ~~a municipal corporation to resume or~~
17 ~~take over such authority~~ the municipality.

18 "~~(b)(c)~~ Notwithstanding the adoption of a resolution
19 as required in Sections 11-49-80 and 11-49-81, the annexation
20 of unincorporated territory into a municipality, after July 7,
21 1995, shall result in the municipality assuming responsibility
22 ~~to control, manage, supervise, regulate, repair, maintain, and~~
23 ~~improve~~ for all public streets ~~or parts thereof~~ lying within
24 the territory annexed, provided ~~such~~ the public streets ~~or~~
25 ~~parts thereof~~ were controlled, managed, supervised,
26 regulated, repaired, maintained, and improved by the county
27 county-maintained streets for a period of one year prior to

1 the effective date of the annexation. The annexation of
2 unincorporated territory into a municipality shall also result
3 in the municipality assuming responsibility ~~to control,~~
4 ~~manage, supervise, regulate, repair, maintain, and improve~~ for
5 all public streets ~~or parts thereof~~ lying within the territory
6 annexed, provided ~~such~~ the public streets ~~or parts thereof~~
7 were dedicated to, ~~accepted by, and were controlled, managed,~~
8 ~~supervised, regulated, repaired, maintained, and improved by~~
9 ~~the county~~ county-maintained roads for a period of less than
10 one year prior to the effective date of the annexation ~~when~~
11 ~~such~~ if the construction of the public streets ~~or parts~~
12 ~~thereof~~ were also approved ~~upon construction~~ by the municipal
13 planning commission of the annexing municipality. Except as
14 herein provided, this section shall not require a municipality
15 to assume responsibility ~~to control, manage, supervise,~~
16 ~~regulate, repair, maintain, or improve~~ for any public street
17 ~~or part thereof~~ located within the territory annexed which was
18 not being ~~controlled, managed, supervised, regulated,~~
19 ~~repaired, maintained, and improved by the county~~ a
20 county-maintained street prior to the effective date of the
21 annexation. Further, nothing in this section shall require a
22 county to assume responsibility ~~to control, manage, supervise,~~
23 ~~regulate, repair, maintain, or improve~~ for any public street
24 ~~or part thereof~~ located within the territory annexed which was
25 not being ~~controlled, managed, supervised, regulated,~~
26 ~~repaired, maintained, and improved by the county~~ a

1 county-maintained street prior to the effective date of the
2 annexation.

3 ~~"(c)(d)~~ After July 7, 1995, when the annexation of
4 unincorporated territory by a municipality results in a public
5 street ~~or part thereof which was dedicated to, accepted by,~~
6 ~~and was controlled, managed, supervised, regulated, repaired,~~
7 ~~maintained, and improved by the county for a period of one~~
8 ~~year prior to the effective date of the annexation, or for a~~
9 ~~period of less than one year prior to the effective date of~~
10 ~~the annexation when such public street or part thereof was~~
11 ~~approved upon construction by the municipal planning~~
12 ~~commission,~~ being located outside the corporate limits of the
13 annexing municipality while at the same time bounded on both
14 sides by the corporate limits of the annexing municipality,
15 the county governing body shall consent to the annexation of
16 such the public street or part thereof by the municipality if
17 the street was a county-maintained street for a period of one
18 year prior to the effective date of the annexation or was
19 approved upon construction by the municipal planning
20 commission. Once consent to annexation is given by the owners
21 of ~~such the public street or part thereof to annexation by the~~
22 ~~municipality,~~ the municipality shall annex that portion of the
23 public street ~~or part thereof~~ which is bounded on both sides
24 by the municipal corporate limits. Once ~~such the~~ annexation
25 becomes effective, the municipality shall assume
26 responsibility for the public street ~~or part thereof~~ as
27 provided in subsection ~~(b), above~~ (c).

1 "~~(d)~~(e) The responsibility for ~~the control,~~
2 ~~management, supervision, regulation, repair, maintenance, or~~
3 ~~improvement of~~ public streets ~~or parts thereof~~ lying within
4 the corporate limits of an incorporated municipality on July
5 7, 1995, shall remain the responsibility of the entity
6 responsible for ~~such~~ the public streets ~~or parts thereof~~ on
7 July 7, 1995.

8 "~~(e)~~(f) Nothing contained in Sections 11-49-80 and
9 11-49-81 shall prohibit a county and municipality from
10 entering into a mutual agreement providing for an alternative
11 arrangement for ~~the control, management, supervision,~~
12 ~~regulation, repair, maintenance, or improvement~~ responsibility
13 of public streets ~~or parts thereof~~ lying within the corporate
14 limits of an incorporated municipality.

15 "(g) A county-maintained divided four-lane public
16 street that has been designed or designated by the county or
17 Governor as an evacuation route to be utilized under emergency
18 conditions found in Chapter 9, Title 31, may not be annexed by
19 a municipality, regulated by a municipal planning commission,
20 nor considered a part of the police jurisdiction of any
21 municipality except where there is a mutual agreement between
22 a county and municipality providing otherwise.

23 Nothing in this subsection shall prevent a
24 municipality from annexing territory on either side of the
25 evacuation route that would otherwise be considered contiguous
26 for the purpose of annexation under any provision of Alabama
27 law.

1 "§11-98-4.

2 "(a) When any district is created, the creating
3 authority may appoint a board of commissioners composed of
4 seven members to govern its affairs, and shall fix the
5 domicile of the board of commissioners at any point within the
6 district. In the case of county districts, after the
7 expiration of the terms of the members of the board of
8 commissioners holding office on May 23, 2000, there may be at
9 least one member of the board of commissioners from each
10 county commission district if the number of the county
11 commission does not exceed seven, unless a resolution dated
12 before January 1, 2000, was passed by a county commission
13 establishing an appointment process different from this
14 section or as otherwise provided by the enactment of a local
15 act after May 23, 2000. The members of the board of
16 commissioners shall be qualified electors of the district, two
17 of whom shall be appointed for terms of two years, three for
18 terms of three years, and two for terms of four years, dating
19 from the date of the adoption of the resolution or ordinance
20 creating the district. Thereafter, all appointments of the
21 members shall be for terms of four years.

22 "(b) The board of commissioners shall have complete
23 and sole authority to appoint a chairman and any other
24 officers it may deem necessary from among the membership of
25 the board of commissioners.

1 "(c) A majority of the board of commissioners
2 membership shall constitute a quorum and all official action
3 of the board of commissioners shall require a quorum.

4 "(d) The board of commissioners may employ such
5 employees, experts, and consultants as it deems necessary to
6 assist the board of commissioners in the discharge of its
7 responsibilities to the extent that funds are made available.

8 "(e) In lieu of appointing a board of commissioners,
9 the governing body of the creating authority may serve as the
10 board of commissioners of the district, in which case it shall
11 assume all the powers and duties of the board of commissioners
12 as provided in this chapter.

13 "(f) In addition to other authority and powers
14 necessary to establish, operate, maintain, and replace an
15 emergency communication system, the board of commissioners
16 shall have the following authority:

17 "(1) To sue and be sued, to prosecute, and defend
18 civil actions in any court having jurisdiction of the subject
19 matter and of the parties.

20 "(2) To acquire or dispose of, whether by purchase,
21 sale, gift, lease, devise, or otherwise, property of every
22 description that the board may deem necessary, consistent with
23 this section, and to hold title thereto.

24 "(3) To construct, enlarge, equip, improve,
25 maintain, and operate all aspects of an emergency
26 communication system consistent with subsection (a) of Section
27 11-98-6.

1 "(4) To borrow money for any of its purposes.

2 "(5) To provide for such liability and hazard
3 insurance as the board of commissioners may deem advisable to
4 include inclusion and continuation, or both, of district
5 employees in state, county, municipal, or self-funded
6 liability insurance programs.

7 "(6) To enter into contracts or agreements with
8 public or private safety agencies for dispatch services when
9 such terms, conditions, and charges are mutually agreed upon,
10 unless otherwise provided by local law.

11 "(7) To make grants to municipalities for
12 dispatching equipment and services.

13 "(g) The board of commissioners may elect to form a
14 nonprofit, public corporation with all of the powers and
15 authority vested in such political and legal entities. The
16 certificate of incorporation shall recite, in part:

17 "(1) That this is a nonprofit, public corporation
18 and is a political and legal subdivision of the State of
19 Alabama as defined in this chapter.

20 "(2) The location of its principal office.

21 "(3) The name of the corporation.

22 "(4) That the governing body is the board of
23 commissioners.

24 "(h) Any other provisions of this chapter
25 notwithstanding, the board of commissioners shall present to
26 the creating authority for approval the acquisition,
27 disposition, or improvements to real property.

1 "(i) In addition to the provisions of subdivision
2 (5) of subsection (f), each ~~employee or official of the~~
3 ~~district who receives funds or is involved in the disbursement~~
4 ~~of funds in any manner~~ member of the board of commissioners
5 and each director of an emergency communication district shall
6 be bonded in an amount ~~not less than the amount~~ equal to
7 one-half of one percent of the total funds received by the
8 district in the prior fiscal year except the amount of the
9 bond for any persons required to be bonded, the bond shall not
10 be less than ten thousand dollars (\$10,000) nor exceed fifty
11 thousand dollars (\$50,000). The board of commissioners may
12 require other employees to be bonded in an amount set by the
13 board and made payable to the district. The bonds shall be
14 paid for by the district, and a copy shall be on file at the
15 offices of the district and at the office of the judge of
16 probate of the county in which the district is incorporated.
17 In the event the governing body of the creating authority
18 serves as the board of commissioners of the district, each
19 member of the board may combine the bond required herein with
20 the bond required for service on the creating authority
21 provided both the creating authority and the emergency
22 communication district are adequately protected in the event
23 of forfeiture and the portion of the bond payment required
24 pursuant to this section is paid by the district."

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

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Senate

Read for the first time and referred to
the Senate committee on County and Municipal Gov-
ernment 03-MAR-15

Read for the second time and placed on
the calendar 1 amendment..... 05-MAR-15

Read for the third time and passed as
amended 18-MAR-15

Yeas 30
Nays 0

Patrick Harris
Secretary