

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

1 SB96

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3
4 ENROLLED, An Act,

5 To amend Sections 11-1-10, 11-3-5, 11-30-1,
6 11-49-80, and 11-98-4, Code of Alabama 1975, relating to
7 county government; to authorize counties to contract with
8 municipalities; to clarify provisions related to contracts
9 with related family and business interests; to authorize
10 counties to self-fund property insurance; to further provide
11 for maintenance of roads annexed by a municipality; and to
12 provide for bonding of emergency communication district
13 employees.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 11-1-10, 11-3-5, 11-30-1,
16 11-49-80, and 11-98-4, Code of Alabama 1975, are amended to
17 read as follows:

18 "§11-1-10.

19 "(a) The county commission in addition to all other
20 powers and authority is hereby authorized and empowered to
21 enter into contracts, leases, compacts, or any other form of
22 agreement with the United States of America or any of its
23 agencies, departments, bureaus, divisions, or institutions,
24 with the State of Alabama or any of its agencies, departments,
25 bureaus, divisions, or institutions and with any other county

1 or municipality within or without the state for the purpose of
2 receiving or acquiring funds, matching funds, services,
3 materials, supplies, buildings, structures, waterways and
4 docking facilities, and any and all other benefits deemed for
5 the public interest in the promotion of industrial,
6 agricultural, recreational, or any other beneficial
7 development.

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

20 "§11-3-5.

21 "Any (a) Except where a contract for goods or
22 services is competitively bid regardless of whether bidding is
23 required under Alabama's competitive bid law, no member of any
24 county commission ~~who~~ and no business with which any county
25 commissioner is associated shall award be a party to any

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

1 guilty of a Class A misdemeanor ~~and, on conviction, shall be~~
2 ~~fined not less than \$10.00 nor more than \$100.00. In~~
3 compliance with Section 36-25-11, any contract executed with a
4 member of the county commission or with a business with which
5 a county commissioner is associated shall be filed with the
6 Ethics 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.

1 "b. Damage to or loss of property owned or leased by
2 a member county.

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

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

18 "§11-49-80.

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

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

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

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

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

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

22 "~~(b)(c)~~ Notwithstanding the adoption of a resolution
23 as required in Sections 11-49-80 and 11-49-81, the annexation
24 of unincorporated territory into a municipality, after July 7,
25 1995, shall result in the municipality assuming responsibility

1 ~~to control, manage, supervise, regulate, repair, maintain, and~~
2 ~~improve for~~ all public streets ~~or parts thereof~~ lying within
3 the territory annexed, provided ~~such the~~ public streets ~~or~~
4 ~~parts thereof~~ were controlled, managed, supervised,
5 regulated, repaired, maintained, and improved by the county
6 county-maintained streets for a period of one year prior to
7 the effective date of the annexation. The annexation of
8 unincorporated territory into a municipality shall also result
9 in the municipality assuming responsibility ~~to control,~~
10 ~~manage, supervise, regulate, repair, maintain, and improve for~~
11 all public streets ~~or parts thereof~~ lying within the territory
12 annexed, provided ~~such the~~ public streets ~~or parts thereof~~
13 were dedicated to, accepted by, and were controlled, managed,
14 supervised, regulated, repaired, maintained, and improved by
15 the county county-maintained roads for a period of less than
16 one year prior to the effective date of the annexation ~~when~~
17 ~~such if the construction of the~~ public streets ~~or parts~~
18 ~~thereof~~ were also approved ~~upon construction~~ by the municipal
19 planning commission of the annexing municipality. Except as
20 herein provided, this section shall not require a municipality
21 to assume responsibility ~~to control, manage, supervise,~~
22 ~~regulate, repair, maintain, or improve for~~ any public street
23 ~~or part thereof~~ located within the territory annexed which was
24 not being controlled, managed, supervised, regulated,
25 repaired, maintained, and improved by the county a

1 county-maintained street prior to the effective date of the
2 annexation. Further, nothing in this section shall require a
3 county to assume responsibility ~~to control, manage, supervise,~~
4 ~~regulate, repair, maintain, or improve~~ for any public street
5 ~~or part thereof~~ located within the territory annexed which was
6 not being ~~controlled, managed, supervised, regulated,~~
7 ~~repaired, maintained, and improved by the county~~ a
8 county-maintained street prior to the effective date of the
9 annexation.

10 "(c)(d) After July 7, 1995, when the annexation of
11 unincorporated territory by a municipality results in a public
12 street ~~or part thereof which was dedicated to, accepted by,~~
13 ~~and was controlled, managed, supervised, regulated, repaired,~~
14 ~~maintained, and improved by the county for a period of one~~
15 ~~year prior to the effective date of the annexation, or for a~~
16 ~~period of less than one year prior to the effective date of~~
17 ~~the annexation when such public street or part thereof was~~
18 ~~approved upon construction by the municipal planning~~
19 ~~commission,~~ being located outside the corporate limits of the
20 annexing municipality while at the same time bounded on both
21 sides by the corporate limits of the annexing municipality,
22 the county governing body shall consent to the annexation of
23 such the public street or part thereof by the municipality if
24 the street was a county-maintained street for a period of one
25 year prior to the effective date of the annexation or was

1 approved upon construction by the municipal planning
2 commission. Once consent to annexation is given by the owners
3 of ~~such the~~ public street ~~or part thereof to annexation by the~~
4 ~~municipality,~~ the municipality shall annex that portion of the
5 public street ~~or part thereof~~ which is bounded on both sides
6 by the municipal corporate limits. Once ~~such the~~ annexation
7 becomes effective, the municipality shall assume
8 responsibility for the public street ~~or part thereof~~ as
9 provided in subsection ~~(b), above~~ (c).

10 "~~(d)~~ (e) The responsibility for ~~the control,~~
11 ~~management, supervision, regulation, repair, maintenance, or~~
12 ~~improvement of~~ public streets ~~or parts thereof~~ lying within
13 the corporate limits of an incorporated municipality on July
14 7, 1995, shall remain the responsibility of the entity
15 responsible for ~~such the~~ public streets ~~or parts thereof~~ on
16 July 7, 1995.

17 "~~(e)~~ (f) Nothing contained in Sections 11-49-80 and
18 11-49-81 shall prohibit a county and municipality from
19 entering into a mutual agreement providing for an alternative
20 arrangement for ~~the control, management, supervision,~~
21 ~~regulation, repair, maintenance, or improvement~~ responsibility
22 of public streets ~~or parts thereof~~ lying within the corporate
23 limits of an incorporated municipality.

24 "(g) A county-maintained divided four-lane public
25 street that has been designed or designated by the county or

1 Governor as an evacuation route to be utilized under emergency
2 conditions found in Chapter 9, Title 31, may not be annexed by
3 a municipality, regulated by a municipal planning commission,
4 nor considered a part of the police jurisdiction of any
5 municipality except where there is a mutual agreement between
6 a county and municipality providing otherwise.

7 Nothing in this subsection shall prevent a
8 municipality from annexing territory on either side of the
9 evacuation route that would otherwise be considered contiguous
10 for the purpose of annexation under any provision of Alabama
11 law.

12 "§11-98-4.

13 "(a) When any district is created, the creating
14 authority may appoint a board of commissioners composed of
15 seven members to govern its affairs, and shall fix the
16 domicile of the board of commissioners at any point within the
17 district. In the case of county districts, after the
18 expiration of the terms of the members of the board of
19 commissioners holding office on May 23, 2000, there may be at
20 least one member of the board of commissioners from each
21 county commission district if the number of the county
22 commission does not exceed seven, unless a resolution dated
23 before January 1, 2000, was passed by a county commission
24 establishing an appointment process different from this
25 section or as otherwise provided by the enactment of a local

1 act after May 23, 2000. The members of the board of
2 commissioners shall be qualified electors of the district, two
3 of whom shall be appointed for terms of two years, three for
4 terms of three years, and two for terms of four years, dating
5 from the date of the adoption of the resolution or ordinance
6 creating the district. Thereafter, all appointments of the
7 members shall be for terms of four years.

8 "(b) The board of commissioners shall have complete
9 and sole authority to appoint a chairman and any other
10 officers it may deem necessary from among the membership of
11 the board of commissioners.

12 "(c) A majority of the board of commissioners
13 membership shall constitute a quorum and all official action
14 of the board of commissioners shall require a quorum.

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

19 "(e) In lieu of appointing a board of commissioners,
20 the governing body of the creating authority may serve as the
21 board of commissioners of the district, in which case it shall
22 assume all the powers and duties of the board of commissioners
23 as provided in this chapter.

24 "(f) In addition to other authority and powers
25 necessary to establish, operate, maintain, and replace an

1 emergency communication system, the board of commissioners
2 shall have the following authority:

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

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

10 "(3) To construct, enlarge, equip, improve,
11 maintain, and operate all aspects of an emergency
12 communication system consistent with subsection (a) of Section
13 11-98-6.

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

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

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

24 "(7) To make grants to municipalities for
25 dispatching equipment and services.

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

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

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

9 "(3) The name of the corporation.

10 "(4) That the governing body is the board of
11 commissioners.

12 "(h) Any other provisions of this chapter
13 notwithstanding, the board of commissioners shall present to
14 the creating authority for approval the acquisition,
15 disposition, or improvements to real property.

16 "(i) In addition to the provisions of subdivision
17 (5) of subsection (f), each ~~employee or official of the~~
18 ~~district who receives funds or is involved in the disbursement~~
19 ~~of funds in any manner~~ member of the board of commissioners
20 and each director of an emergency communication district shall
21 be bonded in an amount ~~not less than the amount~~ equal to
22 one-half of one percent of the total funds received by the
23 district in the prior fiscal year except the amount of the
24 bond for any persons required to be bonded, the bond shall not
25 be less than ten thousand dollars (\$10,000) nor exceed fifty

1 thousand dollars (\$50,000). The board of commissioners may
2 require other employees to be bonded in an amount set by the
3 board and made payable to the district. The bonds shall be
4 paid for by the district, and a copy shall be on file at the
5 offices of the district and at the office of the judge of
6 probate of the county in which the district is incorporated.
7 In the event the governing body of the creating authority
8 serves as the board of commissioners of the district, each
9 member of the board may combine the bond required herein with
10 the bond required for service on the creating authority
11 provided both the creating authority and the emergency
12 communication district are adequately protected in the event
13 of forfeiture and the portion of the bond payment required
14 pursuant to this section is paid by the district."

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB96

Senate 18-MAR-15

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Amended and passed 14-APR-15

Senate concurred in House amendment 14-APR-15

By: Senator Chambliss