

1 SB107
2 208275-2
3 By Senator Elliott
4 RFD: Governmental Affairs
5 First Read: 02-FEB-21
6 PFD: 01/28/2021

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8 SYNOPSIS: Under existing law, the police jurisdiction
9 of a municipality having a population of 6,000
10 persons or more may extend for three miles from the
11 corporate limits and the police jurisdiction of a
12 municipality having less than 6,000 persons may
13 extend for one and one half miles from the
14 corporate limits.

15 This bill would provide that the police
16 jurisdiction of a municipality on the effective
17 date of this act would not be extended after the
18 effective date of this act, but would provide that
19 a municipality may reduce its police jurisdiction
20 by any half-mile increment or eliminate its police
21 jurisdiction.

22 Under existing law, the planning
23 jurisdiction of a municipality, including the
24 approval of subdivisions, extends for five miles
25 from the corporate limits.

1 Section 1. Section 11-40-10, Code of Alabama 1975,
2 is amended to read as follows:

3 "§11-40-10.

4 "(a) (1) The police jurisdiction in municipalities
5 having 6,000 or more inhabitants shall cover all adjoining
6 territory within three miles of the corporate limits, and in
7 municipalities having less than 6,000 inhabitants and in
8 towns, the police jurisdiction shall extend also to the
9 adjoining territory within a mile and a half of the corporate
10 limits of the municipality or town.

11 "(2) Notwithstanding any other provisions of this
12 section, the police jurisdiction of a municipality outside of
13 the corporate limits of the municipality shall not extend
14 beyond the police jurisdiction of the municipality on January
15 1, 2021.

16 "~~(2)~~ (3) After May 12, 2016, and in addition to any
17 other requirements of this section, any extension of the
18 police jurisdiction of any municipality as otherwise provided
19 in subdivision (1) shall not be effective beyond the corporate
20 boundaries of the municipality without an affirmative vote of
21 the municipal governing body. Notwithstanding the foregoing,
22 this subdivision shall not affect the boundaries of the police
23 jurisdiction of a municipality existing on May 12, 2016.

24 "~~(3)~~ (4) Any municipality ~~which has a three mile~~
25 ~~police jurisdiction pursuant to subdivision (1),~~ by ordinance,
26 may eliminate or reduce its police jurisdiction to a mile and
27 a half by ordinance of the municipality by any number of

1 half-mile increments, which shall take effect on the first day
2 of January following its adoption on or before the preceding
3 first day of ~~October~~ August. The reduction or elimination of a
4 police jurisdiction as authorized by this subdivision shall be
5 effective the following January 1 only if the municipality
6 provides notice to the County Commission within 30 days of
7 such action. Further, a municipality may reduce its police
8 jurisdiction no more than once during any 36-month period. A
9 municipality's police jurisdiction, at minimum, shall include
10 all territory within the corporate limits of the municipality.
11 Once a municipality has adopted an ordinance to reduce its
12 police jurisdiction ~~to a mile and one-half~~, the municipality
13 may further reduce its police jurisdiction by ordinance, but
14 an ~~that~~ ordinance reducing the police jurisdiction of the
15 municipality cannot otherwise be amended, altered, or repealed
16 except by local law.

17 ~~"(b) Ordinances of a city or town enforcing police~~
18 ~~or sanitary regulations and prescribing fines and penalties~~
19 ~~for violations thereof shall have force and effect in the~~
20 ~~limits of the city or town and on any property or~~
21 ~~rights-of-way belonging to the city or town. In order for an~~
22 ~~ordinance adopted after September 1, 2015, to have force and~~
23 ~~effect in a police jurisdiction of a municipality or town, the~~
24 ~~municipal governing body shall provide a 30-day notice that~~
25 ~~the ordinance shall be effective in the police jurisdiction.~~
26 ~~The notice given shall be the same as required for adoption of~~
27 ~~an ordinance under Section 11-45-8. Additionally, if available~~

1 ~~at no cost to the municipality, the notice shall be submitted~~
2 ~~to the Atlas Alabama state website or any successor~~
3 ~~state-operated website providing information to businesses. No~~
4 ~~ordinance adopted after September 1, 2015, may be enforced~~
5 ~~against an individual or entity in the police jurisdiction~~
6 ~~affected by the ordinance until and unless the municipality~~
7 ~~has complied with the notice requirements provided for in this~~
8 ~~section.~~

9 "~~(c)~~ (b) The police jurisdiction of any municipality
10 which pursuant to this section extends to include part of any
11 island which has water immediately offshore adjacent to the
12 boundary of the State of Florida, upon approval of the council
13 of the municipality, shall extend to include the entire island
14 including the water adjacent to the island extending to the
15 existing police jurisdiction of the municipality and extending
16 to the Florida state boundary where applicable.

17 "~~(d)~~ (c) Any alterations to a police jurisdiction
18 based upon the annexation or deannexation of property after
19 September 1, 2015, and prior to the effective date of the act
20 adding this language, shall take effect on the first day of
21 January ~~and shall take effect for any annexation or~~
22 ~~deannexation which was finalized on or before the preceding~~
23 ~~first day of October~~ thereafter. No later than the first day
24 of January in each year, a map showing the boundaries of the
25 municipal limits and police jurisdiction of the municipality
26 shall be submitted to, if available at no cost to the
27 municipality, the Atlas Alabama state website or any successor

1 state-operated website providing information to businesses. No
2 ordinance, license, permit, or tax levy may be enforced
3 against an individual or entity included in the alteration of
4 the police jurisdiction unless the municipality has complied
5 with the notice requirements provided for in this section.

6 ~~"(e) (d)~~ The annexation of property by general or
7 local law ~~may shall~~ not extend the police jurisdiction of a
8 municipality ~~except as expressly provided in general or local~~
9 ~~law. Any extension of a police jurisdiction expressly provided~~
10 ~~for in general or local law is subject to subsection (d) and~~
11 ~~(f) and shall take effect only on the next January 1 following~~
12 ~~the annexation by general or local law~~ after the effective
13 date of the act adding this language.

14 ~~"(f) (e)~~ When any noncontiguous property has been
15 annexed or is annexed into a municipality, the municipal
16 governing body shall not exercise any jurisdiction or
17 authority in any portion of the police jurisdiction extended
18 as a result of the annexation, notwithstanding any other law
19 to the contrary."

20 Section 2. Section 11-52-30, Code of Alabama 1975,
21 is 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 only include all land located in the corporate limits of
26 the municipality. ~~and all land lying within five miles of the~~
27 ~~corporate limits of the municipality and not located in any~~

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

1 wholly or 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 ~~"(1) If a county commission has adopted subdivision~~
4 ~~regulations pursuant to Chapter 24, those subdivision~~
5 ~~regulations shall apply to the development of subdivisions~~
6 ~~within the territorial jurisdiction of a municipal planning~~
7 ~~commission outside the corporate limits of a municipality and~~
8 ~~shall be regulated and enforced by the county commission in~~
9 ~~the same manner and to the same extent as other subdivision~~
10 ~~development governed by the county's subdivision regulations.~~
11 ~~Notwithstanding the foregoing, a county commission and the~~
12 ~~municipal planning commission may enter into a written~~
13 ~~agreement providing that the municipal planning commission~~
14 ~~shall be responsible for the regulation and enforcement of the~~
15 ~~development of subdivisions within the territorial~~
16 ~~jurisdiction of the municipal planning commission under the~~
17 ~~terms and conditions of the agreement. In order to be~~
18 ~~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)~~ (b) Nothing in this section shall be
2 interpreted as allowing a municipal planning commission or a
3 municipality to exercise the power of eminent domain outside
4 of its corporate limits.

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

9 "~~(k) Nothing in this section shall limit or impair~~
10 ~~the authority of a~~ (d) A municipality ~~to~~ may not regulate the
11 construction of buildings within the police jurisdiction of
12 the municipality, including, but not limited to, the issuing
13 of building permits, the inspection of building construction,
14 and the enforcement of building codes after the effective date
15 of the act adding this language.

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

21 Section 3. (a) After the effective date of this act
22 and any other law to the contrary notwithstanding, no business
23 license tax pursuant to Section 11-51-91, Code of Alabama
24 1975, or other municipal fees may be levied in the police
25 jurisdiction of a municipality. Notwithstanding the foregoing,
26 a municipality may levy the sales and use taxes authorized by

1 Section 11-51-206, Code of Alabama 1975, within its police
2 jurisdiction.

3 (b) (1) After the effective date of this act, any
4 taxes or fees levied in the police jurisdiction of a
5 municipality shall be specially audited for compliance to
6 assure that the funds collected from the taxes or fees were
7 expended in the police jurisdiction of the municipality as
8 required by law. The municipality shall provide a copy of the
9 audit report to the Department of Examiners of Public Accounts
10 within 14 days of receipt of the report. Notwithstanding any
11 other provision of law, the expenditure of the funds from the
12 taxes or fees after the effective date of this act shall
13 include only the direct expenditure of funds in the police
14 jurisdiction and not the expenditure of funds for any indirect
15 or administrative expenses.

16 (2) If an audit completed under subdivision (1)
17 includes findings of noncompliance with existing law, the
18 municipality shall have 12 months to correct the issues of
19 noncompliance. If the municipality does not correct the
20 noncompliance within that time, the municipality may not
21 collect any taxes or fees in the police jurisdiction of the
22 municipality until completion of an audit finding the
23 municipality in compliance.

24 Section 4. (a) In no event shall a municipality, its
25 officers, officials, agents, contractors, subcontractors, or
26 employees be liable for the elimination of the municipal
27 police jurisdiction and any police jurisdiction services

1 including any equitable relief or indirect, incidental,
2 special, punitive, exemplary, or consequential damages
3 whatsoever and arising in any manner as a result of the
4 elimination of the police jurisdiction.

5 (b) Nothing in this act shall prohibit or restrict a
6 municipality from exercising authority within existing
7 rights-of-way in any public waterway immediately adjacent to
8 territory within its corporate limits, as well as on any
9 uninhabited island which lies directly across a public
10 waterway from territory within the corporate limits and would
11 be contiguous with that territory except for the intervention
12 of that public waterway. For purposes of this subsection,
13 "uninhabited island" means any land surrounded by water which
14 has no residential or commercial buildings on it.

15 Section 5. This act shall be effective 90 days
16 following its passage and approval by the Governor, or its
17 otherwise becoming law.