

1 HB225
2 164479-2
3 By Representative Lindsey
4 RFD: County and Municipal Government
5 First Read: 10-MAR-15

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8 SYNOPSIS: Under existing law, counties may contract
9 with the United States, with the State of Alabama,
10 and with other counties, but there is no general
11 authority for the county commission to contract
12 with municipalities.

13 This bill would authorize counties to
14 contract with municipalities in the state.

15 Under existing law, county commissioners are
16 prohibited from contracting with the county or
17 hiring family members.

18 This bill would clarify existing law to
19 provide that a county commissioner may not contract
20 with the county personally or through his or her
21 business and may not participate in the hiring of a
22 family member. Additionally, the bill would define
23 family member as that term is defined in the state
24 ethics law.

25 Under existing law, two or more counties may
26 enter into agreements to self-fund liability and
27 workers' compensation insurance, but are not

1 authorized to enter into agreements to self-fund
2 property insurance.

3 This bill would authorize two or more
4 counties to self-fund property insurance in the
5 same manner as currently authorized for liability
6 insurance.

7 Under existing law, a county-maintained road
8 or bridge becomes the responsibility of a
9 municipality when the road is annexed into the
10 municipality.

11 This bill would provide that a
12 county-maintained road or bridge used for
13 evacuation during an emergency may not be annexed
14 into the municipality or otherwise regulated by the
15 municipality except by agreement of the county and
16 municipality.

17 Under existing law, certain employees and
18 officials of an emergency communication district
19 are required to be bonded in an amount not less
20 than the total funds received by the district in
21 the prior fiscal year.

22 This bill would clarify which employees and
23 officials are required to be bonded and provide
24 guidance on the amount of the bond.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 11-1-10, 11-3-5, 11-30-1,
14 11-49-80, and 11-98-4, Code of Alabama 1975, are amended to
15 read as follows:

16 "§11-1-10.

17 "(a) The county commission in addition to all other
18 powers and authority is hereby authorized and empowered to
19 enter into contracts, leases, compacts, or any other form of
20 agreement with the United States of America or any of its
21 agencies, departments, bureaus, divisions, or institutions,
22 with the State of Alabama or any of its agencies, departments,
23 bureaus, divisions, or institutions and with any other county
24 or municipality within or without the state for the purpose of
25 receiving or acquiring funds, matching funds, services,
26 materials, supplies, buildings, structures, waterways and
27 docking facilities, and any and all other benefits deemed for

1 the public interest in the promotion of industrial,
2 agricultural, recreational, or any other beneficial
3 development.

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

16 "§11-3-5.

17 "~~Any~~ No member of any county commission ~~who~~ and no
18 business with which any county commissioner is associated
19 shall ~~award~~ be a party to any contract ~~in which~~ with the
20 county ~~of such commissioner is interested~~ commission on which
21 he or she serves. No county commission shall award any
22 contract to any person related either by blood or marriage
23 within the fourth degree to such a family member of a county
24 commissioner and no county commissioner or who shall employ
25 ~~any such relative~~ a family member to do any work for ~~said the~~
26 county ~~or to act as agent for any such member in any work in~~
27 ~~which such county is interested.~~ Notwithstanding the

1 foregoing, the family member of a county commissioner may be
2 employed by the county if the family member is hired pursuant
3 to a county personnel policy that does not require a vote of
4 the county commission or if the county commissioner does not
5 participate in the hiring process through recommendation,
6 deliberation, vote, or otherwise. Any county commissioner in
7 violation of this section shall be guilty of a misdemeanor
8 and, on conviction, shall be fined not less than \$10.00 nor
9 more than \$100.00. Any contract executed in violation of this
10 section shall be void by operation of law and any person
11 employed by the county in violation of this section shall
12 forfeit his or her employment by operation of law. For the
13 purposes of this section, the definition of "family member"
14 shall be the same as the definition in subdivision (15) of
15 Section 36-25-1 for the family member of a public official.

16 "§11-30-1.

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

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

24 "a. loss Loss for money damages which any person or
25 other entity is legally entitled to recover from a member
26 county or its officers and employees for damages suffered as a
27 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.

25 "(2) MUNICIPAL STREET. A public street, road, or
26 bridge that the municipality has the authority or

1 responsibility to control, manage, supervise, regulate,
2 repair, maintain, or improve.

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

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

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

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

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

1 ~~repaired, maintained, and improved by the county a~~
2 county-maintained street prior to the effective date of the
3 annexation.

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

26 ~~"(d)(e)~~ The responsibility for ~~the control,~~
27 ~~management, supervision, regulation, repair, maintenance, or~~

1 ~~improvement of public streets or parts thereof~~ lying within
2 the corporate limits of an incorporated municipality on July
3 7, 1995, shall remain the responsibility of the entity
4 responsible for ~~such~~ the public streets ~~or parts thereof~~ on
5 July 7, 1995.

6 ~~"(e) (f)~~ Nothing contained in Sections 11-49-80 and
7 11-49-81 shall prohibit a county and municipality from
8 entering into a mutual agreement providing for an alternative
9 arrangement for ~~the control, management, supervision,~~
10 ~~regulation, repair, maintenance, or improvement~~ responsibility
11 of public streets ~~or parts thereof~~ lying within the corporate
12 limits of an incorporated municipality.

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

21 "§11-98-4.

22 "(a) When any district is created, the creating
23 authority may appoint a board of commissioners composed of
24 seven members to govern its affairs, and shall fix the
25 domicile of the board of commissioners at any point within the
26 district. In the case of county districts, after the
27 expiration of the terms of the members of the board of

1 commissioners holding office on May 23, 2000, there may be at
2 least one member of the board of commissioners from each
3 county commission district if the number of the county
4 commission does not exceed seven, unless a resolution dated
5 before January 1, 2000, was passed by a county commission
6 establishing an appointment process different from this
7 section or as otherwise provided by the enactment of a local
8 act after May 23, 2000. The members of the board of
9 commissioners shall be qualified electors of the district, two
10 of whom shall be appointed for terms of two years, three for
11 terms of three years, and two for terms of four years, dating
12 from the date of the adoption of the resolution or ordinance
13 creating the district. Thereafter, all appointments of the
14 members shall be for terms of four years.

15 "(b) The board of commissioners shall have complete
16 and sole authority to appoint a chairman and any other
17 officers it may deem necessary from among the membership of
18 the board of commissioners.

19 "(c) A majority of the board of commissioners
20 membership shall constitute a quorum and all official action
21 of the board of commissioners shall require a quorum.

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

26 "(e) In lieu of appointing a board of commissioners,
27 the governing body of the creating authority may serve as the

1 board of commissioners of the district, in which case it shall
2 assume all the powers and duties of the board of commissioners
3 as provided in this chapter.

4 "(f) In addition to other authority and powers
5 necessary to establish, operate, maintain, and replace an
6 emergency communication system, the board of commissioners
7 shall have the following authority:

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

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

15 "(3) To construct, enlarge, equip, improve,
16 maintain, and operate all aspects of an emergency
17 communication system consistent with subsection (a) of Section
18 11-98-6.

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

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

25 "(6) To enter into contracts or agreements with
26 public or private safety agencies for dispatch services when

1 such terms, conditions, and charges are mutually agreed upon,
2 unless otherwise provided by local law.

3 "(7) To make grants to municipalities for
4 dispatching equipment and services.

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

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

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

13 "(3) The name of the corporation.

14 "(4) That the governing body is the board of
15 commissioners.

16 "(h) Any other provisions of this chapter
17 notwithstanding, the board of commissioners shall present to
18 the creating authority for approval the acquisition,
19 disposition, or improvements to real property.

20 "(i) In addition to the provisions of subdivision
21 (5) of subsection (f), each ~~employee or official of the~~
22 ~~district who receives funds or is involved in the disbursement~~
23 ~~of funds in any manner~~ member of the board of commissioners
24 and each director of an emergency communication district shall
25 be bonded in an amount ~~not less than the amount~~ equal to
26 one-half of one percent of the total funds received by the
27 district in the prior fiscal year except the amount of the

1 bond for any persons required to be bonded, the bond shall not
2 be less than ten thousand dollars (\$10,000) nor exceed fifty
3 thousand dollars (\$50,000). The board of commissioners may
4 require other employees to be bonded in an amount set by the
5 board and made payable to the district. The bonds shall be
6 paid for by the district, and a copy shall be on file at the
7 offices of the district and at the office of the judge of
8 probate of the county in which the district is incorporated.
9 In the event the governing body of the creating authority
10 serves as the board of commissioners of the district, each
11 member of the board may combine the bond required herein with
12 the bond required for service on the creating authority
13 provided both the creating authority and the emergency
14 communication district are adequately protected in the event
15 of forfeiture and the portion of the bond payment required
16 pursuant to this section is paid by the district."

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