

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

1 SB107

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to municipalities; to amend Section
12 11-40-10, Code of Alabama 1975, to limit the police
13 jurisdiction of a municipality to territory in the police
14 jurisdiction of the municipality on the effective date of this
15 act, and to provide for the reduction or elimination by a
16 municipality of its police jurisdiction; to amend Section
17 11-52-30, Code of Alabama 1975, to provide that the
18 jurisdiction of any municipal planning commission would only
19 include certain lands in the police jurisdiction of the
20 municipality; and to further provide for the authority of
21 municipalities to levy taxes and fees in the police
22 jurisdiction and for the audit of the expenditure of the
23 funds.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

27 "§11-40-10.

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

8 "(2) a. Except as provided in paragraph b.,
9 notwithstanding any other provisions of this section, the
10 police jurisdiction of a municipality outside of the corporate
11 limits of the municipality shall not extend beyond the police
12 jurisdiction of the municipality on January 1, 2021.

13 "b. Notwithstanding paragraph a., a municipality
14 having less than 6,000 inhabitants according to the 2010
15 federal decennial census which has 6,000 or more inhabitants
16 according to the 2020 federal decennial census, not later than
17 180 days following the final release of the 2020 federal
18 decennial census population data by the United States Census
19 Bureau, may extend its police jurisdiction to include all
20 territory within three miles of the corporate limits, pursuant
21 to subdivision (1).

22 "~~(2)~~ (3) After May 12, 2016, and in addition to any
23 other requirements of this section, any extension of the
24 police jurisdiction of any municipality as otherwise provided
25 in subdivision (1) shall not be effective beyond the corporate
26 boundaries of the municipality without an affirmative vote of
27 the municipal governing body. Notwithstanding the foregoing,

1 this subdivision shall not affect the boundaries of the police
2 jurisdiction of a municipality existing on May 12, 2016.

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

23 ~~"(b) Ordinances of a city or town enforcing police~~
24 ~~or sanitary regulations and prescribing fines and penalties~~
25 ~~for violations thereof shall have force and effect in the~~
26 ~~limits of the city or town and on any property or~~
27 ~~rights-of-way belonging to the city or town. In order for an~~

1 ~~ordinance adopted after September 1, 2015, to have force and~~
2 ~~effect in a police jurisdiction of a municipality or town, the~~
3 ~~municipal governing body shall provide a 30-day notice that~~
4 ~~the ordinance shall be effective in the police jurisdiction.~~
5 ~~The notice given shall be the same as required for adoption of~~
6 ~~an ordinance under Section 11-45-8. Additionally, if available~~
7 ~~at no cost to the municipality, the notice shall be submitted~~
8 ~~to the Atlas Alabama state website or any successor~~
9 ~~state-operated website providing information to businesses. No~~
10 ~~ordinance adopted after September 1, 2015, may be enforced~~
11 ~~against an individual or entity in the police jurisdiction~~
12 ~~affected by the ordinance until and unless the municipality~~
13 ~~has complied with the notice requirements provided for in this~~
14 ~~section.~~

15 ~~"(c)~~ (b) The police jurisdiction of any municipality
16 which pursuant to this section extends to include part of any
17 island which has water immediately offshore adjacent to the
18 boundary of the State of Florida, upon approval of the council
19 of the municipality, shall extend to include the entire island
20 including the water adjacent to the island extending to the
21 existing police jurisdiction of the municipality and extending
22 to the Florida state boundary where applicable.

23 ~~"(d)~~ (c) Any alterations to a police jurisdiction
24 based upon the annexation or deannexation of property after
25 September 1, 2015, and prior to the effective date of the act
26 adding this language, shall take effect on the first day of
27 January ~~and shall take effect for any annexation or~~

1 ~~deannexation which was finalized on or before the preceding~~
2 ~~first day of October~~ thereafter. No later than the first day
3 of January in each year, a map showing the boundaries of the
4 municipal limits and police jurisdiction of the municipality
5 shall be submitted to, if available at no cost to the
6 municipality, the Atlas Alabama state website or any successor
7 state-operated website providing information to businesses. No
8 ordinance, license, permit, or tax levy may be enforced
9 against an individual or entity included in the alteration of
10 the police jurisdiction unless the municipality has complied
11 with the notice requirements provided for in this section.

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

20 ~~"(f) (e)~~ (e) When any noncontiguous property has been
21 annexed or is annexed into a municipality, the municipal
22 governing body shall not exercise any jurisdiction or
23 authority in any portion of the police jurisdiction extended
24 as a result of the annexation, notwithstanding any other law
25 to the contrary."

26 Section 2. Section 11-52-30, Code of Alabama 1975,
27 is amended to read as follows:

1 "§11-52-30.

2 "(a) Except as otherwise provided herein, the
3 territorial jurisdiction of any municipal planning commission
4 shall include ~~all land located in the municipality~~ the
5 following:

6 (1) If the police jurisdiction of the municipality
7 extends one and one-half miles or less beyond the corporate
8 limits, the planning jurisdiction shall include the entirety
9 of the police jurisdiction.

10 (2) If the police jurisdiction of the municipality
11 extends further than one and one-half miles beyond the
12 corporate limits, then the planning jurisdiction shall extend
13 one and one-half miles from the corporate limits.

14 (3) If the police jurisdiction of the municipality
15 does not extend beyond the corporate limits of the
16 municipality, then the planning jurisdiction shall only
17 include the territory within the corporate limits. and all
18 land lying within five miles of the corporate limits of the
19 municipality and not located in any other municipality; except
20 that, in the case of any nonmunicipal land lying within five
21 miles of more than one municipality having a municipal
22 planning commission, the jurisdiction of each municipal
23 planning commission shall terminate at a boundary line
24 equidistant from the respective corporate limits of such
25 municipalities. Any alterations of a municipal planning
26 commission based upon annexation or deannexation of property
27 within the corporate limits of a municipality shall occur once

1 ~~a year on the first day of January and shall take effect for~~
2 ~~any annexations which were finalized on or before the~~
3 ~~preceding first day of October. In all counties having a~~
4 ~~population of 600,000 or more according to the 1950 federal~~
5 ~~census or any succeeding decennial federal census, the county~~
6 ~~planning and zoning commission shall be invested with the~~
7 ~~authority, except and unless the municipality or~~
8 ~~municipalities in question are actively exercising zoning~~
9 ~~jurisdiction and control within the police or five mile~~
10 ~~jurisdiction or, in the case of a municipality subsequently~~
11 ~~incorporated, within 180 days from the date of its~~
12 ~~incorporation; provided, further, Provided, that in all~~
13 ~~counties having a population of 600,000 or more inhabitants~~
14 ~~according to the 1950 federal census or any succeeding~~
15 ~~decennial federal census, the county commission of the county~~
16 ~~may establish minimum specifications and regulations governing~~
17 ~~the lay-out, grading, and paving of all streets, avenues, and~~
18 ~~alleys and the construction or installation of all water,~~
19 ~~sewer, or drainage pipes or lines in any subdivision lying~~
20 ~~wholly or partly in areas outside the corporate limits of any~~
21 ~~municipality in the counties and relating to subdivisions~~
22 ~~lying within the corporate limits of any municipality in the~~
23 ~~counties which has declined or failed to exercise zoning~~
24 ~~jurisdiction and control as provided in this section.~~

25 ~~"(b) A municipal planning commission, by resolution~~
26 ~~properly adopted no later than the first day of October of any~~
27 ~~year, may provide that, effective on the first day of January,~~

1 ~~the territorial jurisdiction of the municipal planning~~
2 ~~commission shall include all land lying within a radius less~~
3 ~~than the five miles permitted by this section. The resolution~~
4 ~~shall establish the territory within which the municipal~~
5 ~~planning commission will exercise jurisdiction to a boundary~~
6 ~~line equidistant from the corporate limits of the~~
7 ~~municipality, except, that in the case of any nonmunicipal~~
8 ~~land lying within the territorial jurisdiction of more than~~
9 ~~one municipality with a municipal planning commission~~
10 ~~exercising jurisdiction outside the municipal corporate~~
11 ~~limits, the jurisdiction of each municipal planning commission~~
12 ~~shall terminate at a boundary line equidistant from the~~
13 ~~respective corporate limits of each municipality. A copy of~~
14 ~~the resolution altering the territorial jurisdiction shall be~~
15 ~~forwarded to the county commission within five days of~~
16 ~~adoption. Additionally, nothing in this subsection shall be~~
17 ~~construed to alter the provisions of Article 5 of Chapter 49,~~
18 ~~which require a municipality to assume responsibility for~~
19 ~~roads annexed into the municipality under certain~~
20 ~~circumstances.~~

21 ~~"(1) If a county commission has adopted subdivision~~
22 ~~regulations pursuant to Chapter 24, those subdivision~~
23 ~~regulations shall apply to the development of subdivisions~~
24 ~~within the territorial jurisdiction of a municipal planning~~
25 ~~commission outside the corporate limits of a municipality and~~
26 ~~shall be regulated and enforced by the county commission in~~
27 ~~the same manner and to the same extent as other subdivision~~

1 ~~development governed by the county's subdivision regulations.~~
2 ~~Notwithstanding the foregoing, a county commission and the~~
3 ~~municipal planning commission may enter into a written~~
4 ~~agreement providing that the municipal planning commission~~
5 ~~shall be responsible for the regulation and enforcement of the~~
6 ~~development of subdivisions within the territorial~~
7 ~~jurisdiction of the municipal planning commission under the~~
8 ~~terms and conditions of the agreement. In order to be~~
9 ~~effective, the agreement shall be approved by a resolution~~
10 ~~adopted by the county commission, the municipal governing~~
11 ~~body, and the municipal planning commission of the~~
12 ~~municipality, respectively.~~

13 ~~"(2) In those counties in which the county~~
14 ~~commission has adopted subdivision regulations pursuant to~~
15 ~~Chapter 24 and the municipal planning commission has been~~
16 ~~unsuccessful in reaching an agreement to exercise its~~
17 ~~jurisdiction as provided in subdivision (1), the governing~~
18 ~~body of the municipality and the municipal planning commission~~
19 ~~may override the county's enforcement of the regulation of~~
20 ~~subdivisions within the planning jurisdiction by fully~~
21 ~~complying with all of the following requirements:~~

22 ~~"a. The municipal governing body and the municipal~~
23 ~~planning commission shall each adopt separate resolutions~~
24 ~~expressing intent to exercise jurisdiction over the~~
25 ~~construction of subdivisions initiated after the effective~~
26 ~~date of the resolutions, despite the county commission's~~
27 ~~objections to the exercise of that authority.~~

1 ~~"b. The municipal planning commission shall at all~~
2 ~~times thereafter employ or contract with a licensed~~
3 ~~professional engineer who shall notify the county commission~~
4 ~~of the initiation of subdivisions; conduct inspections of the~~
5 ~~construction of the subdivision; and shall certify, in~~
6 ~~writing, the compliance with the subdivision regulations~~
7 ~~governing the development of the subdivision.~~

8 ~~"c. The county commission shall retain the authority~~
9 ~~to require a performance and maintenance bond from the~~
10 ~~developer, consistent with the requirements for the bonds in~~
11 ~~the county subdivision regulations, which shall be payable to~~
12 ~~the county.~~

13 ~~"d. The county commission shall retain the authority~~
14 ~~to execute on the bond to make necessary improvements to the~~
15 ~~public roads and drainage structures of the subdivision while~~
16 ~~it remains in the unincorporated area of the county.~~

17 ~~"e. The municipal governing body and the municipal~~
18 ~~planning commission exercising the authority granted in this~~
19 ~~subsection may thereafter withdraw their exercise of~~
20 ~~jurisdiction over future subdivisions located outside the~~
21 ~~corporate limits of the municipality after not less than six~~
22 ~~months' notice to the county commission. After withdrawal, the~~
23 ~~municipal planning commission of the municipality may not~~
24 ~~reinstate the authority granted in this subsection for 24~~
25 ~~months after the effective date of its withdrawal.~~

26 ~~"(d) If a county commission has not adopted~~
27 ~~subdivision regulations pursuant to Chapter 24, the municipal~~

1 ~~planning commission shall have sole jurisdiction for the~~
2 ~~regulation and enforcement of the development of subdivisions~~
3 ~~within the territorial jurisdiction of the municipal planning~~
4 ~~commission.~~

5 ~~"(e) If the municipal planning commission accepts~~
6 ~~responsibility for the development of a subdivision within its~~
7 ~~territorial jurisdiction as provided in subsection (c), the~~
8 ~~county commission shall not accept any roads or bridges within~~
9 ~~the subdivision for county maintenance unless the county~~
10 ~~engineer certifies to the county commission that the road or~~
11 ~~bridge meets the minimum road and bridge standards of the~~
12 ~~county. This section shall not apply to any roads or bridges~~
13 ~~which the county has accepted for maintenance prior to October~~
14 ~~1, 2012.~~

15 ~~"(f) If the county commission is responsible for the~~
16 ~~regulation and enforcement of a subdivision development within~~
17 ~~the territorial jurisdiction of a municipal planning~~
18 ~~commission outside the corporate limits of a municipality, the~~
19 ~~recording of any map or plat related to the subdivision shall~~
20 ~~be governed by Chapter 24.~~

21 ~~"(g) If the municipal planning commission is~~
22 ~~responsible for the regulation and enforcement of a~~
23 ~~subdivision development within the territorial jurisdiction of~~
24 ~~the municipal planning commission outside the corporate limits~~
25 ~~of the municipality, no map or plat of any subdivision shall~~
26 ~~be recorded, and no property shall be sold referenced to the~~
27 ~~map or plat, until and unless it has been first submitted to~~

1 and approved by the municipal planning commission, pursuant to
2 Section 11-52-32 and its adopted procedures, and then
3 certified by the county engineer or his or her designee as
4 follows within 30 days of being submitted to the county
5 engineer: "The undersigned, as County Engineer of the County
6 of _____ of Alabama, hereby certifies on this _____ day
7 of _____, 20____, that the _____ Planning Commission
8 approved the within plat for the recording of same in the
9 Probate Office of _____ County, Alabama."

10 "~~(h)~~ Approval by the county engineer pursuant to
11 this subsection shall not constitute approval in lieu of or on
12 behalf of any municipality with respect to subdivision
13 development regulated and enforced by the municipal planning
14 commission, wherein all maps or plats must be first submitted
15 to and approved by the municipal planning commission or other
16 appropriate municipal agency exercising jurisdiction over the
17 subdivision.

18 "~~(i)~~ (b) Nothing in this section shall be
19 interpreted as allowing a municipal planning commission or a
20 municipality to exercise the power of eminent domain outside
21 of its corporate limits.

22 "~~(j)~~ (c) Nothing in this section shall be
23 interpreted as allowing a municipal planning commission or a
24 municipality to levy taxes or fees outside of its corporate
25 limits.

26 "~~(k)~~ Nothing in this section shall limit or impair
27 the authority of a (d) A municipality to may not regulate the

1 construction of buildings within the police jurisdiction of
2 the municipality, including, but not limited to, the issuing
3 of building permits, the inspection of building construction,
4 and the enforcement of building codes after the effective date
5 of the act adding this language.

6 "~~(1)~~ (e) Nothing in this section shall be construed
7 to grant the county commission or county engineer the
8 authority to regulate subdivision development or approve maps
9 or plats for any developments within the corporate limits of a
10 municipality."

11 Section 3. (a) After the effective date of this act
12 and any other law to the contrary notwithstanding, no business
13 license tax pursuant to Section 11-51-91, Code of Alabama
14 1975, or other municipal fees may be levied in the police
15 jurisdiction of a municipality. Notwithstanding the foregoing,
16 a municipality may levy the sales and use taxes authorized by
17 Section 11-51-206, Code of Alabama 1975, within its police
18 jurisdiction.

19 (b) (1) After the effective date of this act, any
20 taxes or fees levied in the police jurisdiction of a
21 municipality shall be specially audited for compliance to
22 assure that the funds collected from the taxes or fees were
23 expended in the police jurisdiction of the municipality as
24 required by law. The municipality shall provide a copy of the
25 audit report to the Department of Examiners of Public Accounts
26 within 14 days of receipt of the report. Notwithstanding any
27 other provision of law, the expenditure of the funds from the

1 taxes or fees after the effective date of this act shall
2 include only the direct expenditure of funds in the police
3 jurisdiction and not the expenditure of funds for any indirect
4 or administrative expenses.

5 (2) If an audit completed under subdivision (1)
6 includes findings of noncompliance with existing law, the
7 municipality shall have 12 months to correct the issues of
8 noncompliance. If the municipality does not correct the
9 noncompliance within that time, the municipality may not
10 collect any taxes or fees in the police jurisdiction of the
11 municipality until completion of an audit finding the
12 municipality in compliance.

13 Section 4. (a) In no event shall a municipality, its
14 officers, officials, agents, contractors, subcontractors, or
15 employees be liable for the elimination of the municipal
16 police jurisdiction and any police jurisdiction services
17 including any equitable relief or indirect, incidental,
18 special, punitive, exemplary, or consequential damages
19 whatsoever and arising in any manner as a result of the
20 elimination of the police jurisdiction.

21 (b) Nothing in this act shall prohibit or restrict a
22 municipality from exercising authority within existing
23 rights-of-way in any public waterway immediately adjacent to
24 territory within its corporate limits, as well as on any
25 uninhabited island which lies directly across a public
26 waterway from territory within the corporate limits and would
27 be contiguous with that territory except for the intervention

1 of that public waterway. For purposes of this subsection,
2 "uninhabited island" means any land surrounded by water which
3 has no residential or commercial buildings on it.

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

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 02-FEB-21

Read for the second time and placed on the calen-
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Read for the third time and passed as amended 09-FEB-21

Yeas 30
Nays 0

Patrick Harris,
Secretary.