

1 SB23  
2 199288-3  
3 By Senator Elliott  
4 RFD: Governmental Affairs  
5 First Read: 05-MAR-19  
6 PFD: 02/05/2019

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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 of the 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; to amend Section 11-52-30 of the Code of Alabama 1975, to  
16 provide that the jurisdiction of any municipal planning  
17 commission would only include all land in the corporate limits  
18 of the municipality or the police jurisdiction under certain  
19 conditions; and to further provide for the authority of  
20 municipalities to levy taxes and fees in the police  
21 jurisdiction and for the audit of the expenditure of the  
22 funds.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

26 "§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) Notwithstanding any other provisions of this  
9 section, the police jurisdiction of a municipality outside of  
10 the corporate limits of the municipality shall not extend  
11 beyond the police jurisdiction of the municipality on the  
12 effective date of the act adding this subdivision.

13           "~~(2)~~ (3) After May 12, 2016, and in addition to any  
14 other requirements of this section, any extension of the  
15 police jurisdiction of any municipality as otherwise provided  
16 in subdivision (1) shall not be effective beyond the corporate  
17 boundaries of the municipality without an affirmative vote of  
18 the municipal governing body. Notwithstanding the foregoing,  
19 this subdivision shall not affect the boundaries of the police  
20 jurisdiction of a municipality existing on May 12, 2016.

21           "~~(3)~~ (4) Any municipality which has a three mile  
22 police jurisdiction pursuant to subdivision (1) may reduce its  
23 police jurisdiction to a mile and a half by ordinance of the  
24 municipality, which shall take effect on the first day of  
25 January following its adoption on or before the preceding  
26 first day of October. Once a municipality has adopted an  
27 ordinance to reduce its police jurisdiction to a mile and

1 one-half, that ordinance cannot amended, altered or repealed  
2 except by local law.

3 "(b) Ordinances of a city or town enforcing police  
4 or sanitary regulations and prescribing fines and penalties  
5 for violations thereof shall have force and effect in the  
6 limits of the city or town and on any property or  
7 rights-of-way belonging to the city or town. In order for an  
8 ordinance adopted after September 1, 2015, to have force and  
9 effect in a police jurisdiction of a municipality or town, the  
10 municipal governing body shall provide a 30-day notice that  
11 the ordinance shall be effective in the police jurisdiction.  
12 The notice given shall be the same as required for adoption of  
13 an ordinance under Section 11-45-8. Additionally, if available  
14 at no cost to the municipality, the notice shall be submitted  
15 to the Atlas Alabama state website or any successor  
16 state-operated website providing information to businesses. No  
17 ordinance adopted after September 1, 2015, may be enforced  
18 against an individual or entity in the police jurisdiction  
19 affected by the ordinance until and unless the municipality  
20 has complied with the notice requirements provided for in this  
21 section.

22 "(c) The police jurisdiction of any municipality  
23 which pursuant to this section extends to include part of any  
24 island which has water immediately offshore adjacent to the  
25 boundary of the State of Florida, upon approval of the council  
26 of the municipality, shall extend to include the entire island  
27 including the water adjacent to the island extending to the

1 existing police jurisdiction of the municipality and extending  
2 to the Florida state boundary where applicable.

3 "(d) Any alterations to a police jurisdiction based  
4 upon the annexation or deannexation of property after  
5 September 1, 2015, and prior to the effective date of the act  
6 adding this language, shall take effect on the first day of  
7 January ~~and shall take effect for any annexation or~~  
8 ~~deannexation which was finalized on or before the preceding~~  
9 ~~first day of October~~ thereafter. No later than the first day  
10 of January in each year, a map showing the boundaries of the  
11 municipal limits and police jurisdiction of the municipality  
12 shall be submitted to, if available at no cost to the  
13 municipality, the Atlas Alabama state website or any successor  
14 state-operated website providing information to businesses. No  
15 ordinance, license, permit, or tax levy may be enforced  
16 against an individual or entity included in the alteration of  
17 the police jurisdiction unless the municipality has complied  
18 with the notice requirements provided for in this section.

19 "(e) The annexation of property by general or local  
20 law ~~may~~ shall not extend the police jurisdiction of a  
21 municipality ~~except as expressly provided in general or local~~  
22 ~~law. Any extension of a police jurisdiction expressly provided~~  
23 ~~for in general or local law is subject to subsection (d) and~~  
24 ~~(f) and shall take effect only on the next January 1 following~~  
25 ~~the annexation by general or local law~~ after the effective  
26 date of the act adding this language.

1           "(f) When any noncontiguous property has been  
2 annexed or is annexed into a municipality, the municipal  
3 governing body shall not exercise any jurisdiction or  
4 authority in any portion of the police jurisdiction extended  
5 as a result of the annexation, notwithstanding any other law  
6 to the contrary."

7           Section 2. Section 11-52-30 of the Code of Alabama  
8 1975, is amended to read as follows:

9           "§11-52-30.

10           "(a) Except as otherwise provided herein, the  
11 territorial jurisdiction of any municipal planning commission  
12 shall only include all land located in the corporate limits of  
13 the municipality and all land lying within ~~five miles of the~~  
14 ~~corporate limits of the municipality~~ the police jurisdiction  
15 of the municipality if the municipality is exercising any  
16 power authorized by law as of the effective date of the act  
17 adding this language and not located in any other  
18 municipality; except that, in the case of any nonmunicipal  
19 land lying within ~~five miles~~ the planning jurisdiction as  
20 described above of more than one municipality having a  
21 municipal planning commission, the jurisdiction of each  
22 municipal planning commission shall terminate at a boundary  
23 line equidistant from the respective corporate limits of such  
24 municipalities. Any alterations of a municipal planning  
25 commission based upon annexation or deannexation of property  
26 within the corporate limits of a municipality shall occur once  
27 a year on the first day of January and shall take effect for

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

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

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

20 "(c)(b) If a county commission has not adopted  
21 subdivision regulations pursuant to Chapter 24, the municipal  
22 planning commission shall have sole jurisdiction for the  
23 regulation and enforcement of the development of subdivisions  
24 within the territorial jurisdiction of the municipal planning  
25 commission.

26 "(c)(1) If a county commission has adopted  
27 subdivision regulations pursuant to Chapter 24, those



1 subdivision regulations shall apply to the development of  
2 subdivisions within the territorial jurisdiction of a  
3 municipal planning commission outside the corporate limits of  
4 a municipality and shall be regulated and enforced by the  
5 county commission in the same manner and to the same extent as  
6 other subdivision development governed by the county's  
7 subdivision regulations. Notwithstanding the foregoing, a  
8 county commission and the municipal planning commission may  
9 enter into a written agreement providing that the municipal  
10 planning commission shall be responsible for the regulation  
11 and enforcement of the development of subdivisions within the  
12 territorial jurisdiction of the municipal planning commission  
13 under the terms and conditions of the agreement. In order to  
14 be effective, the agreement shall be approved by a resolution  
15 adopted by the county commission, the municipal governing  
16 body, and the municipal planning commission of the  
17 municipality, respectively.

18 (d) If a municipality has adopted and is enforcing  
19 subdivision regulations within its police jurisdiction as of  
20 the date of this act, paragraph (c) shall not apply and the  
21 municipality may continue exercising enforcement within its  
22 police jurisdiction.

23 "(2)a. In those counties in which the county  
24 commission has adopted subdivision regulations pursuant to  
25 Chapter 24 and the municipal planning commission has been  
26 unsuccessful in reaching an agreement to exercise its  
27 jurisdiction as provided in subdivision (1), the governing

1 body of the municipality and the municipal planning commission  
2 may override the county's enforcement of the regulation of  
3 subdivisions within the planning jurisdiction by ~~fully~~  
4 ~~complying with all of the following requirements:~~ adopting  
5 resolutions expressing intent to exercise jurisdiction over  
6 the construction of subdivisions and employing or contracting  
7 with a licensed professional engineer who shall notify the  
8 county commission of the initiation of subdivisions and  
9 conduct inspections and certify compliance regarding  
10 subdivision construction.

11 ~~"a. The municipal governing body and the municipal~~  
12 ~~planning commission shall each adopt separate resolutions~~  
13 ~~expressing intent to exercise jurisdiction over the~~  
14 ~~construction of subdivisions initiated after the effective~~  
15 ~~date of the resolutions, despite the county commission's~~  
16 ~~objections to the exercise of that authority.~~

17 ~~"b. The municipal planning commission shall at all~~  
18 ~~times thereafter employ or contract with a licensed~~  
19 ~~professional engineer who shall notify the county commission~~  
20 ~~of the initiation of subdivisions; conduct inspections of the~~  
21 ~~construction of the subdivision; and shall certify, in~~  
22 ~~writing, the compliance with the subdivision regulations~~  
23 ~~governing the development of the subdivision.~~

24 ~~"c. The county commission shall retain the authority~~  
25 ~~to require a performance and maintenance bond from the~~  
26 ~~developer, consistent with the requirements for the bonds in~~

1 ~~the county subdivision regulations, which shall be payable to~~  
2 ~~the county.~~

3 "b. Upon exercise of jurisdiction by the municipal  
4 planning commission under this subdivision, the county  
5 commission may not accept any roads or bridges within the  
6 subdivision for county maintenance unless the county engineer  
7 certifies to the county commission that the road or bridge  
8 meets the minimum road and bridge standards of the county.  
9 This paragraph does not apply to any roads or bridges which  
10 the county has accepted for maintenance prior to October 1,  
11 2012.

12 ~~"d. c.~~ The county commission may continue to require  
13 a performance and maintenance bond from the developer payable  
14 to the county and shall retain the authority to may execute on  
15 the bond to make necessary improvements to the public roads  
16 and drainage structures of the subdivision while it remains in  
17 the unincorporated area of the county.

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

1           ~~"(d) If a county commission has not adopted~~  
2           ~~subdivision regulations pursuant to Chapter 24, the municipal~~  
3           ~~planning commission shall have sole jurisdiction for the~~  
4           ~~regulation and enforcement of the development of subdivisions~~  
5           ~~within the territorial jurisdiction of the municipal planning~~  
6           ~~commission.~~

7           ~~"(e) If the municipal planning commission accepts~~  
8           ~~responsibility for the development of a subdivision within its~~  
9           ~~territorial jurisdiction as provided in subsection (c), the~~  
10          ~~county commission shall not accept any roads or bridges within~~  
11          ~~the subdivision for county maintenance unless the county~~  
12          ~~engineer certifies to the county commission that the road or~~  
13          ~~bridge meets the minimum road and bridge standards of the~~  
14          ~~county. This section shall not apply to any roads or bridges~~  
15          ~~which the county has accepted for maintenance prior to October~~  
16          ~~1, 2012.~~

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

23          ~~"(g) (e)~~ If the municipal planning commission is  
24          responsible for the regulation and enforcement of a  
25          subdivision development within the territorial jurisdiction of  
26          the municipal planning commission outside the corporate limits  
27          of the municipality, no map or plat of any subdivision shall

1 be recorded, and no property shall be sold referenced to the  
2 map or plat, until and unless it has been first submitted to  
3 and approved by the municipal planning commission, pursuant to  
4 Section 11-52-32 and its adopted procedures, and then  
5 certified by the county engineer or his or her designee as  
6 follows within 30 days of being submitted to the county  
7 engineer: "The undersigned, as County Engineer of the County  
8 of \_\_\_\_\_ of Alabama, hereby certifies on this \_\_\_\_\_ day  
9 of \_\_\_\_\_, 20\_\_\_\_, that the \_\_\_\_\_ Planning Commission  
10 approved the within plat for the recording of same in the  
11 Probate Office of \_\_\_\_\_ County, Alabama."

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

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

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

1           ~~"(k) Nothing in this section shall limit or impair~~  
2 ~~the authority of a~~ (i) A municipality ~~to~~ shall not regulate  
3 the construction of buildings within the police jurisdiction  
4 of the municipality, including, but not limited to, the  
5 issuing of building permits, the inspection of building  
6 construction, and the enforcement of building codes after the  
7 effective date of the act adding this language.

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

13           Section 3. (a) After the effective date of this act,  
14 no additional sales and use tax pursuant to Section 11-51-206  
15 of the Code of Alabama 1975, business license tax pursuant to  
16 Section 11-51-91, Code of Alabama 1975, or other municipal  
17 taxes or fees may be levied in the police jurisdiction of a  
18 municipality, unless the taxes and fees were levied prior to  
19 the effective date of this act, any other law to the contrary  
20 notwithstanding.

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

1 within 14 days of receipt of the report. Notwithstanding any  
2 other provision of law, the expenditure of the funds from the  
3 taxes or fees after the effective date of this act shall  
4 include only the direct expenditure of funds in the police  
5 jurisdiction and not the expenditure of funds for any indirect  
6 or administrative expenses.

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

15 Section 4. Nothing in this act shall prohibit a  
16 municipality from eliminating its police jurisdiction and  
17 discontinuing any services provided therein immediately.  
18 Further, in no event shall a municipality, its officers,  
19 officials, agents, contractors, subcontractors, or employees  
20 be liable for the elimination of the municipal police  
21 jurisdiction and any police jurisdiction services including  
22 any equitable relief or indirect, incidental, special,  
23 punitive, exemplary, or consequential damages whatsoever and  
24 arising in any manner as a result of the elimination of the  
25 police jurisdiction.

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



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Senate

Read for the first time and referred to the Senate  
committee on Governmental Affairs..... 05-MAR-19

Read for the second time and placed on the calen-  
dar with 1 substitute and..... 16-APR-19

Read for the third time and passed as amended .... 18-APR-19

Yeas 33  
Nays 0

Patrick Harris,  
Secretary.