ACT No. 2015- 361

HB377

168653-4

By Representatives Johnson (R) and Hurst

RFD: County and Municipal Government

First Read: 31-MAR-15

JUN - 3 2015
RECEIVED
GOVERNOR'S OFFICE

1

2 ENROLLED, An Act,

3 To amend Sections 11-40-10, 11-51-91, 11-51-206, and
4 11-52-30 of the Code of Alabama 1975, relating to annexation;
5 to provide that the annexation of property by general or local
6 law would not extend the police jurisdiction unless
7 specifically provided; to further provide that alterations to
8 the police jurisdiction by annexation or deannexation would
9 only occur once a year; to further provide that before a
10 municipality can enforce an ordinance in its police
11 jurisdiction the municipality must provide 30 days notice
12 under specific circumstances; to further provide that a
13 municipality must annually account for all revenues collected
14 in its police jurisdiction and provide documentation of all
15 services provided within the police jurisdiction; to provide
16 that no municipality can levy or assess taxes within a police
17 jurisdiction without providing notice under certain terms and
18 conditions; and to further provide that any alteration to a
19 municipal planning commission due to annexation or
20 deannexation would occur only once a year.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. Sections 11-40-10, 11-51-91, 11-51-206,
23 and 11-52-30 of the Code of Alabama 1975, are amended to read
24 as follows:

25 "§11-40-10.

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

"(b) Ordinances of a city or town enforcing police or sanitary regulations and prescribing fines and penalties for violations thereof shall have force and effect in the limits of the city or town ~~and in the police jurisdiction thereof~~ and on any property or rights-of-way belonging to the city or town. In order for an ordinance adopted after the effective date of this act to have force and effect in a police jurisdiction of a municipality or town, the municipal governing body shall provide a 30-day notice that the ordinance shall be effective in the police jurisdiction. The notice given shall be the same as required for adoption of an ordinance under Section 11-45-8. ~~The notice may include any or all ordinances in effect in the municipality or town at the time the notice is given.~~ Additionally, if available at no cost to the municipality, the notice shall be submitted to the Atlas Alabama state website or any successor state-operated website providing information to businesses. No ordinance

1 adopted after the effective date of the act amending this
2 section may be enforced against an individual or entity in the
3 police jurisdiction affected by the ordinance until and unless
4 the municipality has complied with the notice requirements
5 provided for in this section.
6 "(c) The police jurisdiction of any municipality
7 which pursuant to this section extends to include part of any
8 island which has water immediately offshore adjacent to the
9 boundary of the State of Florida, upon approval of the council
10 of the municipality, shall extend to include the entire island
11 including the water adjacent to the island extending to the
12 existing police jurisdiction of the municipality and extending
13 to the Florida state boundary where applicable.
14 "(d) Any alterations to a police jurisdiction based
15 upon the annexation or deannexation of property after the
16 effective date of this act shall be effective only once a year
17 on the first day of January and shall take effect for any
18 annexation or deannexation which was finalized on or before
19 the preceding first day of October. No later than the first
20 day of January in each year, a map showing the boundaries of
21 the municipal limits and police jurisdiction of the
22 municipality shall be submitted to, if available at no cost to
23 the municipality, the Atlas Alabama state website or any
24 successor state-operated website providing information to
25 businesses. No ordinance, license, permit, or tax levy may be

enforced against an individual or entity included in the alteration of the police jurisdiction unless the municipality has complied with the notice requirements provided for in this section.

"(e) The annexation of property by general or local law may not extend the police jurisdiction of a municipality except as expressly provided in general or local law. Any extension of a police jurisdiction expressly provided for in general or local law is subject to subsection (d) and shall take effect only on the next January 1 following the annexation by general or local law.

"(f) When any noncontiguous property has been annexed or is annexed into a municipality, the municipal governing body by resolution may elect not to exercise any jurisdiction or authority, including the assessment of any tax, in any portion of the police jurisdiction extended as a result of the annexation, notwithstanding any other law to the contrary.

"§11-51-91.

"(a) Any municipality may adopt an ordinance to fix and collect licenses for any business, trade, or profession done within the police jurisdiction of ~~such~~ the municipality but outside the corporate limits thereof; provided, that the amount of ~~such~~ the licenses shall not be more than one half the amount charged and collected as a license for like

business, trade, or profession done within the corporate limits of ~~such~~ the municipality, fees and penalties excluded; and provided further, that the total amount of ~~such~~ the licenses shall not be in an amount greater than the cost of services provided by the municipality within the police jurisdiction. All licenses adopted pursuant to this section shall be assessed to all businesses, trades, or professionals within the police jurisdiction. No license adopted after the effective date of the act amending this section in the police jurisdiction shall take effect until a 30-day notice has been given of the adoption of the ordinance; provided, however, that no license may be imposed under this section in an expanded police jurisdiction until the police jurisdiction expansion is effective under subsection (d) of Section 11-40-10. The notice given shall be the same as required for adoption of an ordinance under Section 11-45-8. Additionally, if available at no cost to the municipality, the 30-day notice shall be submitted to the Atlas Alabama state website or any successor state-operated website providing information to businesses. No ordinance adopted after the effective date of the act amending this section may be enforced against an individual or entity affected by the ordinance unless the municipality has complied with the notice requirement provided in this section.

"(b) No calculation ~~is~~ shall be required to be made by the municipal officials or license officer for the cost of services to any particular business or classification of businesses within the police jurisdiction so long as the total amount of revenues from ~~such~~ the licenses collected in the police jurisdiction ~~shall not be in~~ is not an amount greater than the cost of services provided by the municipality to the police jurisdiction. Each municipality shall prepare an annual report which shall include an accounting of all license revenues collected ~~pursuant to this section~~ in the police jurisdiction expanded after the effective date of the act amending this section and provide a list of the services provided by the municipality and a list of providers within the police jurisdiction. A copy of the annual report, which shall be completed within 90 days of the close of the fiscal year, shall be forwarded to the Office of Examiners of Public Accounts and shall be made available to the public.

"(c) When the place at which any ~~such~~ business, trade, or profession is done or carried on is within the police jurisdiction of two or more municipalities which levy the licenses thereon authorized by this section, ~~such~~ the licenses shall be paid to, issued, and collected by that municipality only whose boundary measured to the nearest point thereof is closest to ~~such~~ the business, trade, or profession. ~~Provided further, that this~~ This section shall not have the

effect of repealing or modifying the limitations in this ~~division~~ article relating to railroad, express companies, sleeping car companies, telegraph companies, telephone companies, and public utilities and insurance companies and their agents. This section shall be given a liberal construction to effectuate its purpose and meaning.

"§11-51-206.

"The council or other governing body shall have the authority to levy and assess by ordinance within the police jurisdiction of any ~~said city~~ municipality or town all taxes authorized by this article; provided, that said levy and assessment shall not exceed one-half the amount levied and assessed for like businesses, sales or uses conducted within the corporate limits, fees and penalties excluded. All taxes adopted pursuant to this section shall be levied and assessed. No levy or assessment of a tax adopted by ordinance after the effective date of the act amending this section shall take effect until a 30-day notice has been given of the adoption of the ordinance; provided, however, that no tax levy or assessment may be imposed under this section in an expanded police jurisdiction until the police jurisdiction expansion is effective under subsection (d) of Section 11-40-10. The notice given shall be the same as required for adoption of an ordinance in Section 11-45-8. Additionally, if available at no cost to the municipality, the 30-day notice shall be submitted

to the Atlas Alabama state website or any successor state-operated website providing information to businesses. Each municipality shall prepare an annual report which shall include an accounting of all revenues collected ~~pursuant to this section~~ in the expanded police jurisdiction after the effective date of the act amending this section and provide a list of the services provided by the municipality and a list of providers within the police jurisdiction. A copy of the annual report, which shall be completed within 90 days of the close of the fiscal year, shall be forwarded to the Office of Examiners of Public Accounts and shall be made available to the public.

"§11-52-30.

"(a) Except as otherwise provided herein, the territorial jurisdiction of any municipal planning commission shall include all land located in the municipality and all land lying within five miles of the corporate limits of the municipality and not located in any other municipality; except that, in the case of any nonmunicipal land lying within five miles of more than one municipality having a municipal planning commission, the jurisdiction of each municipal planning commission shall terminate at a boundary line equidistant from the respective corporate limits of such municipalities~~; provided further, that in~~. Any alterations of a municipal planning commission based upon annexation or

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

"(b) A municipal planning commission, by resolution properly adopted ~~regulation~~ no later than the first day of October of any year, may provide that, effective on the first day of January, the territorial jurisdiction of the municipal planning commission shall include all land lying within a radius less than the five miles permitted by this section. The ~~regulation~~ resolution shall establish the territory within which the municipal planning commission will exercise jurisdiction to a boundary line equidistant from the corporate limits of the municipality, except, that in the case of any nonmunicipal land lying within the territorial jurisdiction of more than one municipality with a municipal planning commission exercising jurisdiction outside the municipal corporate limits, the jurisdiction of each municipal planning commission shall terminate at a boundary line equidistant from the respective corporate limits of each municipality. A copy of the resolution altering the territorial jurisdiction shall be forwarded to the county commission within five days of adoption. Additionally, nothing in this subsection shall be construed to alter the provisions of Article 5 of Chapter 49, which require a municipality to assume responsibility for roads annexed into the municipality under certain circumstances.

"(c)(1) If a county commission has adopted 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 "(2) In those counties in which the county
19 commission has adopted subdivision regulations pursuant to
20 Chapter 24 and the municipal planning commission has been
21 unsuccessful in reaching an agreement to exercise its
22 jurisdiction as provided in subdivision (1), the governing
23 body of the municipality and the municipal planning commission
24 may override the county's enforcement of the regulation of

1 subdivisions within the planning jurisdiction by fully
2 complying with all of the following requirements:
3 "a. The municipal governing body and the municipal
4 planning commission shall each adopt separate resolutions
5 expressing intent to exercise jurisdiction over the
6 construction of subdivisions initiated after the effective
7 date of the resolutions, despite the county commission's
8 objections to the exercise of that authority.
9 "b. The municipal planning commission shall at all
10 times thereafter employ or contract with a licensed
11 professional engineer who shall notify the county commission
12 of the initiation of subdivisions; conduct inspections of the
13 construction of the subdivision; and shall certify, in
14 writing, the compliance with the subdivision regulations
15 governing the development of the subdivision.
16 "c. The county commission shall retain the authority
17 to require a performance and maintenance bond from the
18 developer, consistent with the requirements for the bonds in
19 the county subdivision regulations, which shall be payable to
20 the county.
21 "d. The county commission shall retain the authority
22 to execute on the bond to make necessary improvements to the
23 public roads and drainage structures of the subdivision while
24 it remains in the unincorporated area of the county.

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

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

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

1 "(f) If the county commission is responsible for the
2 regulation and enforcement of a subdivision development within
3 the territorial jurisdiction of a municipal planning
4 commission outside the corporate limits of a municipality, the
5 recording of any map or plat related to the subdivision shall
6 be governed by Chapter 24.
7 "(g) If the municipal planning commission is
8 responsible for the regulation and enforcement of a
9 subdivision development within the territorial jurisdiction of
10 the municipal planning commission outside the corporate limits
11 of the municipality, no map or plat of any subdivision shall
12 be recorded, and no property shall be sold referenced to the
13 map or plat, until and unless it has been first submitted to
14 and approved by the municipal planning commission, pursuant to
15 Section 11-52-32 and its adopted procedures, and then
16 certified by the county engineer or his or her designee as
17 follows within 30 days of being submitted to the county
18 engineer: "The undersigned, as County Engineer of the County
19 of _____ of Alabama, hereby certifies on this _____ day
20 of _____, 20___, that the _____ Planning Commission
21 approved the within plat for the recording of same in the
22 Probate Office of _____ County, Alabama."
23 "(h) Approval by the county engineer pursuant to
24 this subsection shall not constitute approval in lieu of or on
25 behalf of any municipality with respect to subdivision

development regulated and enforced by the municipal planning commission, wherein all maps or plats must be first submitted to and approved by the municipal planning commission or other appropriate municipal agency exercising jurisdiction over the subdivision.

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

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

"(k) Nothing in this section shall limit or impair the authority of a municipality to regulate the construction of buildings within the police jurisdiction of the municipality, including, but not limited to, the issuing of building permits, the inspection of building construction, and the enforcement of building codes.

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

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

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 23-APR-15, as amended.

Jeff Woodard
Clerk

Senate	19-MAY-15	Amended and Passed
House	02-JUN-15	Concurred in Senate Amendment

APPROVED 6-5-2015

TIME 4:30 PM

GOVERNOR

Alabama Secretary Of State

Act Num....: 2015-361
Bill Num...: H-377

Recv'd 06/08/15 09:54amSLF

SPONSOR

Johnson, (R)

CO-SPONSORS

Hurst

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 377

YEAS 82 NAYS 15

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. _____ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees _____

_____

_____

SENATE ACTION

DATE: 4/23 20 15

RD 1 RFD C + MG

This Bill was referred to the Standing Committee of the Senate on C-MG and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) ____ w/sub 1 by a vote of yeas 11 nays 0 abstain ____ this 13th day of May 20 15

Paul Sanford, Chairperson

DATE: 5-14 20__

RF FAU 340(1) RD 2 CAL

DATE: 20__

RE-REFERRED ☐ RE-COMMITTED ☐

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 372

YEAS 24 NAYS 1

PATRICK HARRIS, Secretary

FURTHER SENATE ACTION (OVER)