SENATE GOVERNMENTAL AFFAIRS COMMITTEE SUBSTITUTE FOR SB23

SYNOPSIS: Under existing law, the police jurisdiction of a municipality having a population of 6,000 persons or more extends for three miles from the corporate limits and the police jurisdiction of a municipality having less than 6,000 persons extends for one and one half miles from the corporate limits.

This bill would provide that the police jurisdiction of a municipality on the effective date of this act would not be extended after the effective date of this act.

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

This bill would limit the jurisdiction of a municipal planning commission to the corporate limits of a municipality or to the police jurisdiction of the municipality if the
municipality provides specific services in the police jurisdiction.

A BILL
TO BE ENTITLED
AN ACT

Relating to municipalities; to amend Section 11-40-10 of the Code of Alabama 1975, to limit the police jurisdiction of a municipality to territory in the police jurisdiction of the municipality on the effective date of this act; to amend Section 11-52-30 of the Code of Alabama 1975, to provide that the jurisdiction of any municipal planning commission would only include all land in the corporate limits of the municipality or the police jurisdiction under certain conditions; and to further provide for the authority of municipalities to levy taxes and fees in the police jurisdiction and for the audit of the expenditure of the funds.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§11-40-10.

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

"(2) Notwithstanding any other provisions of this 
section, the police jurisdiction of a municipality outside of 
the corporate limits of the municipality shall not extend 
beyond the police jurisdiction of the municipality on the 
effective date of the act adding this subdivision.

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

"(4) Any municipality which has a three mile 
police jurisdiction pursuant to subdivision (1) may reduce its 
police jurisdiction to a mile and a half by ordinance of the 
municipality, which shall take effect on the first day of 
January following its adoption on or before the preceding 
first day of October. Once a municipality has adopted an 
ordinance to reduce its police jurisdiction to a mile and 
one-half, that ordinance cannot amended, altered or repealed 
except by local law.

"(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 on any property or rights-of-way belonging to the city or town. In order for an ordinance adopted after September 1, 2015, 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. 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 adopted after September 1, 2015, may be enforced against an individual or entity in the police jurisdiction affected by the ordinance until and unless the municipality has complied with the notice requirements provided for in this section.

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

"(d) Any alterations to a police jurisdiction based upon the annexation or deannexation of property after
September 1, 2015, and prior to the effective date of the act adding this language, shall take effect on the first day of January and shall take effect for any annexation or deannexation which was finalized on or before the preceding first day of October thereafter. No later than the first day of January in each year, a map showing the boundaries of the municipal limits and police jurisdiction of the municipality shall be submitted to, if available at no cost to the municipality, the Atlas Alabama state website or any successor state-operated website providing information to 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 (f) and shall take effect only on the next January 1 following the annexation by general or local law after the effective date of the act adding this language.

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

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

"(a) Except as otherwise provided herein, the
territorial jurisdiction of any municipal planning commission
shall only include all land located in the corporate limits of
the municipality and all land lying within five miles of the
corporate limits of the municipality the police jurisdiction
of the municipality if the municipality is levying any tax or
business license taxes, or both, in the police jurisdiction
and providing specific services in the police jurisdiction on
the effective date of the act adding this language and not
located in any other municipality; except that, in the case of
any nonmunicipal land lying within five miles the planning
jurisdiction as described above 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. Any alterations of a municipal
planning commission based upon annexation or deannexation of
property within the corporate limits of a municipality shall
occur once a year on the first day of January and shall take
effect for any annexations which were finalized on or before
the preceding first day of October. In all counties having a
population of 600,000 or more according to the 1950 federal
census or any succeeding decennial federal census, the county
planning and zoning commission shall be invested with the
authority, except and unless the municipality or
municipalities in question are actively exercising zoning
jurisdiction and control within the police or five mile
jurisdiction or, in the case of a municipality subsequently
incorporated, within 180 days from the date of its
incorporation, provided, further, Provided, that in all
counties having a population of 600,000 or more inhabitants
according to the 1950 federal census or any succeeding
decennial federal census, the county commission of the county
may establish minimum specifications and regulations governing
the lay-out, grading, and paving of all streets, avenues, and
alleys and the construction or installation of all water,
sewer, or drainage pipes or lines in any subdivision lying
wholly or partly in areas outside the corporate limits of any
municipality in the counties and relating to subdivisions
lying within the corporate limits of any municipality in the
counties which has declined or failed to exercise zoning
jurisdiction and control as provided in this section.

"(b) A municipal planning commission, by resolution
properly adopted 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 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)(b) 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.

"(c)(1) If a county commission has adopted subdivision regulations pursuant to Chapter 24, those subdivision regulations shall apply to the development of subdivisions within the territorial jurisdiction of a municipal planning commission outside the corporate limits of
a municipality and shall be regulated and enforced by the county commission in the same manner and to the same extent as other subdivision development governed by the county's subdivision regulations. Notwithstanding the foregoing, a county commission and the municipal planning commission may enter into a written agreement providing that the municipal planning commission shall be responsible for the regulation and enforcement of the development of subdivisions within the territorial jurisdiction of the municipal planning commission under the terms and conditions of the agreement. In order to be effective, the agreement shall be approved by a resolution adopted by the county commission, the municipal governing body, and the municipal planning commission of the municipality, respectively.

"(2)a. In those counties in which the county commission has adopted subdivision regulations pursuant to Chapter 24 and the municipal planning commission has been unsuccessful in reaching an agreement to exercise its jurisdiction as provided in subdivision (1), the governing body of the municipality and the municipal planning commission may override the county's enforcement of the regulation of subdivisions within the planning jurisdiction by fully complying with all of the following requirements: adopting resolutions expressing intent to exercise jurisdiction over the construction of subdivisions and employing or contracting with a licensed professional engineer who shall notify the county commission of the initiation of subdivisions and
conducted inspections and certify compliance regarding
subdivision construction.

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

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

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

"b. Upon exercise of jurisdiction by the municipal
planning commission under this subdivision, the county
commission may 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 paragraph does not apply to any roads or bridges which
the county has accepted for maintenance prior to October 1, 2012.

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

"e. d. The municipal governing body and the municipal planning commission exercising the authority granted in this subsection may thereafter may 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.

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

"(g) (e) If the municipal planning commission is
responsible for the regulation and enforcement of a
subdivision development within the territorial jurisdiction of
the municipal planning commission outside the corporate limits
of the municipality, no map or plat of any subdivision shall
be recorded, and no property shall be sold referenced to the
map or plat, until and unless it has been first submitted to
and approved by the municipal planning commission, pursuant to
Section 11-52-32 and its adopted procedures, and then
certified by the county engineer or his or her designee as
follows within 30 days of being submitted to the county
engineer: "The undersigned, as County Engineer of the County
of ________ of Alabama, hereby certifies on this _____ day
of ____, 20___, that the _____________ Planning Commission
approved the within plat for the recording of same in the
Probate Office of ________ County, Alabama."

"(h) Approval by the county engineer pursuant to
this subsection shall not constitute approval in lieu of or on
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 after the
effective date of the act adding this language.

"(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."

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

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

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

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