

1 HB201
2 173325-1
3 By Representative Poole
4 RFD: County and Municipal Government
5 First Read: 11-FEB-16

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, certain tax abatements
9 and incentives are allowed to encourage capital
10 reinvestment by businesses in Alabama into their
11 current operations and would grant additional
12 authority to abate noneducational ad valorem taxes.

13 This bill would provide that if a
14 municipality, county, or industrial development
15 board or authority abating a county or municipal
16 tax receives payments, contributions, or other
17 financial or in-kind awards from a private user,
18 related party, or other entity in exchange for the
19 abatement, the payment, contribution, or other
20 financial or in-kind contribution shall be divided
21 between the municipality and county based upon the
22 portion of the tax proceeds the municipality or
23 county would have been paid if the tax was not
24 abated by the authority except for an industrial
25 development board or authority which has board
26 members appointed by the affected county commission

1 and one or more municipalities located within the
2 county.

3
4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 To amend Section 40-9B-5, Code of Alabama 1975, as
9 amended by Act 2015-24, 2015 Regular Session, relating to
10 granting of abatements; to provide that if a municipality
11 county, or industrial development board or authority abating a
12 county or municipal tax receives payments, contributions, or
13 other financial or in-kind awards from a private user, related
14 party, or other entity in exchange for the abatement, the
15 payment, contribution, or other financial or in-kind
16 contribution shall be divided between the municipality and
17 county based upon the portion of the tax proceeds the
18 municipality or county would have been paid if the tax was not
19 abated by the authority except for an industrial development
20 board or authority which has board members appointed by the
21 affected county commission and one or more municipalities
22 located within the county.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Section 40-9B-5, Code of Alabama 1975, is
25 amended to read as follows:

26 "§40-9B-5.

1 "(a) Subject to the geographical or jurisdictional
2 or other limitations specified in subsections (b), (c), and
3 (d), the governing body of a municipality, a county, or a
4 public industrial authority may grant abatements of all of the
5 taxes allowed to be abated under Section 40-9B-4 with respect
6 to private use industrial property.

7 "(b) (1) The abatements authorized to be granted
8 pursuant to subsection (a) for construction related
9 transaction taxes and for ad valorem taxes for a period not to
10 exceed 10 years may be granted:

11 "a. By the governing body of a municipality, with
12 respect to private use industrial property located within the
13 limits of the municipality or within the police jurisdiction
14 of the municipality; provided, however, that the governing
15 body shall not grant an abatement of any county taxes unless
16 the body has also abated the corresponding municipal taxes.

17 "b. By the governing body of a county, with respect
18 to private use industrial property located in the county and
19 not within a municipality or the police jurisdiction of a
20 municipality, unless consented to by resolution of the
21 governing body of the municipality.

22 "c. By the governing body of a public industrial
23 authority, with respect to private use industrial property
24 located within the jurisdiction of the public industrial
25 authority; provided, however, that any municipal public
26 industrial authority shall not grant an abatement of any

1 county taxes unless the authority has also abated the
2 corresponding municipal taxes.

3 "(2) The abatements authorized to be granted
4 pursuant to subsection (a) for ad valorem taxes for a period
5 longer than 10 years may be granted:

6 "a. By the governing body of a municipality, with
7 respect to private use industrial property located within the
8 limits of the municipality or within the police jurisdiction
9 of the municipality, but only as to municipal noneducational
10 taxes.

11 "b. By the governing body of a county, with respect
12 to private use industrial property located in the county, but
13 only as to county noneducational taxes.

14 "c. By the Governor, with respect to private use
15 industrial property located in the state, but only as to state
16 taxes.

17 "The governing body of a county and a municipality
18 may separately authorize one or more public industrial
19 authorities to provide by resolution for such consent on its
20 behalf.

21 "(3) Notwithstanding the provisions of this
22 subsection, abatements authorized to be granted pursuant to
23 subsection (a) for data processing centers may be granted in
24 accordance with subdivision (1) without regard to the time
25 limitation stated in subdivision (1).

26 ~~"(c) If a tax is abated pursuant to this chapter,~~
27 ~~any payment, contribution, or other financial or in-kind award~~

1 ~~received from a private user or related party shall be divided~~
2 ~~between the parties whose taxes were abated based upon the tax~~
3 ~~proceeds which would have been paid if the taxes had not been~~
4 ~~abated, unless the party receiving such award can prove that~~
5 ~~the award was not related to the granting of any abatement. If~~
6 ~~a municipality, county, or industrial development board or~~
7 ~~authority abating a county or municipal tax receives payments,~~
8 ~~contributions, or other financial or in-kind awards from a~~
9 ~~private user, related party, or other entity in exchange for~~
10 ~~the abatement, the payment, contribution, or other financial~~
11 ~~or in-kind contribution shall be divided between the~~
12 ~~municipality and county based upon the portion of the tax~~
13 ~~proceeds the municipality or county would have been paid if~~
14 ~~the tax was not abated by the authority. This subsection does~~
15 ~~not apply to an industrial development board or authority that~~
16 ~~has board members appointed by the affected county commission~~
17 ~~and one or more municipalities located within the county.~~

18 "(d) Any abatement of county taxes granted by a
19 municipality or municipal industrial authority shall not be
20 valid until the expiration of (1) 10 days following the date
21 of physical delivery to the county commission or (2) 13 days
22 following the date of mailing by certified mail to the county
23 commission of a copy of the resolution granting such
24 abatement. Proof of delivery by affidavit of service, in the
25 case of physical delivery, or by certified mail receipt, in
26 the case of mailing by certified mail, shall be furnished to
27 the Department of Revenue at the same time as the filing of

1 the abatement agreement under Section 40-9B-6. If the
2 procedures herein prescribed are followed, any such abatement
3 shall be effective as of the date granted."

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