

Fort Morgan  
Civic Association  
Quarterly Meeting

*Fort Morgan Public Safety and  
Conservation District*

# Three Options

- Incorporation
- Island Authority (Public Corporation)
- Constitutional Amendment

# Pros & Cons of Incorporation

## Pros

- Legal Autonomy
- Power to Tax & Regulate

## Cons

- Major Technical Hurdles
- Very Susceptible to Political Volatility
- Cost Intensive
- Requires Support of Legislature (and Gulf Shores)

# Pros & Cons of Island Authority

## Pros

- Not a Town/City
- Less Susceptible to Political Volatility
- Ability to Tax and Administer Tax Revenue

## Cons

- Complicated and Unfamiliar to the Alabama Legislature
- Continuous Administrative Input/Effort Required
- Requires Support of Legislature (and Gulf Shores)

# Pros & Cons of Const. Amendment

## Pros

- Public Endorsement Through Referendum
- Relatively Simple & Familiar to the Legislature
- Referendum Required to Change in Future
- Ability to Create Earmarked Tax Revenue
- Flexibility to address issues like environmental projects, infrastructure, education, etc.

## Cons

- Requires Support of Legislature (and Gulf Shores)
- Difficult to Change in the Future

The District

Lodging Tax

Development Limitations  
City Property  
Annexation Prohibition

This bill would propose an amendment to the Constitution of Alabama of 2022, relating to Baldwin County, to define the Fort Morgan Public Safety and Conservation District within the county; to provide for the establishment of a special fund maintained by the Baldwin County Commission funded by a \_\_\_\_\_-percent lodging tax within the District to be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding to support education, conservation, and the sustainable use of Fort Morgan's natural environment; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions.

SYNOPSIS:

This bill would propose an amendment to the Constitution of Alabama of 2022, relating to Baldwin County, to define the Fort Morgan Public Safety and Conservation District within the county; to provide for the establishment of a special fund maintained by the Baldwin County Commission funded by a ten-percent lodging tax within the District to be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding the Gulf Shore City Schools; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions.

A BILL  
TO BE ENTITLED  
AN ACT

To propose an amendment to the Constitution of Alabama of 2022, relating to Baldwin County, to define the Fort Morgan Public Safety and Conservation District within the county; to provide for the establishment of a special fund maintained by the Baldwin County Commission funded by a ten-percent lodging tax within the District to

be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding the Gulf Shore City Schools; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature finds in proposing this amendment, that the unincorporated areas of Baldwin County located south of the Intracoastal Waterway and west of the Corporate Limits of the City of Gulf Shores includes significant natural resources; endangered species; historic places; federal, state, and local public lands; flood prone areas; and protected wetlands and dunes. The Legislature further finds that limited access to the unincorporated Fort Morgan area places a burden on the public safety resources of Baldwin County and the City of Gulf Shores. The Legislature further finds that the potential for overdevelopment within the District places additional strain on public resources and creates a potential conflict with the Baldwin County Master Plan which designates the unincorporated Fort Morgan area as ideal for conservation and preservation with some conservation development and low impact development potential. The Legislature further finds that an amendment to the Constitution of

Alabama presents the only suitable means of enhancing public safety and protecting natural resources within the area in a manner that serves the best interests of local residents, visitors, and governmental entities.

Section 2. The following amendment to the Constitution of Alabama of 2022, is proposed:

PROPOSED AMENDMENT

(a) For the purposes of this amendment, the "Fort Morgan Public Safety and Conservation District" shall include all unincorporated areas of Baldwin County located south of the Intracoastal Waterway and west of the Corporate Limits of the City of Gulf Shores.

(b) Effective the tax year commencing on October 1, following the ratification of this amendment, in addition to all other taxes imposed by law, there is levied a privilege or license tax in the amount prescribed against every person within the District engaging in the business of renting or furnishing a room or rooms, lodging or accommodations, to a transient in a hotel, motel, inn, condominium, house, tourist court, recreational vehicle park, or another place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The amount of the tax shall be equal to ten percent of the charge for the rooms, lodgings, or accommodations, including the charge for use of rental of personal property and services furnished in the room or rooms.

(c) There are exempted from the provisions of the tax levied by this amendment and from the computation of the amount of the tax levied or payable the following: Charges for property sold or services

furnished which are required to be included in the tax levied by the state sales tax act; charges for the rental of rooms, lodgings, or accommodations to a person for a period of 30 continuous days or more pursuant to the exemption provision of Alabama's transient occupancy tax, Section 40-26-1. A subsequent amendment or change to the Alabama transient occupancy tax shall also have the effect of similarly changing the exemption provision of this amendment.

Notwithstanding the aforesaid provisions of this section, the tax shall not apply to the rental of living accommodations which are intended primarily for rental to persons as their principal or permanent place of residence.

(d) The taxes levied by this subpart, except as otherwise provided, shall be due and payable to the Department of Revenue on or before the 10th day of the month next succeeding the month in which the tax accrues. On or before the 10th day of each month after the effective date of the taxes, every person on whom the tax is levied by this amendment shall render to the Department of Revenue on a form prescribed by the department, a true and correct statement showing the gross proceeds of the business subject to the tax for the then preceding month, together with other information as the department demands and requires. At the time of making the monthly report, the taxpayer shall compute and pay to the department the amount of taxes shown due. A person subject to the tax who conducts business on a credit basis may defer reporting and paying the tax until after the person has received payment of the items, articles, or accommodations furnished. In the event he or she defers reporting and paying the

taxes, he or she shall thereafter include in each monthly report all credit collections made during the then preceding month and shall pay the amount of taxes computed thereon at the time of filing the report.

It shall be the duty of every person engaged or continuing in a business subject to the taxes levied by this amendment to keep and preserve suitable records of the gross proceeds of the business and other books or accounts necessary to determine the amount of tax for which he or she is liable pursuant to this amendment. The records shall be kept and preserved for a period of two years and shall be open for examination at all times by the Department of Revenue or by a duly authorized agent, deputy, or employee of the department.

A person who fails to pay the tax levied by this subpart within the time required by this subpart shall pay in addition to the tax a penalty of 10 percent of the amount of tax due, together with interest from the date on which the tax became due and payable at the rate due and payable on the state lodging tax. The penalty and interest shall be assessed and collected as a part of the tax. The Department of Revenue may, if good and sufficient reason be shown, waive or remit the penalty or a portion of the penalty.

All provisions of the state lodging tax statutes with respect to payment, assessment, and collection of the state lodging tax, making of reports and keeping and preserving records, interest after due date of tax, or otherwise; the promulgation of rules and regulations with respect to the state lodging tax; and the administration and enforcement of the state lodging tax statutes, which are not inconsistent with the provisions of this amendment when applied to the

tax levied by this amendment, shall apply to the levied tax herein. The Commissioner of Revenue and the Department of Revenue shall have and exercise the same powers, duties, and obligations with respect to the taxes levied herein as imposed on the commissioner and the department, respectively, by the state lodging tax statutes. All provisions of the state lodging tax statutes that are made applicable to this amendment, to the taxes levied herein, and to the administration of this amendment are incorporated herein by reference and made a part as if fully set forth.

The Department of Revenue shall charge and deduct from the proceeds of the tax levied, an amount equal to the cost to the department of making the collections and the charge shall not exceed five percent of the total amount of tax collected. Following that deduction, the department shall pay the remainder of the tax proceeds to the Baldwin County Commission to be held in the Fort Morgan Public Safety and Conservation District Fund.

(e) The tax proceeds held in the Fort Morgan Public Safety and Conservation District Fund shall be expended in the following manner: One-eighth shall be used to fund the public safety operations of the Fort Morgan Volunteer Fire Department; one-eighth shall be used to fund the operations of the Baldwin County Sheriff's Office in the District; one-eighth shall be used to fund resurfacing, restoration, and rehabilitation of the paved county roads on the county road system within the District; one-eighth shall be paid to the City of Gulf Shores for distribution to the Gulf Shore City Schools and Gulf Shores Utilities at the City's discretion, which portion shall, at a minimum,

cover the costs of allowing any students residing within the District to attend the Gulf Shores City Schools; seven-sixteenths shall be used by the Baldwin County Commission within the District to support the restoration and protection of natural resources, to mitigate damage to natural resources, to mitigate harm to endangered species, to improve county or state parks, to support infrastructure projects that provide access to public property while limiting harmful impacts on the environment, to address coastal flood protection, to support erosion control and beach renourishment on the Gulf of Mexico, Mobile Bay, and Bon Secour Bay, and for planning assistance; the remainder shall be set aside and dedicated as a separate fund and reserved for erosion control and beach renourishment on the Gulf of Mexico, Mobile Bay, and Bon Secour Bay.

(f) Recognizing the need to protect the District's historic and environmentally sensitive areas, the safety hazards associated with the District's flood prone areas, and the limited access to public resources within the District, no new subdivision of land shall occur within the District except where each resulting parcel contains a minimum usable area of 30,000 square feet, usable area being that area of the parcel exclusive of protected waters and wetlands. No new two-family, multi-family, or commercial development shall occur within the District where the resulting net density exceeds 30,000 square feet per unit, net density being the total development area, exclusive of protected waters and wetlands, divided by the total number of residential or commercial units.

Nothing herein shall be construed to limit the authority of federal, state, or local laws, ordinances, and regulations to enforce more stringent limitations on development than those contained herein.

(g) On the effective date of the ratification of this amendment, the boundary lines and corporate limits of the City of Gulf Shores in Baldwin County are altered and rearranged and extended to include within the corporate limits of the municipality, in addition to the lands now included, that parcel of real property owned by the City of Gulf Shores and identified by parcel number 05-68-06-23-0-001-018.000 in the records of the Office of the Judge of Probate of Baldwin County. The said parcel shall not be developed at any time in the future for single family residential use, two family residential use, multifamily residential use, or commercial use.

No property within the District may be annexed into the City of Gulf Shores by the petition of property owners under Code of Alabama Sections 11-42-20 through 11-42-24, on the basis that the petitioning owners parcel is contiguous to that parcel of real property identified by parcel number 05-68-06-23-0-001-018.000 made part of the corporate limits of the City of Gulf Shores by this Amendment.

(h) No property within the District may be annexed into any municipality by local law.

(i) The District shall not be considered a legal entity and shall not have any of the following powers or authority:

- (1) Standing to sue or be sued.
- (2) Taxing authority.
- (3) Zoning authority.

(4) Police power and public safety authority.

(5) Authority to adopt ordinances, rules, or regulations within its boundaries.

(6) Any other authority or power commonly associated with a legal entity.

Upon ratification of this constitutional amendment, the Code Commissioner shall number and place this amendment as appropriate in the constitution omitting this instructional paragraph and may make the following nonsubstantive revisions: change capitalization, hierarchy, spelling, and punctuation for purposes of style and uniformity; correct manifest grammatical, clerical, and typographical errors; revise internal or external citations and cross-references; and translate effective dates.

END PROPOSED AMENDMENT

Section 3. An election upon the proposed amendment shall be held in accordance with Sections 284, 284.01, and 285 of the Constitution of Alabama of 2022, and the election laws of this state. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Baldwin County, proposing an amendment to the Constitution of Alabama of 2022, to define the Fort Morgan Public Safety and Conservation District within the county; to provide for the establishment of a special fund maintained by the Baldwin County Commission funded by a ten-percent lodging tax within the District to

be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding the Gulf Shore City Schools; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions. Proposed by Act \_\_\_\_."

This description shall be followed by the following language: "Yes ( ) No ( )." Section 4. The proposed amendment shall become valid as part of the Constitution of Alabama of 2022, when approved by a majority of the qualified electors voting thereon.

# Creation of The District

## PROPOSED AMENDMENT

(a) For the purposes of this amendment, the "Fort Morgan Public Safety and Conservation District" shall include all unincorporated areas of Baldwin County located south of the Intracoastal Waterway and west of the Corporate Limits of the City of Gulf Shores.

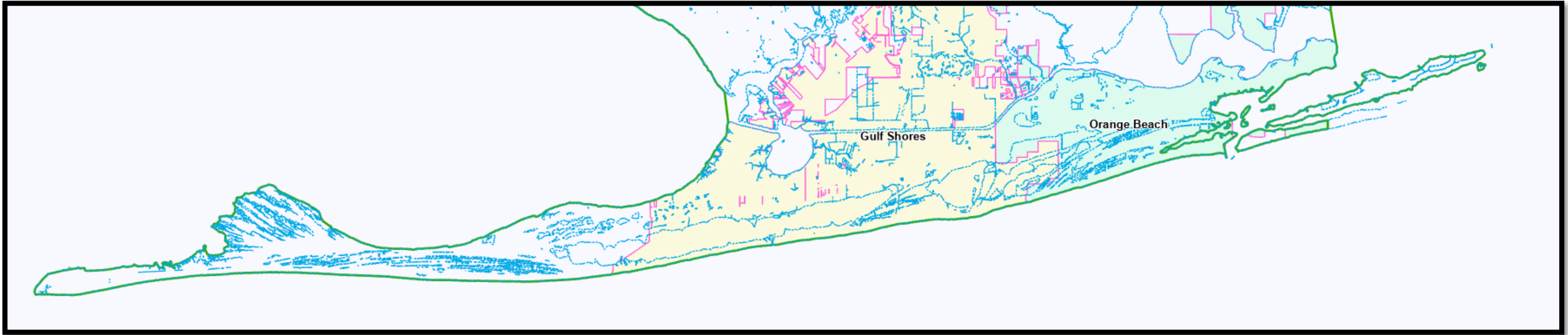


# Establishing a Lodging Tax

(b) Effective the tax year commencing on October 1, following the ratification of this amendment, in addition to all other taxes imposed by law, there is levied a privilege or license tax in the amount prescribed against every person within the District engaging in the business of renting or furnishing a room or rooms, lodging or accommodations, to a transient in a hotel, motel, inn, condominium, house, tourist court, recreational vehicle park, or another place in

In substance, the text is identical to the lodging tax text of Alabama Code Section 45-2-243.20.

# How much could a lodging tax generate?



- 2% lodging tax collected south of the ICW: 10/2022 – 9/2023 is \$17,691,915
- Therefore 1% in this same geographic area equals \$8.8 million
- Subtract the 1% portion collected in OB (\$4.4 million) & GS (\$3.4 million)
- $\$8.8\text{M} - \$4.4\text{M} - \$3.4\text{M} = \$1\text{M}$
- Therefore 1% lodging tax in unincorporated Fort Morgan should generate around \$1 million per year. 4%  $\approx$  \$4 million, 6%  $\approx$  \$6 million, etc.

# How much could a lodging tax generate?

## Gulf Shores & Orange Beach

Area	State	City	CVB	Total
Gulf Shores	4%	10%	2%	16%
Orange Beach	4%	10%	2%	16%
Outside either city's limits, but within Gulf Shores police jurisdiction and south of the Intracoastal waterway	4%	3.5%	2%	9.5%
Unincorporated area west of Gulf Shores police jurisdiction and south of Intracoastal waterway (Fort Morgan)	4%	0%	2%	6%

# How would the lodging tax be spent?

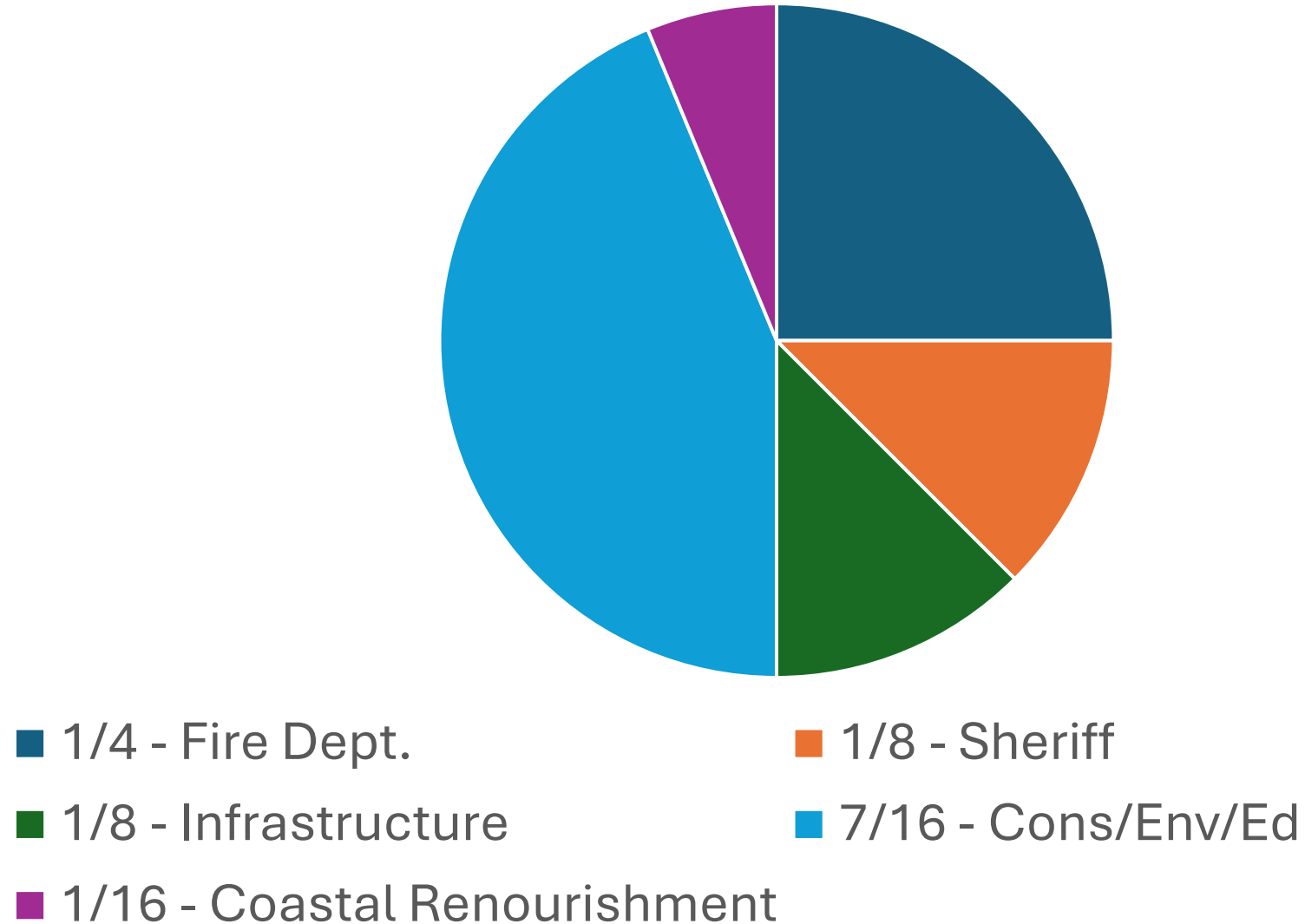
(e) The tax proceeds held in the Fort Morgan Public Safety and Conservation District Fund shall be expended in the following manner: **One-quarter** shall be used to fund the public safety operations of the Fort Morgan Volunteer Fire Department; **one-eighth** shall be used to fund the operations of the Baldwin County Sheriff's Office in the District; **one-eighth** shall be used to fund resurfacing, restoration, and rehabilitation of the paved county roads on the county road system within the District; **seven-sixteenths** shall be used by the Baldwin County Commission for any of the following uses within the District: support restoration and protection of natural resources, mitigate damage to natural resources, mitigate harm to endangered species, create or improve county or state parks, construct or maintain

infrastructure projects that provide access to public property while limiting harmful impacts to the environment, address coastal flood protection, reduce litter through enhanced garbage and bulky waste services within the District; support erosion control and beach renourishment on the Gulf of Mexico, Mobile Bay, and Bon Secour Bay, distributions to the Gulf Shore City Schools to cover the costs of allowing students residing within the District to attend the Gulf Shores City Schools, distributions to the Baldwin County Public Schools to provide enhanced access to public education within the District, and for planning assistance regarding a permissible expenditure herein; **the remainder** shall be set aside and dedicated as a separate fund and reserved for erosion control and beach renourishment on the Gulf of Mexico, Mobile Bay, and Bon Secour Bay.

- 1/4 Volunteer Fire Department
- 1/8 Sheriff's Office
- 1/8 Infrastructure
- 7/16 Conservation/Environmental/Education
- 1/16 Coastal Renourishment Fund

# How would the lodging tax be spent?

Lodging Tax Breakdown:



# Establishing Development Limitations

(f) Recognizing the need to protect the District's historic and environmentally sensitive areas, the safety hazards associated with the District's flood prone areas, and the limited access to public resources within the District, no new subdivision of land shall occur within the District except where each resulting parcel contains a minimum usable area of 30,000 square feet, usable area being that area of the parcel exclusive of protected waters and wetlands. No new two-family, multi-family, or commercial development shall occur within the District where the resulting net density exceeds 30,000 square feet per unit, net density being the total development area, exclusive of protected waters and wetlands, divided by the total number of residential or commercial units.

Nothing herein shall be construed to limit the authority of federal, state, or local laws, ordinances, and regulations to enforce more stringent limitations on development than those contained herein.

# Annexing of existing City Property

(g) On the effective date of the ratification of this amendment, the boundary lines and corporate limits of the City of Gulf Shores in Baldwin County are altered and rearranged and extended to include within the corporate limits of the municipality, in addition to the lands now included, that parcel of real property owned by the City of Gulf Shores and identified by parcel number 05-68-06-23-0-001-018.000 in the records of the Office of the Judge of Probate of Baldwin County. The said parcel shall not be developed at any time in the future for single family residential use, two family residential use, multifamily residential use, or commercial use.

Limitations

No property within the District may be annexed into the City of Gulf Shores by petition of property owners under Code of Alabama Sections 11-42-20 through 11-42-24, on the basis that the petitioning owner's parcel is contiguous to that parcel of real property identified by parcel number 05-68-06-23-0-001-018.000 made part of the City of Gulf Shores corporate limit by this Amendment.

# Limitation on Legislative Annexations

(h) No property within the District may be annexed into any municipality by local law.

Not intended to limit the following annexations by Gulf Shores:

- Parcels contiguous with Gulf Shores “proper”
- Contiguous parcels annexed by referendum



SYNOPSIS:

This bill would propose an amendment to the Constitution of Alabama of 2022, relating to Baldwin County, to define the Fort Morgan Public Safety and Conservation District within the county; to provide for the establishment of a special fund maintained by the Baldwin County Commission funded by a ten-percent lodging tax within the District to be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding the Gulf Shore City Schools; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions.

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TO BE ENTITLED  
AN ACT

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be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding the Gulf Shore City Schools; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions.

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(c) There are exempted from the provisions of the tax levied by this amendment and from the computation of the amount of the tax levied or payable the following: Charges for property sold or services

furnished which are required to be included in the tax levied by the state sales tax act; charges for the rental of rooms, lodgings, or accommodations to a person for a period of 30 continuous days or more pursuant to the exemption provision of Alabama's transient occupancy tax, Section 40-26-1. A subsequent amendment or change to the Alabama transient occupancy tax shall also have the effect of similarly changing the exemption provision of this amendment.

Notwithstanding the aforesaid provisions of this section, the tax shall not apply to the rental of living accommodations which are intended primarily for rental to persons as their principal or permanent place of residence.

(d) The taxes levied by this subpart, except as otherwise provided, shall be due and payable to the Department of Revenue on or before the 10th day of the month next succeeding the month in which the tax accrues. On or before the 10th day of each month after the effective date of the taxes, every person on whom the tax is levied by this amendment shall render to the Department of Revenue on a form prescribed by the department, a true and correct statement showing the gross proceeds of the business subject to the tax for the then preceding month, together with other information as the department demands and requires. At the time of making the monthly report, the taxpayer shall compute and pay to the department the amount of taxes shown due. A person subject to the tax who conducts business on a credit basis may defer reporting and paying the tax until after the person has received payment of the items, articles, or accommodations furnished. In the event he or she defers reporting and paying the

taxes, he or she shall thereafter include in each monthly report all credit collections made during the then preceding month and shall pay the amount of taxes computed thereon at the time of filing the report.

It shall be the duty of every person engaged or continuing in a business subject to the taxes levied by this amendment to keep and preserve suitable records of the gross proceeds of the business and other books or accounts necessary to determine the amount of tax for which he or she is liable pursuant to this amendment. The records shall be kept and preserved for a period of two years and shall be open for examination at all times by the Department of Revenue or by a duly authorized agent, deputy, or employee of the department.

A person who fails to pay the tax levied by this subpart within the time required by this subpart shall pay in addition to the tax a penalty of 10 percent of the amount of tax due, together with interest from the date on which the tax became due and payable at the rate due and payable on the state lodging tax. The penalty and interest shall be assessed and collected as a part of the tax. The Department of Revenue may, if good and sufficient reason be shown, waive or remit the penalty or a portion of the penalty.

All provisions of the state lodging tax statutes with respect to payment, assessment, and collection of the state lodging tax, making of reports and keeping and preserving records, interest after due date of tax, or otherwise; the promulgation of rules and regulations with respect to the state lodging tax; and the administration and enforcement of the state lodging tax statutes, which are not inconsistent with the provisions of this amendment when applied to the

tax levied by this amendment, shall apply to the levied tax herein. The Commissioner of Revenue and the Department of Revenue shall have and exercise the same powers, duties, and obligations with respect to the taxes levied herein as imposed on the commissioner and the department, respectively, by the state lodging tax statutes. All provisions of the state lodging tax statutes that are made applicable to this amendment, to the taxes levied herein, and to the administration of this amendment are incorporated herein by reference and made a part as if fully set forth.

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Nothing herein shall be construed to limit the authority of federal, state, or local laws, ordinances, and regulations to enforce more stringent limitations on development than those contained herein.

(g) On the effective date of the ratification of this amendment, the boundary lines and corporate limits of the City of Gulf Shores in Baldwin County are altered and rearranged and extended to include within the corporate limits of the municipality, in addition to the lands now included, that parcel of real property owned by the City of Gulf Shores and identified by parcel number 05-68-06-23-0-001-018.000 in the records of the Office of the Judge of Probate of Baldwin County. The said parcel shall not be developed at any time in the future for single family residential use, two family residential use, multifamily residential use, or commercial use.

No property within the District may be annexed into the City of Gulf Shores by the petition of property owners under Code of Alabama Sections 11-42-20 through 11-42-24, on the basis that the petitioning owners parcel is contiguous to that parcel of real property identified by parcel number 05-68-06-23-0-001-018.000 made part of the corporate limits of the City of Gulf Shores by this Amendment.

(h) No property within the District may be annexed into any municipality by local law.

(i) The District shall not be considered a legal entity and shall not have any of the following powers or authority:

- (1) Standing to sue or be sued.
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(4) Police power and public safety authority.

(5) Authority to adopt ordinances, rules, or regulations within its boundaries.

(6) Any other authority or power commonly associated with a legal entity.

Upon ratification of this constitutional amendment, the Code Commissioner shall number and place this amendment as appropriate in the constitution omitting this instructional paragraph and may make the following nonsubstantive revisions: change capitalization, hierarchy, spelling, and punctuation for purposes of style and uniformity; correct manifest grammatical, clerical, and typographical errors; revise internal or external citations and cross-references; and translate effective dates.

END PROPOSED AMENDMENT

Section 3. An election upon the proposed amendment shall be held in accordance with Sections 284, 284.01, and 285 of the Constitution of Alabama of 2022, and the election laws of this state. The appropriate election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Baldwin County, proposing an amendment to the Constitution of Alabama of 2022, to define the Fort Morgan Public Safety and Conservation District within the county; to provide for the establishment of a special fund maintained by the Baldwin County Commission funded by a ten-percent lodging tax within the District to

be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding the Gulf Shore City Schools; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions. Proposed by Act \_\_\_\_."

This description shall be followed by the following language: "Yes ( ) No ( )." Section 4. The proposed amendment shall become valid as part of the Constitution of Alabama of 2022, when approved by a majority of the qualified electors voting thereon.

# Next Steps

- Communication with Gulf Shores to obtain the City's feedback.
- Communication with legislative delegation and County to obtain their support.

SYNOPSIS:

This bill would propose an amendment to the Constitution of Alabama of 2022, relating to Baldwin County, to define the Fort Morgan Public Safety and Conservation District within the county; to provide for the establishment of a special fund maintained by the Baldwin County Commission funded by a \_\_\_\_\_-percent lodging tax within the District to be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding to support education, conservation, and the sustainable use of Fort Morgan's natural environment; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions.

A BILL

TO BE ENTITLED

AN ACT

To propose an amendment to the Constitution of Alabama of 2022, relating to Baldwin County, to define the Fort Morgan Public Safety and Conservation District within the county; to provide for the

establishment of a special fund maintained by the Baldwin County Commission funded by a \_\_\_\_-percent lodging tax within the District to be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding to support education, conservation, and the sustainable use of Fort Morgan's natural environment; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The Legislature finds in proposing this amendment, that the unincorporated areas of Baldwin County located south of the Intracoastal Waterway and west of the Corporate Limits of the City of Gulf Shores includes significant natural resources; endangered species; historic places; federal, state, and local public lands; flood prone areas; and protected wetlands and dunes. The Legislature further finds that limited access to the unincorporated Fort Morgan area places a burden on the public safety resources of Baldwin County and the City of Gulf Shores. The Legislature further finds that the potential for overdevelopment within the District places additional strain on public resources and creates a potential conflict with the Baldwin County Master Plan which designates the unincorporated Fort

Morgan area as ideal for conservation and preservation with some conservation development and low impact development potential. The Legislature further finds that an amendment to the Constitution of Alabama presents the only suitable means of enhancing public safety and protecting natural resources within the area in a manner that serves the best interests of local residents, visitors, and governmental entities.

Section 2. The following amendment to the Constitution of Alabama of 2022, is proposed:

PROPOSED AMENDMENT

(a) For the purposes of this amendment, the "Fort Morgan Public Safety and Conservation District" shall include all unincorporated areas of Baldwin County located south of the Intracoastal Waterway and west of the Corporate Limits of the City of Gulf Shores.

(b) Effective the tax year commencing on October 1, following the ratification of this amendment, in addition to all other taxes imposed by law, there is levied a privilege or license tax in the amount prescribed against every person within the District engaging in the business of renting or furnishing a room or rooms, lodging or accommodations, to a transient in a hotel, motel, inn, condominium, house, tourist court, recreational vehicle park, or another place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The amount of the tax shall be equal to \_\_\_\_\_-percent of the charge for the rooms, lodgings, or accommodations, including the charge for use of rental of personal property and services furnished in the room or rooms.

(c) There are exempted from the provisions of the tax levied by this amendment and from the computation of the amount of the tax levied or payable the following: Charges for property sold or services furnished which are required to be included in the tax levied by the state sales tax act; charges for the rental of rooms, lodgings, or accommodations to a person for a period of 30 continuous days or more pursuant to the exemption provision of Alabama's transient occupancy tax, Section 40-26-1. A subsequent amendment or change to the Alabama transient occupancy tax shall also have the effect of similarly changing the exemption provision of this amendment.

Notwithstanding the aforesaid provisions of this section, the tax shall not apply to the rental of living accommodations which are intended primarily for rental to persons as their principal or permanent place of residence.

(d) The taxes levied by this subpart, except as otherwise provided, shall be due and payable to the Department of Revenue on or before the 20th day of the month next succeeding the month in which the tax accrues. On or before the 20th day of each month after the effective date of the taxes, every person on whom the tax is levied by this amendment shall render to the Department of Revenue on a form prescribed by the department, a true and correct statement showing the gross proceeds of the business subject to the tax for the then preceding month, together with other information as the department demands and requires. At the time of making the monthly report, the taxpayer shall compute and pay to the department the amount of taxes shown due. A person subject to the tax who conducts business on a

credit basis may defer reporting and paying the tax until after the person has received payment of the items, articles, or accommodations furnished. In the event he or she defers reporting and paying the taxes, he or she shall thereafter include in each monthly report all credit collections made during the then preceding month and shall pay the amount of taxes computed thereon at the time of filing the report.

It shall be the duty of every person engaged or continuing in a business subject to the taxes levied by this amendment to keep and preserve suitable records of the gross proceeds of the business and other books or accounts necessary to determine the amount of tax for which he or she is liable pursuant to this amendment. The records shall be kept and preserved for a period of two years and shall be open for examination at all times by the Department of Revenue or by a duly authorized agent, deputy, or employee of the department.

A person who fails to pay the tax levied by this subpart within the time required by this subpart shall pay in addition to the tax a penalty of ten percent of the amount of tax due, together with interest from the date on which the tax became due and payable at the rate due and payable on the state lodging tax. The penalty and interest shall be assessed and collected as a part of the tax. The Department of Revenue may, if good and sufficient reason be shown, waive or remit the penalty or a portion of the penalty.

All provisions of the state lodging tax statutes with respect to payment, assessment, and collection of the state lodging tax, making of reports and keeping and preserving records, interest after due date of tax, or otherwise; the promulgation of rules and regulations with

respect to the state lodging tax; and the administration and enforcement of the state lodging tax statutes, which are not inconsistent with the provisions of this amendment when applied to the tax levied by this amendment, shall apply to the levied tax herein. The Commissioner of Revenue and the Department of Revenue shall have and exercise the same powers, duties, and obligations with respect to the taxes levied herein as imposed on the commissioner and the department, respectively, by the state lodging tax statutes. All provisions of the state lodging tax statutes that are made applicable to this amendment, to the taxes levied herein, and to the administration of this amendment are incorporated herein by reference and made a part as if fully set forth.

The Department of Revenue shall charge and deduct from the proceeds of the tax levied, an amount equal to the cost to the department of making the collections and the charge shall not exceed five percent of the total amount of tax collected. Following that deduction, the department shall pay the remainder of the tax proceeds to the Baldwin County Commission to be held in the Fort Morgan Public Safety and Conservation District Fund.

(e) The tax proceeds held in the Fort Morgan Public Safety and Conservation District Fund shall be expended in the following manner: One-quarter shall be used to fund the public safety operations of the Fort Morgan Volunteer Fire Department; one-eighth shall be used to fund the operations of the Baldwin County Sheriff's Office in the District; one-eighth shall be used to fund resurfacing, restoration, and rehabilitation of the paved county roads on the county road system



within the District; seven-sixteenths shall be used by the Baldwin County Commission for any of the following uses within the District: support restoration and protection of natural resources, mitigate damage to natural resources, mitigate harm to endangered species, create or improve county or state parks, construct or maintain infrastructure projects that provide access to public property while limiting harmful impacts to the environment, address coastal flood protection, reduce litter through enhanced garbage and bulky waste services within the District; support erosion control and beach renourishment on the Gulf of Mexico, Mobile Bay, and Bon Secour Bay, distributions to the Gulf Shores City Schools to cover the costs of allowing students residing within the District to attend the Gulf Shores City Schools, distributions to the Baldwin County Public Schools to provide enhanced access to public education within the District, and for planning assistance regarding a permissible expenditure herein; the remainder shall be set aside and dedicated as a separate fund and reserved for erosion control and beach renourishment on the Gulf of Mexico, Mobile Bay, and Bon Secour Bay.

(f) Recognizing the need to protect the District's historic and environmentally sensitive areas, the safety hazards associated with the District's flood prone areas, and the limited access to public resources within the District, no new subdivision of land shall occur within the District except where each resulting parcel contains a minimum usable area of 30,000 square feet, usable area being that area of the parcel exclusive of protected waters and wetlands. No new two-family, multi-family, or commercial development shall occur within the

District where the resulting net density exceeds 30,000 square feet per unit, net density being the total development area, exclusive of protected waters and wetlands, divided by the total number of residential or commercial units.

If any building or structure is erected or constructed, or if any land is used, developed, subdivided in violation of these provisions, the Baldwin County Commission, or any party aggrieved by such violation, may file an appropriate action with the Circuit Court of Baldwin County, Alabama, seeking enforcement of these provisions.

Nothing herein shall be construed to limit the authority of federal, state, or local laws, ordinances, and regulations to enforce more stringent limitations on development than those contained herein.

(g) On the effective date of the ratification of this amendment, the boundary lines and corporate limits of the City of Gulf Shores in Baldwin County are altered and rearranged and extended to include within the corporate limits of the municipality, in addition to the lands now included, that parcel of real property owned by the City of Gulf Shores and identified by parcel number 05-68-06-23-0-001-018.000 in the records of the Office of the Judge of Probate of Baldwin County. The said parcel shall not be developed at any time in the future for single family residential use, two family residential use, multifamily residential use, or commercial use.

No property within the District may be annexed into the City of Gulf Shores by petition of property owners under Code of Alabama Sections 11-42-20 through 11-42-24, on the basis that the petitioning owner's parcel is contiguous to that parcel of real property

identified by parcel number 05-68-06-23-0-001-018.000 made part of the City of Gulf Shores corporate limit by this Amendment.

(h) No property within the District may be annexed into any municipality by local law.

(i) The District shall not be considered a legal entity and shall not have any of the following powers or authority:

- (1) Standing to sue or be sued.
- (2) Taxing authority.
- (3) Zoning authority.
- (4) Police power and public safety authority.
- (5) Authority to adopt ordinances, rules, or regulations within its boundaries.
- (6) Any other authority or power commonly associated with a legal entity.

Upon ratification of this constitutional amendment, the Code Commissioner shall number and place this amendment as appropriate in the constitution omitting this instructional paragraph and may make the following nonsubstantive revisions: change capitalization, hierarchy, spelling, and punctuation for purposes of style and uniformity; correct manifest grammatical, clerical, and typographical errors; revise internal or external citations and cross-references; and translate effective dates.

END PROPOSED AMENDMENT

Section 3. An election upon the proposed amendment shall be held in accordance with Sections 284, 284.01, and 285 of the Constitution of Alabama of 2022, and the election laws of this state. The appropriate

election official shall assign a ballot number for the proposed constitutional amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed constitutional amendment:

"Relating to Baldwin County, to define the Fort Morgan Public Safety and Conservation District within the county; to provide for the establishment of a special fund maintained by the Baldwin County Commission funded by a \_\_\_\_-percent lodging tax within the District to be used solely for the purpose of funding the Fort Morgan Volunteer Fire Department, funding equipment and personnel of the Baldwin County Sheriff's office serving the District, funding improvements to the paved county roads on the county road system within the District, and funding to support education, conservation, and the sustainable use of Fort Morgan's natural environment; to establish density limitations applicable to the District; to add certain real property owned by the City of Gulf Shores into the corporate limits of the city; and to prohibit the annexation by local law of any property within the District into any municipality except under certain conditions. Proposed by Act \_\_\_\_."

This description shall be followed by the following language:

"Yes( ) No( )."

Section 4. The proposed amendment shall become valid as part of the Constitution of Alabama of 2022, when approved by a majority of the qualified electors voting thereon.