

1 HB600
2 167895-2
3 By Representatives Poole, McCampbell, England, Harper, South
4 and Wingo (N & P)
5 RFD: Tuscaloosa County Legislation
6 First Read: 05-MAY-15

1
2 ENROLLED, An Act,

3 Relating to Tuscaloosa County; to amend Sections 1,
4 3, 4, and 11 of Acts 1953, No. 56, 1953 Regular Session, as
5 amended by Act 94-535, 1994 Regular Session (Acts 1994, p.
6 976) and Act 94-554, 1994 Regular Session (Acts 1994, p.
7 1010), which authorized the levy and collection of certain
8 sales and use taxes in the county; to increase the taxes and
9 change the distribution of the proceeds of the taxes; to add
10 Section 11A to create the Tuscaloosa County Road Improvement
11 Commission with powers to make appropriations from certain
12 taxes received pursuant to the act; and to bind itself to make
13 future appropriations.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Sections 1, 3, 4, and 11 of Acts 1953,
16 No. 56, 1953 Regular Session, as amended by Act 94-535, 1994
17 Regular Session (Acts 1994, p. 976) and Act 94-554, 1994
18 Regular Session (Acts 1994, p. 1010), are amended to read as
19 follows:

20 "Section 1.

21 "The following words and phrases shall have the
22 following meanings:

23 "(1) CITY. The City of Tuscaloosa in the state.

24 "(2) CITY BOARD OF EDUCATION. The Tuscaloosa City
25 Board of Education.

1 "(3) CITY OF NORTHPORT. Is specifically identified
2 when included.

3 "(4) COMMISSION. The Tuscaloosa County Road
4 Improvement Commission created by Section 11A.

5 "(5) COUNTY. Tuscaloosa County in the state.

6 "(6) COUNTY BOARD OF EDUCATION. The Tuscaloosa
7 County Board of Education.

8 "(7) HOSPITAL AUTHORITY. The DCH Regional Health
9 Care Authority.

10 "(8) MAXIMUM RATE.

11 "a. For purposes of Sections 3A and 4A of this act,
12 maximum rate means a rate equal to the highest rate of sales
13 or use tax now or hereafter levied by the city or by the City
14 of Northport within their respective corporate limits,
15 whichever is greater, at the date of enactment of this
16 amendatory act or at any time thereafter, provided, however,
17 that the maximum rate shall not decrease as a result of a
18 decrease in the rate of sales and use tax levied by the city
19 or by the City of Northport.

20 "b. All references in this act to the police
21 jurisdiction or corporate limits of a municipality shall mean
22 and refer to the municipality's police jurisdiction or
23 corporate limits, respectively, as now or hereafter
24 constituted.

1 "(9) NET DISTRIBUTABLE AMOUNT. The amount of taxes
2 collected under this act and distributable to the recipients
3 under subsection (a) of Section 11 less the amounts
4 distributed under subdivision (2) of subsection (a) of Section
5 11 and less the amounts distributed under subdivision (1) of
6 subsection (a) of Section 11 to the extent the amounts
7 distributed under subdivision (1) of subsection (a) of Section
8 11 to a recipient are in excess of the amount that would have
9 been distributed to the same recipient under subdivisions (3)
10 to (8), inclusive, of subsection (a) of Section 11 had no
11 amounts been distributed under subdivision (2) of subsection
12 (a) of Section 11.

13 "(10) OBLIGATIONS. Warrants, bonds, notes,
14 certificates, refunding warrants, refunding bonds, refunding
15 notes, refunding certificates, and any other obligations for
16 the payment of money issued by the state, the county, the
17 hospital authority, a municipality located in the county, or
18 any other recipient of taxes collected under this act.

19 "(11) QUARTERLY PERIOD. Each period of three
20 calendar months commencing on each January 1, April 1, July 1,
21 and October 1.

22 "(12) STATE. The State of Alabama.

23 "(13) STATE SALES TAX STATUTES. The provisions of
24 Article 1, Chapter 23, Title 40, Code of Alabama 1975, as
25 amended from time to time.

1 "(14) STATE USE TAX STATUTES. The provisions of
2 Article 2, Chapter 23, Title 40, Code of Alabama 1975, as
3 amended from time to time.

4 "(15) TAX BOARD. The Tuscaloosa County Special Tax
5 Board created in Section 9.

6 "(16) THIS ACT. Act No. 56, 1953 Regular Session, as
7 heretofore and as hereby amended.

8 "(17) TUSCALOOSA COUNTY LEGISLATIVE DELEGATION.
9 Those members of the Legislature elected to represent some
10 portion of the county.

11 "(18) Pronouns include all genders.

12 "(19) Those words and phrases used in Sections 3 and
13 3A of this act that are defined in the state sales tax
14 statutes shall have the meanings respectively given them in
15 the state sales tax statutes. Those words and phrases used in
16 Sections 4 and 4A of this act that are defined in the state
17 use tax statutes shall have the meanings respectively given
18 them in the state use tax statutes.

19 "Section 3.

20 "There is hereby levied in the county, in addition
21 to all other taxes of every kind now imposed by law, and shall
22 be collected as herein provided, a privilege or license tax
23 against the person on account of the business activities and
24 in the amount to be determined by the application of rates

1 against gross sales, or gross receipts, as the case may be, as
2 follows:

3 "(a) Upon every person, firm, or corporation
4 (including the University of Alabama, and all other
5 institutions of higher learning in the county, whether such
6 institutions be denominational, state, county, or municipal
7 institutions, and any association or other agency or
8 instrumentality of such institutions) engaged, or continuing
9 within the county, in the business of selling at retail any
10 tangible personal property whatsoever, including merchandise
11 and commodities of every kind and character (not including,
12 however, bonds or other evidences of debts or stocks), an
13 amount equal to three percent of the gross proceeds of sales
14 of the business, except where a different amount is expressly
15 provided herein. Any person engaging or continuing in business
16 as a retailer and wholesaler or jobber shall pay the tax
17 required on the gross proceeds of retail sales of such
18 business at the rates specified, when his books are kept to
19 show separately the gross proceeds of sales of each business,
20 and when the books are not so kept, shall pay the tax as a
21 retailer on the gross sales of the entire business.

22 "(b) Upon every person, firm, or corporation
23 engaged, or continuing within the county, in the business of
24 conducting, or operating, places of amusement or
25 entertainment, billiard and poolrooms, bowling alleys,

1 amusement devices, musical devices, theaters, opera houses,
2 moving picture shows, vaudevilles, amusement parks, athletic
3 contests, including wrestling matches, prizefights, boxing,
4 and wrestling exhibitions, football, basketball, and baseball
5 games (including athletic contests conducted by or under the
6 auspices of any educational institution, or any athletic
7 association thereof, or other association whether the
8 institution or association is a denominational, state, county,
9 or municipal institution, or association, or a state, county,
10 or city school or other institution, association, or school),
11 skating rinks, racetracks, golf courses, or any other place at
12 which any exhibition, display, amusement, or entertainment is
13 offered to the public or place or places where an admission
14 fee is charged, including public bathing places and public
15 dance halls of every kind and description within the county,
16 an amount equal to three percent of the gross receipts of any
17 such business.

18 "(c) Upon every person, firm, or corporation engaged
19 or continuing within the county in the business of selling at
20 retail any automotive vehicle, truck trailer, or semitrailer,
21 an amount equal to three-quarters of one percent of the gross
22 proceeds of the sale of the automotive vehicle, truck trailer,
23 or semitrailer. Where any used automotive vehicle, truck
24 trailer, or semitrailer is taken in trade, or in a series of
25 trades, as a credit or part payment on the sale of a new or

1 used vehicle, the tax levied herein shall be paid on the net
2 difference, that is, the price of the new or used vehicle sold
3 less the credit for the used vehicle taken in trade.

4 "(d) Upon every person, firm, or corporation engaged
5 or continuing within the county in the business of selling at
6 retail machines used in mining, quarrying, compounding,
7 processing, and manufacturing of tangible personal property an
8 amount equal to one and one-eighth of one percent of the gross
9 proceeds of the sale of such machines. The term machines, as
10 used herein, shall include machinery which is used for mining,
11 quarrying, compounding, processing, or manufacturing tangible
12 personal property, and the parts of such machines,
13 attachments, and replacements therefor, which are made or
14 manufactured for use on or in the operation of such machines
15 and which are necessary to the operation of such machines and
16 are customarily so used.

17 "Each exemption provided for in the state sales tax
18 statutes, shall, during the period of time when such exemption
19 shall be effective in the statutes, be applicable to the tax
20 levied in this section. In the event of the repeal of the
21 state sales tax statutes, the exemptions effective therein
22 immediately prior to any repeal shall thereafter be applicable
23 to the tax levied in this section. In addition thereto, and
24 except as expressly enumerated hereinabove, there are hereby
25 exempted from the tax levied in this section the gross

1 receipts or gross proceeds of any business engaged in by any
2 city or town in Tuscaloosa County. In the absence of any
3 express provision herein to the contrary, all provisions and
4 procedures with respect to the application for and issuance of
5 licenses, the making of returns or reports, the contents of
6 returns or reports, collection and payment of taxes, keeping
7 of records, reporting and paying taxes with respect to sales
8 on credit, determination of the amount of the tax due,
9 penalties, assessments, notices, and examinations of taxpayers
10 and their books provided for in the state sales tax statutes
11 with respect to the tax levied in those statutes shall be
12 applicable to the tax levied in this section, excepting
13 however, the procedure for appeals from assessments, and such
14 appeals shall be made as hereinafter set forth. Any procedure
15 or provisions involving the State Department of Revenue which
16 is incorporated herein by reference to the state sales tax
17 statutes shall be deemed to apply, with respect to the tax
18 levied in this section, to the tax board. Every person, firm,
19 or corporation engaged in any business upon which the tax
20 levied in this section is imposed shall add the tax herein
21 levied to the sales and admission price with respect to which
22 the tax is levied and shall collect the same from the
23 purchaser.

1 "(e) The sale of school lunches sold by all public
2 and private schools in Tuscaloosa County, Alabama, is
3 expressly exempted.

4 "Section 4.

5 "(a) An excise tax is imposed on the storage, use,
6 or other consumption in the county of tangible personal
7 property purchased at retail on or after the effective date of
8 the act amending this subsection, for storage, use, or other
9 consumption in the county at the rate of three percent of the
10 sale price of such property, regardless of whether the
11 retailer who made the sale is or is not engaged in business in
12 the county, except as provided in subsections (b) and (c).

13 "(b) An excise tax is imposed on the storage, use,
14 or other consumption in the county of any automotive vehicle,
15 truck trailer, and semitrailer purchased at retail, on or
16 after the effective date of the act amending this subsection,
17 for storage, use, or other consumption in the county at the
18 rate of three-quarters of one percent of the sales price of
19 such automotive vehicle, truck trailer, or semitrailer.

20 "(c) An excise tax is imposed on the storage, use,
21 or other consumption within the county of any machines used in
22 mining, quarrying, compounding, processing, and manufacturing
23 of tangible personal property, purchased at retail on or after
24 the effective date of the act amending this subsection, at the
25 rate of one and one-eighth of one percent of the sales price

1 of any such machine. The term machine, as used herein, shall
2 include machinery which is used for mining, quarrying,
3 compounding, or processing, or manufacturing tangible personal
4 property, and parts of such machines, attachments, and
5 replacements therefor, which are made or manufactured for use
6 on or in the operation of such machines and which are
7 necessary to the operation of such machines and are
8 customarily so used.

9 "(d) Every person storing, using, or otherwise
10 consuming in the county, tangible personal property purchased
11 at retail shall be liable for the tax imposed by this section,
12 and the liability shall not be extinguished until the tax has
13 been paid; provided, however, that a receipt from a retailer
14 maintaining a place of business in the county, showing that
15 the property in question was purchased at retail from the
16 retailer and the tax levied in Section 3 has been paid with
17 respect to the purchase at retail of such property shall be
18 sufficient to relieve the purchaser from further liability for
19 a tax under this section with respect to the use, storage, or
20 consumption of the property. Each exemption provided for in
21 the state use tax statutes, during the period of time when
22 such exemption shall be effective in the statutes, shall be
23 applicable to the tax levied in this section. In the event of
24 the repeal of the state use tax statutes, the exemptions
25 effective therein immediately prior to any such repeal shall

1 thereafter be applicable to the tax levied in this section.
2 All provisions and procedures with respect to the filing of
3 returns, collections, and payment of taxes, keeping of
4 records, making of reports, determination of the amount of the
5 tax due, penalties, assessments, notices, examinations of tax
6 payers and their books provided in the state use tax statutes,
7 with respect to the tax levied in those statutes, shall be
8 applicable to the tax levied in this section excepting,
9 however, the procedure for appeals from assessments, and such
10 appeals shall be made as hereinafter set forth. Any procedure
11 or provisions involving the State Department of Revenue which
12 is incorporated herein by reference to the state use tax
13 statutes shall be deemed to apply, with respect to the tax
14 levied in this section to the tax board.

15 "Section 11.

16 "(a) Any and all expenses, including (but without
17 limitation to) salaries, office rent, and other expenses that
18 may be necessary to provide for the collection and
19 distribution of the taxes herein levied as may be authorized
20 or approved by the tax board, shall be deducted by the tax
21 board and paid out of the proceeds from collections under this
22 act before any distribution of proceeds. Provided, however,
23 that under no circumstances shall the funds held or collected
24 pursuant to Sections 3A and 4A of this act be commingled with
25 other funds held or collected by the tax board, but shall be

1 separately invested and accounted for and all the expenses
2 shall be charged against the proceeds distributed to each
3 recipient in proportion to the amount of proceeds distributed.
4 After deduction of expenses, the tax board shall distribute
5 the remaining proceeds from the taxes collected under this act
6 as follows:

7 "(1) No later than November 30 of each fiscal year,
8 sums sufficient to satisfy all pledges of tax proceeds
9 collected under this act that were entered into on or before
10 April 1, 2015, shall be paid to the general fund of the city,
11 the City of Northport, the county, the hospital authority, the
12 county school system, and the city school system, as
13 applicable, for payment pursuant to such pledges; however, no
14 sums may be distributed pursuant to this subdivision in excess
15 of the distribution that the recipient would have received
16 under this act as in effect before the 2015 amendment to the
17 act.

18 "(2) No later than November 30 of each fiscal year,
19 twenty-five thousand dollars (\$25,000) shall be disbursed to
20 the general fund of each of the municipalities of Lakeview,
21 Brookwood, Vance, Coaling, and Coker for general municipal
22 purposes. This disbursement shall be made after the
23 distribution made pursuant to subdivision (1) and before any
24 other distribution is made pursuant to subdivisions (3) to
25 (9), inclusive.

1 "(3) Nineteen percent of the net distributable
 2 amount, less and except any amounts paid to the city pursuant
 3 to subdivision (1), shall be paid to the city for general
 4 municipal purposes.

5 "(4) Five percent of the net distributable amount,
 6 less and except any amounts paid to the City of Northport
 7 pursuant to subdivision (1), shall be paid to the City of
 8 Northport for general municipal purposes.

9 "(5) Fourteen and three-tenths percent of the net
 10 distributable amount, less and except any amounts paid to the
 11 county pursuant to subdivision (1), shall be paid to the
 12 county for general county purposes.

13 "(6) Six and seven-tenths percent of the net
 14 distributable amount, less and except any amounts paid to the
 15 hospital authority pursuant to subdivision (1), shall be paid
 16 to the hospital authority, which shall use the proceeds solely
 17 to defray all or a part of the costs of any hospital operated
 18 by the hospital authority for hospital services furnished to
 19 charity patients who are residents of the county, including
 20 any municipality therein.

21 "(7) Twenty-five percent of the net distributable
 22 amount, less and except any amounts paid to the county school
 23 system pursuant to subdivision (1), shall be paid to the
 24 county school system, which shall use the proceeds solely for
 25 public school purposes in the county, including, but without

1 limitation to, payment of any obligations of the county board
2 of education which have heretofore or may hereafter be issued
3 for any public school purposes, together with the interest
4 thereon and the necessary expenses in connection with the
5 issuance thereof, acquiring, providing, or constructing
6 schoolhouses and related buildings necessary or convenient for
7 public school purposes, and equipping, furnishing,
8 maintaining, repairing, or replacing any buildings and
9 acquiring sites therefor, or any other general public school
10 purposes.

11 "(8) Twenty percent of the net distributable amount,
12 less and except any amounts paid to the city school system
13 pursuant to subdivision (1), shall be paid to the city school
14 system, which shall use the proceeds solely for public school
15 purposes in the city, including, but without limitation to,
16 payment of any obligations of the city which have heretofore
17 or may hereafter be issued for any public school purposes,
18 together with the interest thereon and the necessary expenses
19 in connection with the issuance thereof, acquiring, providing,
20 or constructing schoolhouses and related buildings necessary
21 or convenient for public school purposes, and equipping,
22 furnishing, maintaining, repairing, or replacing any such
23 building and acquiring sites therefor, or any other general
24 public school purposes.

1 "(9) All proceeds remaining shall be paid to the
2 commission.

3 "(b) Tax proceeds shall be paid over to the
4 recipients thereof on or before the tenth day of the calendar
5 month next succeeding the calendar month in which the proceeds
6 have been received by the tax board. The tax board is hereby
7 authorized to retain on hand at all times as a revolving or
8 contingent fund for payment of its expenses, as provided for
9 in subsection (c) of Section 9, such amount of tax proceeds as
10 it deems expedient; provided, that as disbursements are made
11 from the revolving or contingent fund, the tax board shall
12 have the power, immediately or at such times as it deems
13 convenient, to restore the moneys so disbursed out of the
14 proceeds from the taxes herein levied; and provided further,
15 that the revolving or contingent fund shall not at any time
16 exceed 10 percent of the collections made under this act
17 during the then preceding calendar month.

18 "(c) The recipient of taxes under subsection (a) and
19 recipients of appropriations by the commission, by appropriate
20 proceedings, may appropriate, pledge, or enter into long-term
21 contracts encumbering or restricting the use of the tax
22 proceeds distributable to the recipient."

23 Section 2. Section 11A is added to Acts 1953, No.
24 56, 1953 Regular Session, as amended by Act 94-535, 1994

1 Regular Session (Acts 1994, p. 976) and Act 94-554, 1994
2 Regular Session (Acts 1994, p. 1010), to read as follows:

3 Section 11A.

4 (a) The Tuscaloosa County Road Improvement
5 Commission is created to provide oversight for the
6 prioritization and financing of public road and bridge
7 construction and maintenance projects that are financed by the
8 tax proceeds allocated for use by the commission in accordance
9 with subdivision (9) of subsection (a) of Section 11.

10 (b) The commission shall be composed of the
11 following members:

12 (1) The Mayor of the City of Tuscaloosa, or his or
13 her appointee, who shall be a resident of the city and serve a
14 term of office coextensive with the term of office of the
15 mayor of the city making the appointment. The acceptance or
16 appointment shall be evidenced by an instrument signed by the
17 mayor of the city and delivered to the commission.

18 (2) The Mayor of the City of Northport, or his or
19 her appointee, who shall be a resident of the City of
20 Northport and serve a term of office coextensive with the term
21 of office of the Mayor of the City of Northport making the
22 appointment. The acceptance or appointment shall be evidenced
23 by an instrument signed by the Mayor of the City of Northport
24 and delivered to the commission.

1 (3) The Chair of the Tuscaloosa County Commission,
2 or his or her appointee, who shall be a resident of the county
3 and serve a term of office coextensive with the term of office
4 of the chair. The acceptance or appointment shall be evidenced
5 by an instrument signed by the chair and delivered to the
6 commission.

7 (4) One member appointed by the West Alabama Chamber
8 of Commerce, who shall be a resident of the county and shall
9 serve a term of office of four years from the date of
10 appointment. The appointment shall be evidenced by an
11 instrument signed by the chair of the chamber of commerce and
12 delivered to the commission.

13 (5) The Executive Director of the Tuscaloosa County
14 Industrial Development Authority, or his or her appointee, who
15 shall serve a term of office of four years from the date of
16 appointment. The acceptance or appointment shall be evidenced
17 by an instrument signed by the executive director and
18 delivered to the commission.

19 (6) One member of the Tuscaloosa County Legislative
20 Delegation, selected by a majority of the members of the
21 delegation, who shall be a minority and a resident of the
22 county and serve a term of office coextensive with the term of
23 office of the members of the delegation. The selection shall
24 be evidenced by an instrument signed by a majority of the
25 members of the delegation and delivered to the commission.

1 (7) One member of the Tuscaloosa County Legislative
2 Delegation, selected by a majority of the members of the
3 delegation, who shall be a resident of the county and serve a
4 term of office coextensive with the term of office of the
5 members of the delegation. The selection shall be evidenced by
6 an instrument signed by a majority of the members of the
7 delegation and delivered to the commission.

8 (8) The Director of the Alabama Department of
9 Transportation, or his or her appointee, who shall serve in an
10 ex officio, unofficial, advisory, and nonvoting capacity and
11 shall serve a term of office coextensive with the term of
12 office of the Governor. The acceptance or appointment shall be
13 evidenced by an instrument signed by the director of the
14 department and delivered to the commission.

15 (c) The commission shall apply the tax proceeds
16 received under this act in the following priority, with the
17 scope and the amount to be provided for each project to be
18 determined by the commission, in its sole discretion. The
19 commission, consistent with the following priorities, may
20 appropriate funds to the county, the city, the City of
21 Northport, the Alabama Highway Authority, the Alabama
22 Department of Transportation, or other appropriate
23 governmental bodies solely for the purpose of funding roads
24 and highways in the county. The commission shall endeavor to
25 fully fund each project, or the obligations issued to fund

1 each project, in a timely manner, after taking into account
2 other funding sources from the state or federal government.
3 The commission is under no obligation to fully fund each
4 project listed below before moving to the next project listed:

5 (1) Funds sufficient for the reimbursement of that
6 portion of the City of Northport, Alabama General Obligation
7 Warrants Series 2014-A, in the original amount of sixteen
8 million five hundred twenty thousand dollars (\$16,520,000),
9 issued on July 21, 2014, that is used for improvements to Mitt
10 Lary Road, determined as follows:

11 a. The amount needed to defease the debt service on
12 that portion of the warrants; or

13 b. An amount needed to defease 10 percent of such
14 amount each year for 10 years or, if sooner, until the
15 warrants have been fully paid or defeased; or

16 c. The annual debt service on such portion of the
17 warrants until the same are paid in full or defeased.

18 (2) Improvements to SR69 South.

19 (3) Improvements to SR69 North including, but not
20 limited to, the intersection of Highway 43 and 69; however,
21 this shall not include any part of the Mitt Lary Road warrant
22 reimbursement identified in subdivision (1).

23 (4) Martin Luther King Boulevard/Jack Warner Parkway
24 improvements.

1 (5) Improvements to McFarland Boulevard/U.S. 82,
2 however, excluding any projects which have begun, for which a
3 bid has been let, or for which funds have been encumbered for
4 county projects on or before the effective date of the act
5 adding this section.

6 (6) Improvements to McWright's Ferry Road.

7 (7) Improvements to the Bear Creek Cutoff Road.

8 (d) Any tax proceeds remaining after the
9 construction of or the repayment of any obligations issued for
10 the projects prescribed in subdivisions (1) to (7), inclusive,
11 of subsection (c) shall be allocated as follows:

12 (1) Seventy-five percent to be administered by the
13 commission for significant roadway infrastructure projects to
14 be identified and prioritized by the commission.

15 (2) Twenty-five percent to the county and to each
16 municipality located therein, in proportion to population,
17 with the population of the county to be determined for this
18 purpose net of the populations of the municipalities located
19 therein, to be administered by the county or municipalities,
20 respectively, for local roadway infrastructure projects to be
21 determined by the county or municipalities in their sole
22 discretion. For a municipality situated in both the county and
23 another county, only the population of the municipality
24 residing within the county shall be considered for purposes of
25 this subdivision.

1 (d) The commission may bind itself by funding
2 agreement, indenture, resolution, or other appropriate
3 instrument to make appropriations in amounts specified by
4 dollar amount or formula in future years, and may bind future
5 road improvement boards by such means. However, the road
6 improvement board is not obligated and may not obligate itself
7 to pay more than it receives from the tax board. The recipient
8 of any appropriations may pledge or otherwise commit or
9 encumber such appropriations in accordance with law.

10 Section 3. This act shall become effective on June
11 1, 2016, following its passage and approval by the Governor,
12 or its otherwise becoming law.

