

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

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Tuscaloosa County; to amend Sections 1,
14 3, 4, and 11 of Acts 1953, No. 56, 1953 Regular Session, as
15 amended by Act 94-535, 1994 Regular Session (Acts 1994, p.
16 976) and Act 94-554, 1994 Regular Session (Acts 1994, p.
17 1010), which authorized the levy and collection of certain
18 sales and use taxes in the county; to increase the taxes and
19 change the distribution of the proceeds of the taxes; to add
20 Section 11A to create the Tuscaloosa County Road Improvement
21 Commission with powers to make appropriations from certain
22 taxes received pursuant to the act; and to bind itself to make
23 future appropriations.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Sections 1, 3, 4, and 11 of Acts 1953,
26 No. 56, 1953 Regular Session, as amended by Act 94-535, 1994
27 Regular Session (Acts 1994, p. 976) and Act 94-554, 1994

1 Regular Session (Acts 1994, p. 1010), are amended to read as
2 follows:

3 "Section 1.

4 "The following words and phrases shall have the
5 following meanings:

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

7 "(2) CITY BOARD OF EDUCATION. The Tuscaloosa City
8 Board of Education.

9 "(3) CITY OF NORTHPORT. Is specifically identified
10 when included.

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

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

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

16 "(7) HOSPITAL AUTHORITY. The DCH Regional Health
17 Care Authority.

18 "(8) MAXIMUM RATE.

19 "a. For purposes of Sections 3A and 4A of this act,
20 maximum rate means a rate equal to the highest rate of sales
21 or use tax now or hereafter levied by the city or by the City
22 of Northport within their respective corporate limits,
23 whichever is greater, at the date of enactment of this
24 amendatory act or at any time thereafter, provided, however,
25 that the maximum rate shall not decrease as a result of a
26 decrease in the rate of sales and use tax levied by the city
27 or by the City of Northport.

1 "b. All references in this act to the police
2 jurisdiction or corporate limits of a municipality shall mean
3 and refer to the municipality's police jurisdiction or
4 corporate limits, respectively, as now or hereafter
5 constituted.

6 "(9) NET DISTRIBUTABLE AMOUNT. The amount of taxes
7 collected under this act and distributable to the recipients
8 under subsection (a) of Section 11 less the amounts
9 distributed under subdivision (2) of subsection (a) of Section
10 11 and less the amounts distributed under subdivision (1) of
11 subsection (a) of Section 11 to the extent the amounts
12 distributed under subdivision (1) of subsection (a) of Section
13 11 to a recipient are in excess of the amount that would have
14 been distributed to the same recipient under subdivisions (3)
15 to (8), inclusive, of subsection (a) of Section 11 had no
16 amounts been distributed under subdivision (2) of subsection
17 (a) of Section 11.

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

24 "(11) QUARTERLY PERIOD. Each period of three
25 calendar months commencing on each January 1, April 1, July 1,
26 and October 1.

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

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

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

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

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

11 "(17) TUSCALOOSA COUNTY LEGISLATIVE DELEGATION.
12 Those members of the Legislature elected to represent some
13 portion of the county.

14 "(18) Pronouns include all genders.

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

22 "Section 3.

23 "There is hereby levied in the county, in addition
24 to all other taxes of every kind now imposed by law, and shall
25 be collected as herein provided, a privilege or license tax
26 against the person on account of the business activities and
27 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,
26 amusement devices, musical devices, theaters, opera houses,
27 moving picture shows, vaudevilles, amusement parks, athletic

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

16 "(c) Upon every person, firm, or corporation engaged
17 or continuing within the county in the business of selling at
18 retail any automotive vehicle, truck trailer, or semitrailer,
19 an amount equal to three-quarters of one percent of the gross
20 proceeds of the sale of the automotive vehicle, truck trailer,
21 or semitrailer. Where any used automotive vehicle, truck
22 trailer, or semitrailer is taken in trade, or in a series of
23 trades, as a credit or part payment on the sale of a new or
24 used vehicle, the tax levied herein shall be paid on the net
25 difference, that is, the price of the new or used vehicle sold
26 less the credit for the used vehicle taken in trade.

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

14 "Each exemption provided for in the state sales tax
15 statutes, shall, during the period of time when such exemption
16 shall be effective in the statutes, be applicable to the tax
17 levied in this section. In the event of the repeal of the
18 state sales tax statutes, the exemptions effective therein
19 immediately prior to any repeal shall thereafter be applicable
20 to the tax levied in this section. In addition thereto, and
21 except as expressly enumerated hereinabove, there are hereby
22 exempted from the tax levied in this section the gross
23 receipts or gross proceeds of any business engaged in by any
24 city or town in Tuscaloosa County. In the absence of any
25 express provision herein to the contrary, all provisions and
26 procedures with respect to the application for and issuance of
27 licenses, the making of returns or reports, the contents of

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

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

22 "Section 4.

23 "(a) An excise tax is imposed on the storage, use,
24 or other consumption in the county of tangible personal
25 property purchased at retail on or after the effective date of
26 the act amending this subsection, for storage, use, or other
27 consumption in the county at the rate of three percent of the

1 sale price of such property, regardless of whether the
2 retailer who made the sale is or is not engaged in business in
3 the county, except as provided in subsections (b) and (c).

4 "(b) An excise tax is imposed on the storage, use,
5 or other consumption in the county of any automotive vehicle,
6 truck trailer, and semitrailer purchased at retail, on or
7 after the effective date of the act amending this subsection,
8 for storage, use, or other consumption in the county at the
9 rate of three-quarters of one percent of the sales price of
10 such automotive vehicle, truck trailer, or semitrailer.

11 "(c) An excise tax is imposed on the storage, use,
12 or other consumption within the county of any machines used in
13 mining, quarrying, compounding, processing, and manufacturing
14 of tangible personal property, purchased at retail on or after
15 the effective date of the act amending this subsection, at the
16 rate of one and one-eighth of one percent of the sales price
17 of any such machine. The term machine, as used herein, shall
18 include machinery which is used for mining, quarrying,
19 compounding, or processing, or manufacturing tangible personal
20 property, and parts of such machines, attachments, and
21 replacements therefor, which are made or manufactured for use
22 on or in the operation of such machines and which are
23 necessary to the operation of such machines and are
24 customarily so used.

25 "(d) Every person storing, using, or otherwise
26 consuming in the county, tangible personal property purchased
27 at retail shall be liable for the tax imposed by this section,

1 and the liability shall not be extinguished until the tax has
2 been paid; provided, however, that a receipt from a retailer
3 maintaining a place of business in the county, showing that
4 the property in question was purchased at retail from the
5 retailer and the tax levied in Section 3 has been paid with
6 respect to the purchase at retail of such property shall be
7 sufficient to relieve the purchaser from further liability for
8 a tax under this section with respect to the use, storage, or
9 consumption of the property. Each exemption provided for in
10 the state use tax statutes, during the period of time when
11 such exemption shall be effective in the statutes, shall be
12 applicable to the tax levied in this section. In the event of
13 the repeal of the state use tax statutes, the exemptions
14 effective therein immediately prior to any such repeal shall
15 thereafter be applicable to the tax levied in this section.
16 All provisions and procedures with respect to the filing of
17 returns, collections, and payment of taxes, keeping of
18 records, making of reports, determination of the amount of the
19 tax due, penalties, assessments, notices, examinations of tax
20 payers and their books provided in the state use tax statutes,
21 with respect to the tax levied in those statutes, shall be
22 applicable to the tax levied in this section excepting,
23 however, the procedure for appeals from assessments, and such
24 appeals shall be made as hereinafter set forth. Any procedure
25 or provisions involving the State Department of Revenue which
26 is incorporated herein by reference to the state use tax

1 statutes shall be deemed to apply, with respect to the tax
2 levied in this section to the tax board.

3 "Section 11.

4 "(a) Any and all expenses, including (but without
5 limitation to) salaries, office rent, and other expenses that
6 may be necessary to provide for the collection and
7 distribution of the taxes herein levied as may be authorized
8 or approved by the tax board, shall be deducted by the tax
9 board and paid out of the proceeds from collections under this
10 act before any distribution of proceeds. Provided, however,
11 that under no circumstances shall the funds held or collected
12 pursuant to Sections 3A and 4A of this act be commingled with
13 other funds held or collected by the tax board, but shall be
14 separately invested and accounted for and all the expenses
15 shall be charged against the proceeds distributed to each
16 recipient in proportion to the amount of proceeds distributed.
17 After deduction of expenses, the tax board shall distribute
18 the remaining proceeds from the taxes collected under this act
19 as follows:

20 "(1) No later than November 30 of each fiscal year,
21 sums sufficient to satisfy all pledges of tax proceeds
22 collected under this act that were entered into on or before
23 April 1, 2015, shall be paid to the general fund of the city,
24 the City of Northport, the county, the hospital authority, the
25 county school system, and the city school system, as
26 applicable, for payment pursuant to such pledges; however, no
27 sums may be distributed pursuant to this subdivision in excess

1 of the distribution that the recipient would have received
2 under this act as in effect before the 2015 amendment to the
3 act.

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

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

16 "(4) Five percent of the net distributable amount,
17 less and except any amounts paid to the City of Northport
18 pursuant to subdivision (1), shall be paid to the City of
19 Northport for general municipal purposes.

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

24 "(6) Six and seven-tenths percent of the net
25 distributable amount, less and except any amounts paid to the
26 hospital authority pursuant to subdivision (1), shall be paid
27 to the hospital authority, which shall use the proceeds solely

1 to defray all or a part of the costs of any hospital operated
2 by the hospital authority for hospital services furnished to
3 charity patients who are residents of the county, including
4 any municipality therein.

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

20 "(8) Twenty percent of the net distributable amount,
21 less and except any amounts paid to the city school system
22 pursuant to subdivision (1), shall be paid to the city school
23 system, which shall use the proceeds solely for public school
24 purposes in the city, including, but without limitation to,
25 payment of any obligations of the city which have heretofore
26 or may hereafter be issued for any public school purposes,
27 together with the interest thereon and the necessary expenses

1 in connection with the issuance thereof, acquiring, providing,
2 or constructing schoolhouses and related buildings necessary
3 or convenient for public school purposes, and equipping,
4 furnishing, maintaining, repairing, or replacing any such
5 building and acquiring sites therefor, or any other general
6 public school purposes.

7 "(9) All proceeds remaining shall be paid to the
8 commission.

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

24 "(c) The recipient of taxes under subsection (a) and
25 recipients of appropriations by the commission, by appropriate
26 proceedings, may appropriate, pledge, or enter into long-term

1 contracts encumbering or restricting the use of the tax
2 proceeds distributable to the recipient."

3 Section 2. Section 11A is added to Acts 1953, No.
4 56, 1953 Regular Session, as amended by Act 94-535, 1994
5 Regular Session (Acts 1994, p. 976) and Act 94-554, 1994
6 Regular Session (Acts 1994, p. 1010), to read as follows:

7 Section 11A.

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

14 (b) The commission shall be composed of the
15 following members:

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

22 (2) The Mayor of the City of Northport, or his or
23 her appointee, who shall be a resident of the City of
24 Northport and serve a term of office coextensive with the term
25 of office of the Mayor of the City of Northport making the
26 appointment. The acceptance or appointment shall be evidenced

1 by an instrument signed by the Mayor of the City of Northport
2 and delivered to the commission.

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

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

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

21 (6) One member of the Tuscaloosa County Legislative
22 Delegation, selected by a majority of the members of the
23 delegation, who shall be a minority and a resident of the
24 county and serve a term of office coextensive with the term of
25 office of the members of the delegation. The selection shall
26 be evidenced by an instrument signed by a majority of the
27 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
26 each project, in a timely manner, after taking into account
27 other funding sources from the state or federal government.

1 The commission is under no obligation to fully fund each
2 project listed below before moving to the next project listed:

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

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

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

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

16 (2) Improvements to SR69 South.

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

21 (4) Martin Luther King Boulevard/Jack Warner Parkway
22 improvements.

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

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

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

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

7 (1) Seventy-five percent to be administered by the
8 commission for significant roadway infrastructure projects to
9 be identified and prioritized by the commission.

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

21 (d) The commission may bind itself by funding
22 agreement, indenture, resolution, or other appropriate
23 instrument to make appropriations in amounts specified by
24 dollar amount or formula in future years, and may bind future
25 road improvement boards by such means. However, the road
26 improvement board is not obligated and may not obligate itself
27 to pay more than it receives from the tax board. The recipient

1 of any appropriations may pledge or otherwise commit or
2 encumber such appropriations in accordance with law.

3 Section 3. This act shall become effective on June
4 1, 2016, following its passage and approval by the Governor,
5 or its otherwise becoming law.