

1 SB475
2 168544-4
3 By Senator Pittman
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 14-MAY-15

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 40-23-50, Code of Alabama 1975, to
12 remove the exemption of gross receipts from contracts made by
13 the contractor with a county, incorporated city, or town from
14 the tax levied on contractors' gross receipts and provide
15 further for the distribution of the proceeds from the tax
16 levied on contractors' gross receipts.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Section 40-23-50 is amended to read as
19 follows:

20 "§40-23-50.

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

1 "Upon every person, firm or corporation engaged or
2 continuing within this state in the business of contracting to
3 construct, reconstruct or build any public highway, road,
4 bridge, or street, an amount equal to five percent of the
5 gross receipts derived from performance of such contracts. The
6 term "gross receipts" is herein defined to include only those
7 amounts derived and received by the contractor from the
8 performance of such contracts.

9 "(b) The proceeds of the taxes levied by this
10 section, after deduction of the cost of administration and
11 collection of such taxes, shall be distributed as follows:

12 "(1) The first \$41,000,000 collected after deduction
13 of the cost of administration and collection shall be
14 distributed as follows:

15 "a. Fifteen percent shall be paid into the State
16 Treasury and shall be credited to the Pensions and Security
17 Trust Fund to be used for general welfare purposes, and

18 "b. Eighty-five percent shall be paid into the State
19 Treasury and shall be credited to the Alabama Special Mental
20 Health Fund to be used for mental health purposes.

21 "(2) The next \$54,000,000 collected after deduction
22 of the cost of administration and collection and the amount
23 set forth in (b) (1) shall be paid into the State Treasury and
24 shall be distributed in accordance with Section 40-17-223.

1 "(3) Any proceeds remaining after the deduction of
2 the cost of administration and collection and the amounts set
3 forth in (b) (1) and (b) (2) shall be distributed as follows:

4 "a. Fifty-six and one-half percent of the residue
5 remaining after deduction of the cost of administration and
6 collection and the amounts set forth in (b) (1) and (b) (2)
7 shall be paid into the State Treasury and shall be distributed
8 in accordance with Section 40-17-223.

9 ~~"(1) Fifteen~~ b. Six and one-half percent of the
10 residue remaining after deduction of the cost of
11 administration and collection and the amounts set forth in
12 (b) (1) and (b) (2) shall be paid into the State Treasury and
13 shall be credited to the Pensions and Security Trust Fund to
14 be used for general welfare purposes, and

15 ~~"(2) Eighty-five~~ c. Thirty-seven percent of the
16 residue remaining after deduction of the cost of
17 administration and collection and the amounts set forth in
18 (b) (1) and (b) (2) shall be paid into the State Treasury and
19 shall be credited to the Alabama Special Mental Health Fund to
20 be used for mental health purposes.

21 "(c) The taxes imposed pursuant to this section
22 shall constitute a debt due the state and may be collected by
23 civil action, in addition to all other methods provided by law
24 and in this section. The said taxes, together with interest
25 and penalties with respect thereto, shall constitute and be
26 secured by a lien upon the property of any person from whom

1 said taxes are due or who is required to pay said taxes. All
2 provisions of the revenue laws of this state which apply to
3 the enforcement of liens for license taxes due the state shall
4 apply fully to the collection of the taxes levied herein, and
5 the Department of Revenue shall collect such taxes and enforce
6 this section and shall have and exercise for such collection
7 and enforcement all rights and remedies that this state or the
8 department has for collection of the state sales tax. All
9 provisions of the state sales tax, with respect to
10 definitions, except the definition of "gross receipts"
11 contained therein, payment and assessment of the state sales
12 tax, making of reports and keeping and preserving records with
13 respect thereto, interest after the due date of tax, penalties
14 for failure to pay tax or otherwise complying with the state
15 sales tax statutes, the promulgation of rules and regulations
16 and the administration and enforcement of the state sales tax
17 statutes, which are not inconsistent with the provisions of
18 this section when applied to the tax levied pursuant to
19 subsection (a) of this section, shall apply to the tax levied
20 herein. The Commissioner of Revenue and the state Department
21 of Revenue shall have and exercise the same powers, duties and
22 obligations with respect to the taxes levied herein as are
23 imposed on the commissioner and the department by the state
24 sales tax statutes. All provisions of the state sales tax
25 statutes that are made applicable in this section to the taxes
26 levied herein and to the administration of this section are

1 incorporated herein by reference and made a part hereof as if
2 fully set forth herein; provided, that the provisions of the
3 state sales tax with respect to the collection by the taxpayer
4 of the tax levied therein shall not apply, the taxes levied
5 herein being levied against the person required to pay the tax
6 to the state.

7 "(d) The taxes levied herein shall not apply with
8 respect to ~~contracts made by the contractor with any county or~~
9 ~~incorporated city or town, except that contracts in which the~~
10 ~~State of Alabama is a joint party with the city, town or~~
11 ~~county shall be subject to the tax, nor to that portion of the~~
12 gross receipts received by the contractor constituting
13 additional amounts paid to the contractor under contractual
14 escalation provisions allowing for an increase in the contract
15 price for escalations in the cost of fuels, materials, and/or
16 labor."

17 Section 2. This act shall become effective on
18 September 1, 2015 following its passage and approval by the
19 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Fiscal Responsibility and Economic
Development..... 14-MAY-15

Read for the second time and placed on the
calendar 1 amendment..... 21-MAY-15

Read for the third time and passed as amended 26-MAY-15

Yeas 23
Nays 0

Patrick Harris
Secretary