

1 HB411
2 157730-1
3 By Representative Williams (D)
4 RFD: Commerce and Small Business
5 First Read: 06-FEB-14

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8 SYNOPSIS: This bill would give local governments
9 utilizing the Department of Revenue for collection
10 and administration services the same filing and
11 payment services at no cost as those local
12 governments which only accept returns and payments
13 through the ONE SPOT system of the department.
14

15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 To amend Sections 11-3-11.3, 11-51-183, 11-51-208,
20 40-12-4, and 40-12-7, Code of Alabama 1975, relating to the
21 Department of Revenue; to remove antiquated references
22 relating to the cost of collection; to decrease the cap for
23 the cost of administration of county taxes from five percent
24 to two percent; and to provide for the administration of local
25 sales, use, rental, and lodgings taxes by the department.
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 11-3-11.3, 11-51-183, 11-51-208,
2 40-12-4, and 40-12-7 of the Code of Alabama 1975, are amended
3 to read as follows:

4 "§11-3-11.3.

5 "(a) Counties may, upon request of the county
6 commission, engage the Department of Revenue to ~~collect~~
7 administer any county sales, use, rental, lodgings, tobacco,
8 or other local taxes for which there is a corresponding state
9 levy. Subject to subsections (d) and (e) below, the department
10 shall ~~collect~~ administer a county sales, use, rental,
11 lodgings, tobacco, or other tax for which there is a
12 corresponding state levy on behalf of the requesting county.
13 Any county sales, use, rental, or lodgings tax levy
14 administered ~~and collected~~ by the Department of Revenue
15 pursuant to this section, whether the levy is imposed pursuant
16 to the authority of Section 40-12-4, or any general, special,
17 or local act of the Legislature, shall parallel the
18 corresponding state tax levy, except for the rate of tax, and
19 shall be subject to all definitions, exceptions, exemptions,
20 proceedings, requirements, provisions, rules, regulations,
21 direct pay permits and drive-out certificate procedures,
22 statutes of limitation, penalties, fines, punishments, and
23 deductions as applicable to the corresponding state tax,
24 except where otherwise provided in this section, including
25 provisions for the enforcement and collection of taxes. The
26 Department of Revenue shall make available to those counties
27 for which it ~~collects~~ administers a sales, use, rental, or

1 lodgings tax ~~collected~~ administered pursuant to this section
2 the same services which are made available to municipal
3 governments pursuant to Division 4 of Article 2 of Chapter 51
4 and Article 3 of Chapter 51.

5 "(b) The Department of Revenue shall prepare and
6 distribute those reports, forms, and other information as may
7 be necessary to provide for its ~~collection~~ administration of
8 any county tax it ~~collects~~ administers and, on request, shall
9 make all reports available for inspection by the governing
10 body of the county. In ~~collecting~~ administering a county
11 sales, use, rental, or lodgings tax, the department shall have
12 all the authority and duties as it has in connection with the
13 ~~collection~~ administration of the corresponding state tax
14 including, without limitation, the provisions of Chapters 2A,
15 12, 23, and 26 of Title 40.

16 "(c) (1) The Commissioner of Revenue shall deposit
17 into the State Treasury all county taxes collected and, on a
18 biweekly basis, shall certify to the ~~state~~ Comptroller the
19 amount of taxes collected for the approximate two-week period
20 immediately preceding the certification and the amount, less
21 the Department of Revenue's actual cost of ~~collection~~
22 administration, to be distributed to each county and which
23 shall be paid to the treasurer or other custodian of funds of
24 the county within three days after certification thereof.

25 "(2) The department shall charge each county the
26 actual cost to the department for ~~collecting~~ administering a
27 tax. Notwithstanding the preceding sentence, however, the

1 charge shall not exceed two percent of the amount collected
2 for each county. At least once each month, the ~~state~~
3 Comptroller shall issue a warrant to the Department of Revenue
4 for the ~~collection~~ administration charges due as determined by
5 the Commissioner of Revenue. Payment shall be from funds
6 collected under this section and shall be the actual cost of
7 ~~collection~~ administration, not to exceed two percent of the
8 amount collected for each county.

9 "(3) Subdivision (2) to the contrary
10 notwithstanding, the Department of Revenue may not charge a
11 fee to the county for the cost of filing and payment
12 processing services relating to any tax authorized to be filed
13 under the ONE SPOT system of the department.

14 ~~"(3)~~ (4) Within 60 days after the end of each fiscal
15 year, the department, in cooperation with the office of the
16 Examiner of Public Accounts, shall recompute its actual costs
17 for ~~collection~~ administration of county taxes for the
18 preceding fiscal year. Any ~~collection~~ administration
19 over-charge shall be redistributed to the counties for which
20 the department ~~collects~~ administers local taxes, on a pro rata
21 basis of each county's receipts. No under-charge shall be
22 recovered, either directly or indirectly, from any county.

23 "(d) Except where the department is collecting on
24 July 1, 1998, any county which has a tax levy that will be
25 ~~collected~~ administered by the Department of Revenue pursuant
26 to the provisions of this section shall forward a certified
27 copy of the enabling ordinance or resolution to the department

1 at least 30 days prior to the first day of the month on which
2 it is to begin ~~collecting~~ administering the tax.

3 "(e) A new levy, or a levy changed by an amendment
4 of a heretofore adopted levy, which will be ~~collected~~
5 administered under this section shall not be subject to
6 ~~collection~~ administration by the Department of Revenue until
7 the first day of the month next following the expiration of 30
8 days after receipt by the department of a certified copy of
9 the enabling ordinance or resolution with any amendment
10 thereto.

11 "(f) The Department of Revenue shall from time to
12 time issue such rules and regulations for making returns and
13 for ascertainment, assessment, ~~collection,~~ and administration
14 of taxes subject to the provisions of this section as it may
15 deem necessary to enforce its provisions and shall furnish any
16 municipal or county government with a copy of those rules and
17 regulations within 15 days of final adoption. Upon request,
18 the Department of Revenue shall furnish any taxpayer with a
19 copy of those rules and regulations.

20 "(g) Any self-administered county governing body, as
21 defined in Section 40-2A-3(20), may elect, by the adoption of
22 an ordinance or resolution, to assess interest on any tax
23 delinquency. Any such assessment of interest shall be
24 consistent with the provisions of Section 40-23-2.1. Any
25 self-administered county governing body may also elect, by the
26 adoption of an ordinance or resolution, to pay interest on any
27 refund of tax erroneously paid. In the event that the

1 governing body elects to assess interest on any tax
2 delinquency, the governing body must also elect to pay
3 interest, at the same rate charged by the county on tax
4 delinquencies, on any refund of tax erroneously paid. Unless
5 otherwise specified in the ordinance or resolution in which
6 the county governing body elects to assess or pay interest
7 determined in accordance with Section 40-1-44, the applicable
8 interest rate to be charged by or due from the county shall be
9 one percent per month. References in this subsection to
10 "erroneously paid" taxes on which interest shall be due to the
11 taxpayer shall only mean and refer to taxes paid to the
12 self-administered county or its agent as a result of any
13 error, omission, or inaccurate advice by or on behalf of the
14 self-administered county, including in connection with a prior
15 examination of its books and records by the self-administered
16 county or its agent.

17 (h) Notwithstanding subsection (g), the applicable
18 interest rate to be assessed on any tax delinquency or paid on
19 any refund of erroneously paid taxes with respect to all
20 county sales, use, rental, and lodgings tax levies collected
21 by the Department of Revenue shall be determined in accordance
22 with Section 40-1-44.

23 "§11-51-183.

24 (a) The Commissioner of Revenue shall deposit into
25 the State Treasury all municipal taxes collected by the
26 department under this division; and, on a biweekly basis, the
27 commissioner shall certify to the ~~state~~ Comptroller the amount

1 of taxes collected under the provisions of this division for
2 the approximate two-week period immediately preceding the
3 certification and the amount to be distributed to each
4 municipality, less ~~collection~~ administration charges deducted,
5 which shall be paid to the treasurer or other custodian of
6 funds of the municipality within three days after
7 certification thereof.

8 "(b) The Department of Revenue shall charge each
9 municipality its actual cost for ~~collecting~~ administering the
10 municipal license taxes. Notwithstanding the previous
11 sentence, however, the charge shall not exceed two percent of
12 the amount collected for that municipality.

13 "(c) Within 60 days after the end of each fiscal
14 year, the Department of Revenue, in cooperation with the
15 office of the Examiner of Public Accounts, shall recompute its
16 actual cost for ~~collection~~ administration of local taxes for
17 the preceding fiscal year. Any ~~collection~~ administration
18 over-charge shall be redistributed to the municipalities for
19 which the department ~~collects~~ administers local taxes, on a
20 pro rata basis of each municipality's receipts. No
21 under-charge shall be recovered, either directly or
22 indirectly, from any municipality.

23 "(d) The ~~state~~ Comptroller shall at least once each
24 month issue a warrant on the funds collected under this
25 division payable to the Department of Revenue for the amount
26 of the charges as determined by the Commissioner of Revenue.

1 "(e) The Department of Revenue may not charge a fee
2 to the municipality, city, or town for the cost of filing and
3 payment processing services relating to any tax authorized to
4 be filed under the ONE SPOT system of the department and shall
5 make available to those localities for which it administers
6 the taxes imposed pursuant to this section the same services
7 which are made available to municipal governments pursuant to
8 this division and Article 3, commencing with Section
9 11-51-200, of this chapter.

10 "§11-51-208.

11 "(a) Municipalities may, upon request of the
12 municipal governing body, engage the Department of Revenue to
13 ~~collect~~ administer their municipal sales, use, rental, and
14 lodgings tax. Subject to subsections (c) and (d), the
15 Department of Revenue shall ~~collect~~ administer the municipal
16 sales, use, rental, and lodgings tax on behalf of the
17 requesting municipality. The Department of Revenue shall
18 prepare and distribute reports, forms, and other information
19 as may be necessary to provide for the ~~collection~~
20 administration of any municipal tax it ~~collects~~ administers
21 and, on request, shall make all reports available for
22 inspection by the governing body of the municipality. In
23 ~~collecting~~ administering a municipal sales, use, rental, or
24 lodgings tax, the department shall have all the authority and
25 duties as it has in connection with the ~~collection~~
26 administration of the corresponding state tax including,

1 without limitation, the provisions of Chapters 2A, 12, 23, and
2 26 of Title 40.

3 "(b) (1) The Commissioner of Revenue shall deposit
4 into the State Treasury all municipal taxes collected and, on
5 a biweekly basis, shall certify to the ~~state~~ Comptroller the
6 amount of taxes collected for the approximate two-week period
7 immediately preceding the certification and the amount, less
8 the Department of Revenue's actual cost of ~~collection~~
9 administration, to be distributed to each municipality, which
10 shall be paid to the treasurer or other custodian of funds of
11 the municipality within three days after certification
12 thereof.

13 "(2) The department shall charge each municipality
14 the actual cost to the department for ~~collecting~~ administering
15 its tax. Notwithstanding the preceding sentence, however, the
16 charge shall not exceed two percent of the amount collected
17 for each municipality. At least once each month, the ~~state~~
18 Comptroller shall issue a warrant to the Department of Revenue
19 for the ~~collection~~ administration charges due as determined by
20 the Commissioner of Revenue. Payment shall be from funds
21 collected under this section and shall be the actual cost of
22 ~~collection~~ administration, not to exceed two percent of the
23 amount collected for each municipality.

24 "(3) Within 60 days after the end of each fiscal
25 year, the department, in cooperation with the office of the
26 Examiner of Public Accounts, shall recompute its actual costs
27 for ~~collection~~ administration of municipal taxes for the

1 preceding fiscal year. Any ~~collection~~ administration
2 over-charge shall be redistributed to the municipalities for
3 which the department ~~collects~~ administers local taxes, on a
4 pro rata basis of each municipality's receipts. No undercharge
5 shall be recovered, either directly or indirectly, from any
6 municipality.

7 "(c) Except where the department is collecting on
8 July 1, 1998, any municipality which has a tax levy that will
9 be ~~collected~~ administered by the Department of Revenue
10 pursuant to the provisions of this section shall forward a
11 certified copy of the enabling act, ordinance, or resolution
12 to the department at least 30 days prior to the first day of
13 the first month on which the department is to begin ~~collecting~~
14 administering the tax.

15 "(d) A new levy, or a levy changed by an amendment
16 of a heretofore adopted levy, which will be ~~collected~~
17 administered under this section shall not be subject to
18 ~~collection~~ administration by the Department of Revenue until
19 the first day of the month next following the expiration of 30
20 days after receipt by the department of a certified copy of
21 the enabling act, ordinance, or resolution with any amendments
22 thereto.

23 "(e) Subject to the provisions of this section, the
24 Department of Revenue shall from time to time issue such rules
25 and regulations for making returns and for ascertainment,
26 assessment, ~~collection,~~ and administration of taxes subject to
27 the provisions of this section as it may deem necessary to

1 enforce its provisions and shall furnish any county or
2 municipal governing body with a copy of those rules and
3 regulations within 15 days of final adoption. Upon request,
4 the Department of Revenue shall furnish any taxpayer with a
5 copy of those rules and regulations.

6 "(f) Any self-administered municipal governing body,
7 as defined in Section 40-2A-3(20), may elect, by the adoption
8 of an ordinance or resolution, to assess interest on any tax
9 delinquency. Any such assessment of interest shall be
10 consistent with the provisions of Section 40-23-2.1. Any
11 self-administered municipal governing body may also elect, by
12 the adoption of an ordinance or resolution, to pay interest on
13 any refund of tax erroneously paid. In the event that the
14 governing body elects to assess interest on any tax
15 delinquency, the governing body must also elect to pay
16 interest, at the same rate charged by the municipality on tax
17 delinquencies, on any refund of tax erroneously paid. Unless
18 otherwise specified in the ordinance or resolution in which
19 the municipal governing body elects to assess and pay interest
20 determined in accordance with Section 40-1-44, the applicable
21 interest rate to be charged by or due from the municipality
22 shall be one percent per month. References in this subsection
23 to "erroneously paid" taxes on which interest shall be due to
24 the taxpayer shall only mean and refer to taxes erroneously
25 paid to the self-administered municipality or its agent as a
26 result of any error, omission, or inaccurate advice by or on
27 behalf of the self-administered municipality, including in

1 connection with a prior examination of its books and records
2 by the self-administered municipality or its agent.

3 "(g) Notwithstanding subsection (f), the applicable
4 interest rate to be assessed on any tax delinquency or paid on
5 any refund of erroneously paid taxes with respect to all
6 municipal sales, use, rental, and lodgings tax levies
7 ~~collected~~ administered by the Department of Revenue shall be
8 determined in accordance with Section 40-1-44.

9 "§40-12-4.

10 "(a) In order to provide funds for public school
11 purposes, the governing body of each of the several counties
12 in this state is hereby authorized by ordinance to levy and
13 provide for the assessment and collection of franchise, excise
14 and privilege license taxes with respect to privileges or
15 receipts from privileges exercised in such county, which shall
16 be in addition to any and all other county taxes heretofore or
17 hereafter authorized by law in such county. Such governing
18 body may, in its discretion, submit the question of levying
19 any such tax to a vote of the qualified electors of the
20 county. If such governing body submits the question to the
21 voters, then the governing body shall also provide for holding
22 and canvassing the returns of the election and for giving
23 notice thereof. All the proceeds from any tax levied pursuant
24 to this section less the cost of ~~collection~~ administration
25 thereof shall be used exclusively for public school purposes,
26 including specifically and without limitation capital

1 improvements and the payment of debt service on obligations
2 issued therefor.

3 "(b) Notwithstanding anything to the contrary
4 herein, ~~said~~ the governing body shall not levy any tax
5 hereunder measured by gross receipts, except a sales or use
6 tax which parallels, except for the rate of tax, that imposed
7 by the state under this title. Any such sales or use tax on
8 any automotive vehicle, truck trailer, trailer, semitrailer,
9 or travel trailer required to be registered or licensed with
10 the probate judge, where not collected by a licensed Alabama
11 dealer at time of sale, shall be collected and fees paid in
12 accordance with the provisions of Sections 40-23-104 and
13 40-23-107, respectively. No such governing body shall levy any
14 tax upon the privilege of engaging in any business or
15 profession unless such tax is levied uniformly and at the same
16 rate against every person engaged in the pursuit of any
17 business or profession within the county; except, that any tax
18 levied hereunder upon the privilege of engaging in any
19 business or profession may be measured by the number of
20 employees of such business or the number of persons engaged in
21 the pursuit of such profession. In all counties having more
22 than one local board of education, revenues collected under
23 the provisions of this section shall be distributed within
24 such county on the same basis of the total calculated costs
25 for the Foundation Program for those local boards of education
26 within the county.

27 "§40-12-7.

1 "All such taxes ~~collected~~ administered by the
2 Department of Revenue shall be collected and remitted to the
3 governing bodies of the various counties in the manner as
4 provided for the ~~collection~~ administration of taxes for cities
5 or towns as provided in Sections 11-51-180 through 11-51-185,
6 and the Department of Revenue is authorized to charge the
7 counties for ~~collecting said~~ administering the taxes its
8 actual cost, not to exceed ~~five~~ two percent of the amount
9 collected, and to do any and all things pertaining to the
10 ~~collection of said~~ administration of the taxes for the various
11 counties as ~~said~~ the department is authorized to do in
12 ~~collecting~~ administering taxes for cities and towns as
13 provided in Sections 11-51-180 through 11-51-185."

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