

1 HB441  
2 150295-2  
3 By Representatives Shiver and Jackson (Constitutional  
4 Amendment)  
5 RFD: Local Legislation  
6 First Read: 20-MAR-13

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8 SYNOPSIS: This bill would propose a local  
9 constitutional amendment relating to Monroe County  
10 to levy a tax on tobacco products and collect and  
11 distribute the proceeds from the tax.

12  
13 A BILL  
14 TO BE ENTITLED  
15 AN ACT

16  
17 Relating to Monroe County; proposing an amendment to  
18 the Constitution of Alabama of 1901; to levy a tax on tobacco  
19 products and collect and distribute the proceeds from the tax.  
20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. The following amendment to the  
22 Constitution of Alabama of 1901, is proposed and shall become  
23 valid as a part of the Constitution when all requirements of  
24 this act are fulfilled:

25 PROPOSED AMENDMENT

26 (a) There is levied in Monroe County on every  
27 person, firm, or corporation that sells, stores, delivers,

1 uses, or otherwise consumes tobacco or tobacco products in  
2 Monroe County a county privilege, license, or excise tax in  
3 the following amounts:

4 (1) An amount equal to twenty-five cents (\$0.25) for  
5 each package of 20 or less cigarettes sold within the county.

6 (2) An amount equal to thirty cents (\$0.30) for each  
7 package of 21 to 25 cigarettes sold within the county.

8 (3) An amount equal to one cent (\$0.01) for each  
9 cigar of any description made of tobacco or any substitute for  
10 a cigar sold in the county.

11 (4) An amount equal to twenty-five cents (\$0.25) for  
12 the first two ounces and twenty-five cents (\$0.25) for each  
13 additional ounce or fraction of an ounce contained in each  
14 individual package or can of smoking tobacco which is sold  
15 within the county.

16 (5) An amount equal to twenty-five cents (\$0.25) for  
17 the first two ounces and twenty-five cents (\$0.25) for each  
18 additional ounce or fraction of an ounce contained in each  
19 individual package or can of smokeless tobacco or snuff which  
20 is sold within the county.

21 (b) The privilege, license, or excise tax imposed in  
22 this amendment shall be in addition to all other taxes imposed  
23 by law and shall be collected in the same manner as other  
24 taxes on tobacco, except that when the license tax has been  
25 paid by a wholesaler or seller of the products, that payment  
26 shall be sufficient. The legislative intent of this amendment  
27 is that the tax shall be paid only once on each package of

1 cigarettes, chewing tobacco, snuff, cigars of every  
2 description, and smoking tobacco of every description.

3 (c) Every person, firm, corporation, club, or  
4 association that sells, stores, or receives for the purpose of  
5 selling or storing in Monroe County, any cigarettes, cigars,  
6 snuff, and smoking tobacco products shall add the amount of  
7 the license or privilege tax to the price of each product. It  
8 is the purpose and intent of this amendment that the tax  
9 required is, in fact, a levy on the consumer with the person,  
10 firm, corporation, club, or association that sells or stores  
11 or receives for the purpose of distributing the cigarettes,  
12 cigars, snuff, and smoking tobacco products acting merely as  
13 an agent for the collection of the tax. The dealer, storer, or  
14 distributor shall state the amount of the tax separately from  
15 the price of the cigarettes, cigars, snuff, and smoking  
16 tobacco products on all price display signs, sales or delivery  
17 slips, bills, and statements which advertise or indicate the  
18 price of the cigarettes, cigars, snuff, and smoking tobacco  
19 products.

20 (d) It shall be unlawful for any dealer, storer, or  
21 distributor engaged in or continuing in the business in Monroe  
22 County for which the tax is required to fail or refuse to add  
23 to the sales price and collect from the purchaser the amount  
24 due on account of the tax, to refund or offer to refund all or  
25 any part of the amount collected, or absorb, or advertise  
26 directly or indirectly the absorption of, the tax or any  
27 portion thereof. Any person, firm, corporation, club, or

1 association violating this subsection shall be subject to a  
2 civil penalty of not less than twenty-five dollars (\$25) nor  
3 more than five hundred dollars (\$500). Each act in violation  
4 of this subsection shall constitute a separate offense.

5 (e) (1) The State Department of Revenue or, as  
6 otherwise provided by resolution of the county commission, the  
7 Monroe County Tax Collector, shall collect all taxes required  
8 pursuant to this amendment at the same time and in the same  
9 manner as state sales and use taxes are collected.

10 (2) The tax imposed by this amendment shall be paid  
11 by affixing stamps that are required for the payment of the  
12 tax imposed by Sections 40-25-1 to 40-25-29, inclusive, Code  
13 of Alabama 1975.

14 (3) The department shall have the same duties  
15 relative to the preparation and sale of stamps to evidence the  
16 payment of the tax that it has relative to the preparation and  
17 sale of stamps under Sections 40-25-1 to 40-25-29, inclusive,  
18 Code of Alabama 1975. The department may exercise the same  
19 powers and perform the same duties in the same manner relative  
20 to the collection of the tax imposed by this amendment that it  
21 does relative to the collection of that tax, as long as it is  
22 authorized and directed to do so under the resolution adopted  
23 by the commission.

24 (4) In accordance with Section 40-25-2, Code of  
25 Alabama 1975, in the event tobacco stamps are not available  
26 for affixing to tobacco products packages and containers, or  
27 by the authority of a duly promulgated regulation eliminating

1 the requirement of affixing county tobacco stamps, the  
2 Commissioner of the Department of Revenue may require a  
3 monthly report in lieu of stamps to report the amount of tax  
4 due. The monthly report shall be in a form approved by the  
5 commissioner and adopted by the department under the Alabama  
6 Administrative Procedure Act, Title 41, Chapter 22 of the Code  
7 of Alabama 1975.

8 (5) The department may promulgate and enforce rules  
9 to effectuate the purposes of this amendment. All rules duly  
10 promulgated shall have the same force and effect of law.

11 (f) All laws and rules of the department relating to  
12 the manner and time of payment of the tax levied by Sections  
13 40-25-1 to 40-25-29, inclusive, Code of Alabama 1975,  
14 requiring reports from dealers and prescribing penalties for  
15 violations shall apply with equal force to the tax imposed by  
16 this amendment.

17 (g) The proceeds from the tax imposed, less the  
18 amount or percentage of the actual cost of collection as may  
19 be agreed upon by the commissioner and the Monroe County  
20 Commission, shall be distributed to the Monroe County General  
21 Fund.

22 (h) This amendment shall not be construed to apply  
23 to cigarettes, cigars, snuff, smoking tobacco, and like  
24 tobacco products stored by a wholesale dealer for the purpose  
25 of resale or reshipment outside of the county which are  
26 actually resold or reshipped.

1           Section 2. An election upon the proposed amendment  
2 shall be held in accordance with Amendment 555 to the  
3 Constitution of Alabama of 1901, now appearing as Section  
4 284.01 of the Official Recompilation of the Constitution of  
5 Alabama of 1901, as amended, and the election laws of this  
6 state.

7           Section 3. The appropriate election official shall  
8 assign a ballot number for the proposed constitutional  
9 amendment on the election ballot and shall set forth the  
10 following description of the substance or subject matter of  
11 the proposed constitutional amendment:

12                 "Relating to Monroe County, proposing an amendment  
13 to the Constitution of Alabama of 1901, to levy a tax on  
14 tobacco products and collect and distribute the proceeds from  
15 the tax.

16                 "Proposed by Act \_\_\_\_\_."

17                 This description shall be followed by the following  
18 language:

19                 "Yes ( ) No ( )."