

1 HB654
2 139316-2
3 By Representative Williams (J) (N & P)
4 RFD: Jefferson County Legislation
5 First Read: 05-APR-12

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Jefferson County; to authorize, upon and
14 after the cessation of the levy in the county of certain other
15 county taxes as described in this act, the Jefferson County
16 Commission to levy and assess in the county additional excise
17 taxes in the form of sales and use taxes parallel to the
18 levies and assessments of such taxes otherwise being levied by
19 the county, at a rate not in excess of one per cent of the
20 gross receipts from the sale or the storage, use, or
21 consumption in the county of tangible personal property; to
22 provide that the provisions of the state sales and use tax
23 laws and regulations thereunder shall be applicable with
24 respect to such taxes herein authorized, except where
25 inapplicable, where otherwise provided for by this act, or as
26 otherwise provided by law; to provide that the sales and use
27 taxes shall not be applicable to the sales or use of

1 automobiles, trucks, farm and timber machinery, boats,
2 machinery used for manufacturing, nor to those sales or uses
3 presently otherwise exempt from the levy of the state sales
4 and use taxes; to provide for the collection of the sales and
5 use taxes in conjunction with the collection of sales and use
6 taxes otherwise levied and assessed by the county; to provide
7 for the calculation thereof, the maintenance of records and
8 reports with respect thereto, and the collection and
9 enforcement thereof by the county, including the imposition of
10 penalties for underpayment or undercollection thereof and
11 interest thereon; to provide that the county may engage third
12 parties to collect and enforce the collection of the sales and
13 use taxes and that the county may, within its discretion,
14 compensate such collecting entity for carrying out such
15 duties; to provide that the proceeds of the taxes herein
16 authorized shall be paid as received into the county's general
17 fund; to provide for the further distribution of the proceeds
18 of the taxes herein authorized; to repeal conflicting laws;
19 and to provide for an effective date.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. This act shall only apply to Jefferson
22 County.

23 Section 2. As used in this act, state sales and use
24 tax means the tax imposed by the state sales and use tax
25 statutes, including, but not limited to, Sections 40-23-1,
26 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, and 40-23-63,
27 Code of Alabama 1975.

1 Section 3. (a) The County Commission of Jefferson
2 County is authorized, upon and after the cessation of (1) the
3 levy pursuant to and in accordance with the terms and
4 conditions thereof of that certain special sales and use tax
5 presently levied by the county under the provisions of Section
6 40-12-4, Code of Alabama 1975, including payment or
7 satisfaction in full of all indebtedness for the payment of
8 which the tax has heretofore been pledged, and (2) the levy of
9 such occupational taxes as shall have been authorized by the
10 Legislature to be levied by the county pursuant to local law
11 applicable thereto enacted in 2012, to levy and assess in the
12 county additional excise taxes in the form of sales and use
13 taxes parallel to the levies and assessments of such taxes
14 otherwise being levied by the county, at a rate not in excess
15 of one per cent of the gross receipts from the sale or the
16 storage, use, or consumption in the county of tangible
17 personal property.

18 (b) Notwithstanding the foregoing, the tax
19 authorized to be levied pursuant to this act shall not apply
20 to (i) the sale of automobiles, trucks, farm and timber
21 machinery, boats, machinery used for manufacturing, and such
22 items or (ii) the sale of items which are presently exempt
23 under the state sales and use tax statutes.

24 Section 4. The tax levied by this act may be
25 collected by the county or a private collecting entity under
26 contract with the county commission, hereinafter referred to
27 as the collecting entity, at the same time and in the same

1 manner as state sales and use taxes are collected. On or prior
2 to the date the tax is due, each person subject to the tax
3 shall file with the collecting entity a report in the form
4 prescribed by the collecting entity. The report shall set
5 forth, with respect to all sales and business transactions
6 that are required to be used as a measure of the tax levied, a
7 correct statement of the gross proceeds of all the sales and
8 gross receipts of all business transactions. The report shall
9 also include items of information pertinent to the tax as the
10 collecting entity may require. Any person subject to the tax
11 levied by this act may defer reporting credit sales until
12 after their collection, and in the event the person defers
13 reporting them, the person shall thereafter include in each
14 monthly report all credit collections made during the
15 preceding month, and shall pay the tax at the time of filing
16 the report. All reports filed with the collecting entity other
17 than the county under this section shall be available for
18 inspection by the county commission or its designee.

19 Section 5. Each person engaging or continuing in a
20 business subject to the tax levied pursuant to this act shall
21 add to the sales price or admission fee and collect from the
22 purchaser or the person paying the admission for the amount
23 due by the taxpayer because of the sale or admission. It shall
24 be unlawful for any person subject to the tax to fail or
25 refuse to add to the sales price or admission fee and not
26 collect from the purchaser or person paying the admission fee
27 the amount required to be added to the sale or admission

1 price. It shall be unlawful for any person subject to the tax
2 levied pursuant to this act to refund or offer to refund all
3 or any part of the amount collected or to absorb or advertise
4 directly or indirectly the absorption or refund of any portion
5 of the tax.

6 Section 6. The tax levied by this act shall
7 constitute a debt due Jefferson County. The tax, together with
8 any interest and penalties, shall constitute and be secured by
9 a lien upon the property of any person from whom the tax is
10 due or who is required to collect the tax. The collecting
11 entity shall collect the tax, enforce this act, and have and
12 exercise all rights and remedies that the state has for
13 collection of the state sales and use tax. The collecting
14 entity may employ special counsel as is necessary to enforce
15 collection of the tax levied by this act and to enforce this
16 act; provided that in the case of a collecting entity other
17 than the county, the collecting entity shall first obtain the
18 approval of the county commission prior to employing special
19 counsel. The collecting entity shall pay the special counsel
20 fees it deems necessary and proper from the proceeds of the
21 tax collected by it for Jefferson County, provided that in the
22 case of a collecting entity other than the county, such
23 special counsel fees must receive the prior approval of the
24 county commission.

25 Section 7. All provisions of the state sales and use
26 tax statutes with respect to the payment, assessment, and
27 collection of the state sales and use tax, making of reports,

1 keeping and preserving records, penalties for failure to pay
2 the tax, promulgating rules and regulations with respect to
3 the state sales and use tax, and the administration and
4 enforcement of the state sales and use tax statutes which are
5 not inconsistent with this act shall apply to the tax levied
6 under this act. The collecting entity shall have and exercise
7 the same powers, duties, and obligations with respect to the
8 tax levied under this act that are imposed on the Department
9 of Revenue and the Revenue Commissioner by the state sales and
10 use tax statutes. All provisions of the state sales and use
11 tax statutes that are made applicable by this act to the tax
12 levied under this act, and the administration and enforcement
13 of this act, are incorporated by reference and made a part of
14 this act as if fully set forth herein.

15 Section 8. A collecting entity other than the county
16 may charge Jefferson County for collecting the tax levied
17 under this act in an amount or percentage of total collections
18 as may be agreed upon by the collecting entity and the
19 Jefferson County Commission. The charge may be deducted each
20 month from the gross revenues from the tax before
21 certification of the amount of the proceeds due Jefferson
22 County for that month. The collecting entity shall pay into
23 the Jefferson County General Fund all amounts collected under
24 this act, as the tax is received by the collecting entity
25 within 10 days after it is collected. The collecting entity
26 shall certify to the county the amount collected and paid into
27 the General Fund of Jefferson County during the month

1 immediately preceding the certification. The county shall
2 distribute 20 percent of the amount paid into the General Fund
3 of Jefferson County to the University of Alabama at Birmingham
4 to be used for scientific, medical, or innovative research
5 projects conducted at such university or construction projects
6 at the university.

7 Section 9. All laws or parts of laws which conflict
8 with this act are repealed.

9 Section 10. This act shall become effective
10 immediately following its passage and approval by the
11 Governor, or its otherwise becoming law.