

1 SB474
2 136479-1
3 By Senator Beasley (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 05-APR-12

1 136479-1:n:02/09/2012:KMS/tan LRS2012-910

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A BILL

10 TO BE ENTITLED

11 AN ACT

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13 Relating to Barbour County; authorizing the county
14 commission to levy an additional sales and use tax; providing
15 for the collection, distribution, and use of the proceeds of
16 the tax; and prescribing penalties and fixing punishment for
17 violation of this act.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. This act shall only apply to Barbour
20 County.

21 Section 2. As used in this act, state sales and use
22 tax means the tax imposed by the state sales and use tax
23 statutes including, but not limited to, Sections 40-23-1,
24 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and
25 40-23-63 of the Code of Alabama 1975.

26 Section 3. (a) The County Commission of Barbour
27 County, after a public hearing, notice of which has been given

1 for at least two consecutive weeks in a newspaper of general
2 circulation in the county and by posting the notice outside
3 the offices of the county commission, may levy, in addition to
4 all other previously authorized taxes, an additional one-half
5 cent (\$0.005) privilege license tax against gross sales. All
6 notices shall state the date, time, and location of the
7 meeting at which the proposal to levy a sales tax of not more
8 than one-half cent (\$0.005) shall be considered by the Barbour
9 County Commission. At the meeting, the commission shall
10 receive comments from the public about the imposition of the
11 tax.

12 (b) Following the notice requirements set out in
13 subsection (a), the county commission, by recorded majority
14 vote, may levy such a sales tax.

15 (c) The gross proceeds of all sales which are
16 presently exempt under the state sales and use tax statutes
17 are exempt from the tax authorized by this act.

18 Section 4. The tax authorized to be levied by this
19 act shall be collected by the State Department of Revenue, or
20 such other entity as determined by the county commission, at
21 the same time and in the same manner as state sales and use
22 taxes are collected. On or prior to the date the tax is due,
23 each person subject to the tax shall file with the department
24 a report in the form prescribed by the department or other
25 entity. The report shall set forth, with respect to all sales
26 and business transactions that are required to be used as a
27 measure of the tax levied, a correct statement of the gross

1 proceeds of all the sales and gross receipts of all business
2 transactions. The report shall also include such items of
3 information pertinent to the tax as the department or other
4 entity may require. Any person subject to the tax levied by
5 this act may defer reporting credit sales until after their
6 collection, and in the event the person defers reporting them,
7 the person shall thereafter include in each monthly report all
8 credit collections made during the preceding month, and shall
9 pay the tax due at the time of filing the report. All reports
10 filed with the department or other entity under this section
11 shall be available for inspection by the county commission, or
12 its designee.

13 Section 5. Each person engaging or continuing in a
14 business subject to the tax authorized to be levied by this
15 act shall add to the sales price or admission fee and collect
16 from the purchaser or the person paying the admission fee the
17 amount due by the taxpayer because of the sale or admission.
18 It shall be unlawful for any person subject to the tax to fail
19 or refuse to add to the sales price or admission fee and to
20 collect from the purchaser or person paying the admission fee
21 the amount required to be added to the sale or admission
22 price. It shall be unlawful for any person subject to the tax
23 to refund or offer to refund all or any part of the amount
24 collected or to absorb or advertise directly or indirectly the
25 absorption or refund of any portion of the tax.

26 Section 6. The tax authorized to be levied by this
27 act shall constitute a debt due Barbour County. The tax,

1 together with any interest and penalties, shall constitute and
2 be secured by a lien upon the property of any person from whom
3 the tax is due or who is required to collect the tax. The
4 department or other entity shall collect the tax, enforce this
5 act, and have and exercise all rights and remedies that the
6 state or the department has for collection of the state sales
7 and use tax. The department may employ special counsel as is
8 necessary to enforce collection of the tax and to enforce this
9 act. The department or other entity shall pay the special
10 counsel any fees it deems necessary and proper from the
11 proceeds of the tax collected by it for Barbour County.

12 Section 7. All provisions of the state sales and use
13 tax statutes with respect to the payment, assessment, and
14 collection of the state sales and use tax, making of reports,
15 keeping and preserving records, penalties for failure to pay
16 the tax, promulgating rules and regulations with respect to
17 the state sales and use tax, and the administration and
18 enforcement of the state sales and use tax statutes which are
19 not inconsistent with this act shall apply to the tax
20 authorized to be levied by this act. The State Commissioner of
21 Revenue and the department or other entity shall have and
22 exercise the same powers, duties, and obligations with respect
23 to the tax that are imposed on the commissioner and department
24 or other entity by the state sales and use tax statutes. All
25 provisions of the state sales and use tax statutes that are
26 made applicable by this act to the tax, and to the
27 administration and enforcement of this act, are incorporated

by reference and made a part of this act as if fully set forth herein.

Section 8. The department or other entity shall charge Barbour County for collecting the tax in an amount or percentage of total collections as may be agreed upon by the Commissioner of Revenue or other entity and the Barbour County Commission. The charge shall not exceed five percent of the total amount of the tax collected in the county. The charge shall not exceed five percent of the total amount of the tax collected in the county. The charge may be deducted each month from the gross revenues from the tax before certification of the amount of the proceeds due Barbour County for that month. The commissioner or other entity shall pay into the State Treasury all amounts collected under this act, as the tax is received by the department or other entity on or before the first day of each successive month. The commissioner or other entity shall certify to the Comptroller the amount collected and paid into the State Treasury for the benefit of Barbour County during the month immediately preceding the certification. The Comptroller shall issue a warrant each month payable to the County Treasurer of Barbour County in an amount equal to the certified amount which shall be deposited into the county general fund.

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