

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

1 SB474
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4 With Notice and Proof
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6 ENGROSSED
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9 A BILL
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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, use, and amusement
15 tax; providing for the collection, distribution, and use of
16 the proceeds of the tax; and prescribing penalties and fixing
17 punishment for 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.

Section 3. (a) The County Commission of Barbour County, after a public hearing, notice of which has been given for at least two consecutive weeks in a newspaper of general circulation in the county and by posting the notice outside the offices of the county commission, may levy, in addition to all other previously authorized taxes, an additional one-half cent (\$0.005) privilege and excise license tax against gross sales and gross receipts. All notices shall state the date, time, and location of the meeting at which the proposal to levy a sales, use, and amusement tax of not more than one-half cent (\$0.005) shall be considered by the Barbour County Commission. At the meeting, the commission shall receive comments from the public about the imposition of the tax.

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

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

Section 4. The tax authorized to be levied by this act shall be collected by the State Department of Revenue, or such other entity as determined by the county commission, at the same time and in the same manner as state sales and use taxes are collected. On or prior to the date the tax is due, each person subject to the tax shall file with the department a report in the form prescribed by the department or other

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

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

collected or to absorb or advertise directly or indirectly the absorption or refund of any portion of the tax.

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

Section 7. All provisions of the state sales and use tax statutes with respect to the payment, assessment, and collection of the state sales and use tax, making of reports, keeping and preserving records, penalties for failure to pay the tax, promulgating rules and regulations with respect to the state sales and use tax, and the administration and enforcement of the state sales and use tax statutes which are not inconsistent with this act shall apply to the tax authorized to be levied by this act. The State Commissioner of Revenue and the department or other entity shall have and exercise the same powers, duties, and obligations with respect

1 to the tax that are imposed on the commissioner and department
2 or other entity by the state sales and use tax statutes. All
3 provisions of the state sales and use tax statutes that are
4 made applicable by this act to the tax, and to the
5 administration and enforcement of this act, are incorporated
6 by reference and made a part of this act as if fully set forth
7 herein.

8 Section 8. The department or other entity shall
9 charge Barbour County for collecting the tax in an amount or
10 percentage of total collections as may be agreed upon by the
11 Commissioner of Revenue or other entity and the Barbour County
12 Commission. The charge shall not exceed five percent of the
13 total amount of the tax collected in the county. The charge
14 shall not exceed five percent of the total amount of the tax
15 collected in the county. The charge may be deducted each month
16 from the gross revenues from the tax before certification of
17 the amount of the proceeds due Barbour County for that month.
18 The commissioner or other entity shall pay into the State
19 Treasury all amounts collected under this act, as the tax is
20 received by the department or other entity on or before the
21 first day of each successive month. The commissioner or other
22 entity shall certify to the Comptroller the amount collected
23 and paid into the State Treasury for the benefit of Barbour
24 County during the month immediately preceding the
25 certification. The Comptroller shall issue a warrant each
26 month payable to the County Treasurer of Barbour County in an

1 amount equal to the certified amount which shall be deposited
2 into the county general fund.

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

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Senate

4 Read for the first time and referred to the Senate
5 committee on Local Legislation No. 1.....

05-APR-12

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7 Read for the second time and placed on the calen-
8 dar.....

12-APR-12

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10 Read for the third time and passed as amended

19-APR-12

11 Yeas 20

12 Nays 0

13 Abstaining 8

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Patrick Harris
Secretary