

1 HB748
2 140990-2
3 By Representatives Davis, McMillan, Shiver, Faust and Baker
4 (Constitutional Amendment)
5 RFD: Baldwin County Legislation
6 First Read: 24-APR-12

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8 SYNOPSIS: This bill would propose an amendment to the
9 Constitution of Alabama of 1901, to require the
10 County Commission of Baldwin County to levy an
11 additional sales tax; providing for the tax and an
12 expiration date for the tax; prescribing penalties
13 and fixing punishment for violation of the
14 amendment; and providing for the distribution of
15 the sales tax.
16

17 A BILL
18 TO BE ENTITLED
19 AN ACT
20

21 Proposing an amendment to the Constitution of
22 Alabama of 1901, to require the County Commission of Baldwin
23 County to levy an additional sales tax; providing for the tax
24 and an expiration date for the tax; prescribing penalties and
25 fixing punishment for violation of the amendment; and
26 providing for the distribution of the sales tax.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

5 PROPOSED AMENDMENT

6 (a) As used in this amendment, state sales tax means
7 the tax imposed by the state sales and use tax statutes,
8 including, but not limited to, Sections 40-23-1, 40-23-2,
9 40-23-3, and 40-23-4, Code of Alabama 1975.

10 (b) The County Commission of Baldwin County,
11 beginning on June 1, 2013, shall levy, in addition to all
12 other taxes, including, but not limited to, municipal gross
13 receipts license taxes, a one cent sales tax which shall
14 expire five years after the ratification of this amendment
15 unless it is renewed by a local legislative act.

16 (c) The tax levied by the commission shall be
17 collected by the State Department of Revenue or the county
18 commission or other entity with which the county commission
19 has contracted to collect the taxes at the same time and in
20 the same manner as state sales taxes are collected. On or
21 prior to the date the tax is due, each person subject to the
22 tax shall file with the department or other entity a report in
23 the form prescribed by the department. The report shall set
24 forth, with respect to all sales and business transactions
25 that are required to be used as a measure of the tax levied,
26 items of information pertinent to the tax as the department
27 may require. Any person subject to the tax levied by the

1 commission may defer reporting credit sales until after their
2 collection, and in the event the person defers reporting them,
3 the person shall thereafter include in each monthly report all
4 credit collections made during the preceding month, and shall
5 pay the tax due at the time of filing the report. All reports
6 filed with the department or other entity under this amendment
7 shall be available for inspection by the county commission, or
8 its designee. Each person engaging or continuing in a business
9 subject to the tax levied by the commission shall add to the
10 sales price or admission fee and collect from the purchaser or
11 the person paying the admission fee the amount due by the
12 taxpayer because of the sale or admission. It shall be
13 unlawful for any person subject to the tax to fail or refuse
14 to add to the sales price or admission fee and to collect from
15 the purchaser or person paying the admission fee the amount
16 required to be added to the sale or admission price. It shall
17 be unlawful for any person subject to the tax levied by the
18 commission to refund or offer to refund all or any part of the
19 amount collected or to absorb or advertise directly or
20 indirectly the absorption or refund of any portion of the tax.

21 (d) The tax levied by the commission shall
22 constitute a debt due Baldwin County. The tax, together with
23 any interest and penalties, shall constitute and be secured by
24 a lien upon the property of any person from whom the tax is
25 due or who is required to collect the tax. The department or
26 other entity shall collect the tax, enforce this amendment,
27 and have and exercise all rights and remedies that the state

1 or the department has for collection of the state sales tax.
2 The department or other entity may employ special counsel as
3 is necessary to enforce collection of the tax levied by the
4 commission and to enforce this amendment. The department or
5 other entity shall pay the special counsel any fees it deems
6 necessary and proper from the proceeds of the tax collected by
7 it for Baldwin County.

8 (e)(1) All provisions of the state sales tax
9 statutes with respect to the payment, assessment, and
10 collection of the state sales tax, making of reports, keeping
11 and preserving records, penalties for failure to pay the tax,
12 promulgating rules and regulations with respect to the state
13 sales tax, and the administration and enforcement of the state
14 sales tax statutes which are not inconsistent with this
15 amendment shall apply to the tax levied under this amendment.

16 (2) The State Commissioner of Revenue and the
17 department or other entity shall have and exercise the same
18 powers, duties, and obligations with respect to the tax levied
19 under this amendment that are imposed on the commissioner and
20 department by the state sales tax statutes. All provisions of
21 the state sales tax statutes that are made applicable by this
22 amendment to the tax levied under this amendment, and to the
23 administration and enforcement of this amendment, are
24 incorporated by reference and made a part of this amendment as
25 if fully set forth herein.

26 (f)(1) The department or other entity may charge
27 Baldwin County for collecting the tax levied under this

1 amendment in an amount or percentage of total collections as
2 may be agreed upon by the commissioner or the entity and the
3 Baldwin County Commission. The charge may not exceed five
4 percent of the total amount of the tax collected in the county
5 or an amount as otherwise provided in the contract. The charge
6 may be deducted each month from the gross revenues from the
7 tax before certification of the amount of the proceeds due
8 Baldwin County for that month.

9 (2) The Commissioner of Revenue or other entity
10 shall pay into the State Treasury all amounts collected under
11 this amendment, as the tax is received by the department or
12 entity on or before the first day of each successive month.
13 The commissioner or entity shall certify to the state
14 Comptroller the amount collected and paid into the State
15 Treasury or otherwise for the benefit of the Baldwin County
16 school system the amount collected minus collection fees
17 during the month immediately preceding the certification. The
18 state Comptroller shall issue a warrant each month payable or
19 the entity shall remit monthly or as otherwise agreed upon to
20 the Baldwin County Board of Education an amount equal to the
21 certified net amount.

22 Section 2. An election upon the proposed amendment
23 shall be held in accordance with Amendment 555 to the
24 Constitution of Alabama of 1901, now appearing as Section
25 284.01 of the Official ReCompilation of the Constitution of
26 Alabama of 1901, as amended, and the election laws of this
27 state.

1 Section 3. The appropriate election official shall
2 assign a ballot number for the proposed constitutional
3 amendment on the election ballot and shall set forth the
4 following description of the substance or subject matter of
5 the proposed constitutional amendment:

6 "Relating to Baldwin County, proposing an amendment
7 to the Constitution of Alabama of 1901, to require the County
8 Commission of Baldwin County to levy an additional sales tax;
9 providing for the tax and an expiration date for the tax;
10 prescribing penalties and fixing punishment for violation of
11 this amendment; and providing for the distribution of the
12 sales tax.

13 "Proposed by Act _____"

14 This description shall be followed by the following
15 language:

16 "Yes () No ()."