

1 HB748
2 142128-8
3 By Representatives Davis, McMillan, Shiver, Faust and Baker
4 (Constitutional Amendment)
5 RFD: Baldwin County Legislation
6 First Read: 24-APR-12

ENGROSSED

A BILL
TO BE ENTITLED
AN ACT

Proposing an amendment to the Constitution of Alabama of 1901, to levy an additional one percent sales and use tax on certain items and one-half of one percent on certain other items in Baldwin County to be distributed to any local boards of education in the county in accordance with state law for public school purposes; to provide for the tax, an expiration date for the tax five years from June 1, 2013, and the method for the renewal of the tax; to prescribe penalties and to fix punishment for violation of the amendment; to provide for the collection of the sales and use tax; to provide for exemptions from the sales and use tax; and to provide for the payment of election expenses by the Baldwin County Board of Education.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

PROPOSED AMENDMENT

1 (a) As used in this amendment, the term "state sales
2 tax" means the tax or taxes imposed by Division 1 of Article 1
3 of Chapter 23 and by Article 3 of Chapter 23 of Title 40 of
4 the Code of Alabama 1975, as amended (herein called "the
5 Code"), including all other statutes of the State of Alabama
6 (herein called "the state") which expressly set forth any
7 exemptions from the computation of the taxes levied in
8 Division 1 or Article 3 and all other statutes which expressly
9 apply to, or purport to affect, the administration of Division
10 1 or Article 3 and the incidence and collection of the taxes
11 imposed therein; and the term "state use tax" means the tax or
12 taxes imposed by either Article 2 or Article 3 of Chapter 23
13 of Title 40 of the Code, including all other statutes of the
14 state which expressly set forth any exemptions from the
15 computation of the tax levied in Article 2 or Article 3 and
16 all other statutes of the state which expressly apply to, or
17 purport to affect, the administration of Article 2 or Article
18 3 and the incidence and collection of the taxes imposed
19 therein.

20 (b) Subject to the provisions of this amendment,
21 there are hereby levied in Baldwin County (herein called "the
22 county"), in addition to all other taxes now authorized, or
23 that may hereafter be authorized by the Constitution and laws
24 of Alabama, to be levied in the county, sales and use taxes
25 (herein together called "the county sales and use taxes") that
26 parallel, except for the rate or rates of such taxes (as
27 hereinafter specified), the state sales tax and the state use

1 tax. The duration of the levy of the county sales and use
2 taxes hereunder shall be a period of five (5) years,
3 commencing on June 1, 2013, subject to extension or renewal as
4 authorized by the Legislature in accordance with a local
5 legislative act.

6 (c) The rate of the county sales and use taxes shall
7 be one percent on any transaction that is subject to taxation
8 by the state pursuant to the provisions of (i) either
9 subdivision (1), subdivision (2), or subdivision (5) of
10 Section 40-23-2 of the Code, or (ii) subsection (a) of Section
11 40-23-61 of the Code.

12 (d) The rate of the county sales and use taxes shall
13 be one-half of one percent (.5%) on any transaction that is
14 subject to taxation by the state pursuant to the provisions of
15 (i) either subdivision (3) or subdivision (4) of Section
16 40-23-2 of the Code; or (ii) either subsection (b) or
17 subsection (c) of Section 40-23-61 of the Code; (iii) either
18 Section 40-23-37 or Section 40-23-63, Code of Alabama 1975; or
19 (iv) Article 3 of Chapter 23 of Title 40 of the Code, as the
20 case may be.

21 (e) The county sales and use taxes shall, as the
22 Baldwin County Commission (hereafter "the commission") may
23 from time to time determine, be collected either by the
24 commission or by any person, firm, or corporation (whether
25 public or private) with which the commission may contract to
26 collect the county sales and use taxes or any other tax or
27 taxes levied by, or in, the county, all in accordance with,

1 and subject to, applicable provisions of law as are from time
2 to time in effect.

3 (f) All provisions of law from time to time in
4 effect with respect to the payment, assessment, and collection
5 of the state sales tax and the state use tax, and any and all
6 reports, records, and penalties for failure to pay such taxes,
7 the promulgation of rules and regulations with respect to such
8 taxes, and the administration and enforcement of such taxes or
9 such provisions of law (as the case may be), shall, to the
10 extent not inconsistent with this amendment, apply to the
11 county sales and use taxes.

12 (g) The commission shall remit to any local boards
13 of education in the county in accordance with state law all
14 amounts collected by the commission from the sales and use tax
15 levied pursuant to the terms of this amendment, less
16 collection fees charged by the commission in accordance with
17 this amendment, applicable state law and any agreements
18 entered into between the commission and the Baldwin County
19 Board of Education or any local board of education in the
20 county not inconsistent with this amendment or state law.

21 (h) Notwithstanding any provision of law now
22 existing or hereafter enacted by the Legislature, the board of
23 education shall pay, or shall cause to be paid, all costs and
24 expenses incurred (whether by the state, the county or any
25 other political subdivision or public body) in connection with
26 the call, conduct, canvass or contest of any special election
27 hereafter held (whether pursuant to, or in accordance with,

1 the provisions of this amendment or otherwise) for the purpose
2 of levying, or authorizing the levy of, any tax (regardless of
3 the character or nature thereof) all or a majority of the
4 revenues from which may, prior to such special election, be
5 dedicated by constitutional amendment, general law, statute,
6 local legislative act or otherwise (or by ordinance or
7 resolution of the commission) for public school or public
8 educational purposes in the county, or which may be otherwise
9 payable (or paid) to the Baldwin County Board of Education.
10 The provisions of this paragraph shall remain in full force
11 and effect notwithstanding the expiration or termination of
12 any sales or use tax levied, extended or renewed pursuant to
13 other provisions of this amendment.

14 (i) The commission is hereby empowered to collect
15 the county sales and use taxes and to enforce the provisions
16 of this amendment, and it shall have and exercise all rights
17 and remedies that the state has for the collection of the
18 state sales tax and the state use tax (as the case may be).

19 (j) The foregoing provisions of this amendment shall
20 be and are hereby declared to be self-executing; but the
21 Legislature may enact general or local laws that implement,
22 supplement or further any or all of the foregoing provisions
23 of this amendment.

24 Section 2. An election upon the proposed amendment
25 shall be held at the general election on November 6, 2012, in
26 accordance with Amendment 555 to the Constitution of Alabama
27 of 1901, now appearing as Section 284.01 of the Official

1 Recompilation of the Constitution of Alabama of 1901, as
2 amended, and the election laws of this state.

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

8 "Relating to Baldwin County, proposing an amendment
9 to the Constitution of Alabama of 1901, to levy an additional
10 one percent sales and use tax on certain items and one-half of
11 one percent on certain other items, to be distributed to any
12 local boards of education in the county in accordance with
13 state law for public school purposes; providing for the tax,
14 an expiration date for the tax five years from June 1, 2013,
15 and prescribing the method for the renewal of the tax;
16 prescribing penalties and fixing punishment for violation of
17 the amendment; providing for the collection of the sales and
18 use tax; providing for exemptions from the sales and use tax;
19 and providing for the payment of special election expenses by
20 the Baldwin County Board of Education.

21 "Proposed by Act _____."

22 This description shall be followed by the following
23 language:

24 "Yes () No ()."

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Baldwin County
Legislation..... . 24-APR-12

Read for the second time and placed
on the calendar with 1 substitute
and..... . 02-MAY-12

Read for the third time and passed
as amended..... . 09-MAY-12

Yeas 65, Nays 0, Abstains 21

Greg Pappas
Clerk