

1 HB435
2 147528-2
3 By Representatives Warren and Vance (N & P)
4 RFD: Lee County Legislation
5 First Read: 20-MAR-13

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A BILL

10 TO BE ENTITLED

11 AN ACT

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13 Relating to Lee County; to authorize the county
14 commission to levy an additional sales and use tax outside the
15 corporate limits of the Cities of Auburn, Opelika, and Phenix
16 City; to provide for the collection, distribution, and use of
17 the proceeds of the tax; to provide for the enforcement of the
18 act; and to provide for a referendum.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall only apply to those areas
21 outside the corporate limits of the Cities of Auburn, Opelika,
22 and Phenix City in Lee 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, 40-23-62, and
27 40-23-63 of the Code of Alabama 1975.

Section 3. Subject to the approval of the majority of the electors voting a referendum held for such purposes, the Lee County Commission may levy a one percent sales and use tax against gross sales, use, storage, or other consumption outside the corporate limits of the Cities of Auburn, Opelika, and Phenix City. The gross proceeds of all sales and use of products or services 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 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. The report shall set forth, with respect to all sales and business transactions that are required to be used as a measure of the tax levied, a correct statement of the gross proceeds of all the sales and gross receipts of all business transactions. The report shall also include items of information pertinent to the tax as the department may require. Any person subject to the tax levied by this act may defer reporting credit sales until after their collection, and in the event the person defers reporting them, the person shall thereafter include in each monthly report all credit collections made during the preceding month, and shall pay the tax due at the time of

1 filing the report. All reports filed with the department under
2 this section shall be available for inspection by the county
3 commission or its designee.

4 Section 5. Each person engaging or continuing in a
5 business subject to any tax levied pursuant to the authority
6 of this act shall add to the sales price or admission fee and
7 collect from the purchaser or the person paying the admission
8 fee the amount due by the taxpayer because of the sale or
9 admission. It shall be unlawful for any person subject to the
10 tax to fail or refuse to add to the sale price or admission
11 fee and to collect from the purchaser or person paying the
12 admission fee the amount required to be added to the sale or
13 admission price. It shall be unlawful for any person subject
14 to the tax authorized to be levied by this act to refund or
15 offer to refund all or any part of the amount collected or to
16 absorb or advertise directly or indirectly the absorption or
17 refund of any portion of the tax.

18 Section 6. The tax authorized to be levied by this
19 act shall constitute a debt due Lee County. The tax, together
20 with any interest and penalties, shall constitute and be
21 secured by a lien upon the property of any person from whom
22 the tax is due or who is required to collect the tax. The
23 department shall collect the tax, enforce this act, and have
24 and exercise all rights and remedies that the state or the
25 department has for collection of the state sales and use tax.
26 The department may employ special counsel as is necessary to
27 enforce collection of the tax levied by this act and to

1 enforce this act. The department shall pay special counsel any
2 fees it deems necessary and proper from the proceeds of the
3 tax collected by it for Lee County.

4 Section 7. All provisions of the state sales and use
5 tax statutes with respect to the payment, assessment, and
6 collection of the state sales and use tax, making of reports,
7 keeping and preserving records, penalties for failure to pay
8 the tax, promulgating rules with respect to the state sales
9 and use tax, and the administration and enforcement of the
10 state sales and use tax statutes which are not inconsistent
11 with this act shall apply to the tax authorized under this
12 act. The state Commissioner of Revenue and the department
13 shall have and exercise the same powers, duties, and
14 obligations with respect to the tax levied under this act that
15 are imposed on the commissioner and department by the state
16 sales and use tax statutes. All provisions of the state sales
17 and use tax statutes that are made applicable by this act to
18 the tax levied under this act, and to the administration and
19 enforcement of this act, are incorporated by reference and
20 made a part of this act as if fully set forth herein.

21 Section 8. The department shall charge Lee County
22 for collecting the tax authorized to be levied under this act
23 in an amount or percentage of total collections as may be
24 agreed upon by the commissioner and the Lee County Commission.
25 The charge shall not exceed five percent of the total amount
26 of the tax collected in the county. The charge may be deducted
27 each month from the gross revenues from the tax before

1 certification of the amount of the proceeds due Lee County for
2 that month. The Commissioner of Revenue shall pay into the
3 State Treasury all amounts collected under this act as the tax
4 is received by the department on or before the first day of
5 each successive month. The commissioner shall certify to the
6 state Comptroller the amount collected and paid into the State
7 Treasury for the benefit of Lee County during the month
8 immediately preceding the certification. The state Comptroller
9 shall issue a warrant each month payable to the County
10 Treasurer of Lee County in an amount equal to the certified
11 amount which shall be paid into the county general fund to be
12 used as follows:

13 (1) Fifty percent of the proceeds shall be used to
14 provide funding for a parks and recreation program in the
15 county, including, but not limited to, the purchase of land
16 for parks, construction of recreation facilities, providing
17 support staff and maintenance equipment, and improving access
18 to areas of recreation.

19 (2) Fifty percent shall be used to provide funding
20 for additional deputy sheriffs with an emphasis on school
21 safety in the county schools.

22 Section 9. Sections 1 through 8 of this act shall
23 become operative only if approved by a majority of the
24 qualified electors of the county residing outside the
25 corporate limits of the Cities of Auburn, Opelika, and Phenix
26 City who vote in an election to be held on the day designated
27 by the judge of probate. The notice of the election shall be

1 given by the judge of probate and the election shall be held,
2 conducted, and the results canvassed in the manner as other
3 county elections. The election shall be held at a date set by
4 the county commission. The question shall be as follows:

5 "Do you favor generating funds to support additional
6 deputy sheriffs with an emphasis on school safety and county
7 recreation through the levying of a one cent sales and use tax
8 outside the corporate limits of the Cities of Auburn, Opelika,
9 and Phenix City by adopting Act 2013- , 2013 Regular Session?

10 "Yes () No ()."

11 The county shall pay any costs and expenses not
12 otherwise reimbursed by a governmental agency which are
13 incidental to the election. If a majority of the votes cast in
14 the election are "Yes," Sections 1 thorough 8 shall become
15 operative immediately. If the majority of the votes are "No,"
16 this act shall be repealed and shall have no further effect.
17 The judge of probate shall certify the results of the election
18 to the Secretary of State.

19 Section 10. This act shall become effective on the
20 first day of the third month following its passage and
21 approval by the Governor, or its otherwise becoming law.