

1 SB475
2 168544-3
3 By Senator Pittman
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 14-MAY-15

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8 SYNOPSIS: Currently, the State of Alabama levies a
9 tax on contractors' gross receipts. Exemptions to
10 this tax include gross receipts from contracts made
11 by the contractor with a county, incorporated city,
12 or town, unless the State of Alabama is a joint
13 party, and the additional gross receipts received
14 by the contractor under contractual escalation
15 provisions allowing for an increase in the contract
16 price for escalation in construction costs.

17 This bill will remove the exemption of gross
18 receipts from contracts made by the contractor with
19 a county, incorporated city, or town from the tax
20 levied on contractors' gross receipts. This bill
21 will provide further for the distribution of the
22 proceeds from the tax levied on contractors' gross
23 receipts.

24
25 A BILL
26 TO BE ENTITLED
27 AN ACT

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2 To amend Section 40-23-50, Code of Alabama 1975, to
3 remove the exemption of gross receipts from contracts made by
4 the contractor with a county, incorporated city, or town from
5 the tax levied on contractors' gross receipts and provide
6 further for the distribution of the proceeds from the tax
7 levied on contractors' gross receipts.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Section 40-23-50 is amended to read as
10 follows:

11 "\$40-23-50.

12 "(a) There is hereby levied, in addition to all
13 other taxes of every kind now imposed by law, and shall be
14 collected, as herein provided, a privilege or license tax
15 against the person on account of the business activities
16 engaged in and in the amount to be determined by the
17 application of rates against gross receipts, as follows:

18 "Upon every person, firm or corporation engaged or
19 continuing within this state in the business of contracting to
20 construct, reconstruct or build any public highway, road,
21 bridge, or street, an amount equal to five percent of the
22 gross receipts derived from performance of such contracts. The
23 term "gross receipts" is herein defined to include only those
24 amounts derived and received by the contractor from the
25 performance of such contracts.

1 "(b) The proceeds of the taxes levied by this
2 section, after deduction of the cost of administration and
3 collection of such taxes, shall be distributed as follows:

4 "(1) The first \$41,000,000 collected after deduction
5 of the cost of administration and collection shall be
6 distributed as follows:

7 "a. Fifteen percent shall be paid into the State
8 Treasury and shall be credited to the Pensions and Security
9 Trust Fund to be used for general welfare purposes, and

10 "b. Eighty-five percent shall be paid into the State
11 Treasury and shall be credited to the Alabama Special Mental
12 Health Fund to be used for mental health purposes.

13 "(2) The next \$54,000,000 collected after deduction
14 of the cost of administration and collection and the amount
15 set forth in (b) (1) shall be paid into the State Treasury and
16 shall be credited to the Public Road and Bridge Fund.

17 "(3) Any proceeds remaining after the deduction of
18 the cost of administration and collection and the amounts set
19 forth in (b) (1) and (b) (2) shall be distributed as follows:

20 "a. Fifty-six and one-half percent of the residue
21 remaining after deduction of the cost of administration and
22 collection and the amounts set forth in (b) (1) and (b) (2)
23 shall be paid into the State Treasury and shall be distributed
24 in accordance with Section 40-17-223.

25 ~~"(1) Fifteen~~ b. Six and one-half percent of the
26 residue remaining after deduction of the cost of
27 administration and collection and the amounts set forth in

1 (b) (1) and (b) (2) shall be paid into the State Treasury and
2 shall be credited to the Pensions and Security Trust Fund to
3 be used for general welfare purposes, and

4 "~~(2) Eighty-five~~ c. Thirty-seven percent of the
5 residue remaining after deduction of the cost of
6 administration and collection and the amounts set forth in
7 (b) (1) and (b) (2) shall be paid into the State Treasury and
8 shall be credited to the Alabama Special Mental Health Fund to
9 be used for mental health purposes.

10 "(c) The taxes imposed pursuant to this section
11 shall constitute a debt due the state and may be collected by
12 civil action, in addition to all other methods provided by law
13 and in this section. The said taxes, together with interest
14 and penalties with respect thereto, shall constitute and be
15 secured by a lien upon the property of any person from whom
16 said taxes are due or who is required to pay said taxes. All
17 provisions of the revenue laws of this state which apply to
18 the enforcement of liens for license taxes due the state shall
19 apply fully to the collection of the taxes levied herein, and
20 the Department of Revenue shall collect such taxes and enforce
21 this section and shall have and exercise for such collection
22 and enforcement all rights and remedies that this state or the
23 department has for collection of the state sales tax. All
24 provisions of the state sales tax, with respect to
25 definitions, except the definition of "gross receipts"
26 contained therein, payment and assessment of the state sales
27 tax, making of reports and keeping and preserving records with

1 respect thereto, interest after the due date of tax, penalties
2 for failure to pay tax or otherwise complying with the state
3 sales tax statutes, the promulgation of rules and regulations
4 and the administration and enforcement of the state sales tax
5 statutes, which are not inconsistent with the provisions of
6 this section when applied to the tax levied pursuant to
7 subsection (a) of this section, shall apply to the tax levied
8 herein. The Commissioner of Revenue and the state Department
9 of Revenue shall have and exercise the same powers, duties and
10 obligations with respect to the taxes levied herein as are
11 imposed on the commissioner and the department by the state
12 sales tax statutes. All provisions of the state sales tax
13 statutes that are made applicable in this section to the taxes
14 levied herein and to the administration of this section are
15 incorporated herein by reference and made a part hereof as if
16 fully set forth herein; provided, that the provisions of the
17 state sales tax with respect to the collection by the taxpayer
18 of the tax levied therein shall not apply, the taxes levied
19 herein being levied against the person required to pay the tax
20 to the state.

21 "(d) The taxes levied herein shall not apply with
22 respect to ~~contracts made by the contractor with any county or~~
23 ~~incorporated city or town, except that contracts in which the~~
24 ~~State of Alabama is a joint party with the city, town or~~
25 ~~county shall be subject to the tax, nor to that portion of the~~
26 gross receipts received by the contractor constituting
27 additional amounts paid to the contractor under contractual

1 escalation provisions allowing for an increase in the contract
2 price for escalations in the cost of fuels, materials, and/or
3 labor."

4 Section 2. This act shall become effective on
5 September 1, 2015 following its passage and approval by the
6 Governor, or its otherwise becoming law.