

1 HB357
2 164820-3
3 By Representative Fincher (N & P)
4 RFD: Local Legislation
5 First Read: 31-MAR-15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENROLLED, An Act,

Relating to Randolph County; to authorize the county commission to levy additional sales and use taxes of up to one percent to be used for the construction, maintenance, or operation of licensed hospital facilities in Randolph County; to provide for certain matters relating to the administration, collection, and enforcement of such taxes; to provide for the effective date and termination of such taxes immediately upon the debt incurred to construct and open for operation a licensed hospital facility having been fully and completely paid; to provide for an advisory referendum regarding the authorization of the taxes; to provide that such taxes may not be abated pursuant to Chapter 9B, Title 40, Code of Alabama 1975, or otherwise; and to authorize the pledge of such taxes by Randolph County to secure indebtedness issued for the purposes for which the taxes are authorized.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall only apply to Randolph County.

Section 2. (a) The following words, terms, and phrases where used in this act shall have the following respective meanings except where the context clearly indicates a different meaning:

(1) CODE. The Code of Alabama 1975, as amended.

1 (2) COMMISSIONER. The Commissioner of Revenue of the
2 state.

3 (3) COUNTY. Randolph County in the state.

4 (4) COUNTY COMMISSION. The Randolph County
5 Commission.

6 (5) STATE. The State of Alabama.

7 (6) STATE DEPARTMENT OF REVENUE. The Department of
8 Revenue of the state.

9 (7) STATE SALES TAX. The tax or taxes imposed by the
10 state sales tax statutes.

11 (8) STATE SALES TAX STATUTES. Division 1, commencing
12 with Section 40-21-1, of Article 1 of Chapter 23 of Title 40
13 of the code, including all other statutes of the state which
14 expressly set forth any exemptions from the computation of the
15 taxes levied in Division 1 and all other statutes which
16 expressly apply to, or purport to affect, the administration
17 of Division 1 and the incidence and collection of the taxes
18 imposed therein.

19 (9) STATE USE TAX. The tax or taxes imposed by the
20 state use tax statutes.

21 (10) STATE USE TAX STATUTES. Article 2, commencing
22 with Section 40-23-60, of Chapter 23 of Title 40 of the code,
23 including all other statutes of the state which expressly set
24 forth any exemptions from the computation of the tax levied in
25 Article 2 and all other statutes of the state which expressly

1 apply to, or purport to affect, the administration of Article
2 2 and the incidence and collection of the taxes imposed
3 therein.

4 (b) Except where another meaning is clearly
5 indicated by the context, all definitions set forth in the
6 state sales tax statutes and the state use tax statutes shall
7 be effective as definitions of the words, terms, and phrases
8 used in this act. All words, terms, and phrases used herein,
9 other than those hereinabove specifically defined, shall have
10 the respective meanings ascribed to them in the state sales
11 tax statutes and the state use tax statutes and shall have the
12 same scope and effect that the same words, terms, and phrases
13 have where used in the state sales tax statutes and the state
14 use tax statutes.

15 Section 3. (a) The governing body is authorized to
16 levy and impose in the county, in addition to all other taxes
17 of every kind now imposed by law, and to collect as herein
18 provided, a privilege or license tax against the person on
19 account of the business activities and in the amount to be
20 determined by the application of rates against gross sales, or
21 gross receipts, as the case may be, as follows:

22 (1) Upon every person, firm, or corporation
23 (including the State of Alabama, the University of Alabama,
24 Auburn University, and all other institutions of higher
25 learning in the state, whether such institutions be

1 denominational, state, county, or municipal institutions, and
2 any association or other agency or instrumentality of such
3 institutions) engaged, or continuing within the county in the
4 business of selling at retail any tangible personal property
5 whatsoever, including merchandise and commodities of every
6 kind and character (not including, however, bonds or other
7 evidences of debts or stocks, nor sales of material and
8 supplies to any person for use in fulfilling a contract for
9 the painting, repair, or reconditioning of vessels, barges,
10 ships, and other watercraft, and commercial fishing vessels of
11 over five tons displacement as registered with the United
12 States Coast Guard and licensed by the State of Alabama
13 Department of Conservation and Natural Resources), an amount
14 of up to one percent of the gross proceeds of sales of the
15 business. Provided, however, that any person engaging or
16 continuing in business as a retailer and wholesaler or jobber
17 shall pay the tax required on the gross proceeds of retail
18 sales of the business at the rates specified, when his or her
19 books are kept so as to show separately the gross proceeds of
20 sales of each business, and when his or her books are not so
21 kept he or she shall pay the tax as retailer on the gross
22 sales of the business.

23 Where any used part including tires of an automotive
24 vehicle or a truck trailer, semitrailer, or house trailer is
25 taken in trade, or in a series of trades, as a credit or part

1 payment on the sale of a new or rebuilt part or tire, the tax
2 levied herein shall be paid on the net difference, that is,
3 the price of the new or used part or tire sold less the credit
4 for the used part or tire taken in trade, provided, however,
5 this provision shall not be construed to include batteries.

6 (2) Upon every person, firm, or corporation engaged,
7 or continuing within the county, in the business of conducting
8 or operating places of amusement or entertainment, billiard
9 and pool rooms, bowling alleys, amusement devices, musical
10 devices, theaters, opera houses, moving picture shows,
11 vaudevilles, amusement parks, athletic contests, including
12 wrestling matches, prize fights, boxing and wrestling
13 exhibitions, football and baseball games (including athletic
14 contests, conducted by or under the auspices of any
15 educational institution within the county, or any athletic
16 association thereof, or other association whether the
17 institution or association be a denominational, a state, or
18 county, or a municipal institution or association or a state,
19 county, or city school, or other institution, association, or
20 school), skating rinks, race tracks, golf courses, or any
21 other place at which any exhibition, display, amusement, or
22 entertainment is offered to the public or place or places
23 where an admission fee is charged, including public bathing
24 places, public dance halls of every kind and description
25 within the county, an amount of up to one percent of the gross

1 receipts of any such business. Provided, however,
2 notwithstanding any language to the contrary in the prior
3 portion of this subdivision, the tax provisions so specified
4 shall not apply to any athletic event conducted by a public or
5 nonpublic primary or secondary school or any athletic event
6 conducted by or under the auspices of the Alabama High School
7 Athletic Association. The tax amount which would have been
8 collected pursuant to this subdivision shall continue to be
9 collected by the public or nonpublic primary or secondary
10 school, but shall be retained by the school which collected it
11 and shall be used by the school for school purposes.

12 (3) Where any used automotive vehicle or truck
13 trailer, semitrailer, or house trailer is taken in trade or in
14 a series of trades, as a credit or part payment on the sale of
15 a new or used vehicle, the tax levied herein shall be paid on
16 the net difference, that is, the price of the new or used
17 vehicle sold less the credit for the used vehicle taken in
18 trade.

19 (4) Upon every person, firm, or corporation engaged
20 or continuing within the county in the business of selling
21 through coin-operated dispensing machines food and food
22 products for human consumption, including beverages other than
23 coffee, milk, milk products, and substitutes therefor, there
24 is levied a tax of up to one percent of the cost of the food,
25 food products, and beverages sold through the machines, which

1 cost for the purpose of this subdivision shall be the gross
2 proceeds of sales of the business.

3 (5) Where any used machine, machinery, or equipment
4 which is used in planting, cultivating, and harvesting farm
5 products, or used in connection with the production of
6 agricultural produce or products, livestock, and poultry on
7 farms is taken in trade or in a series of trades as a credit
8 or part payment on a sale of a new or used machine, machinery,
9 or equipment, the tax levied herein shall be paid on the net
10 difference, that is, the price of the new or used machine,
11 machinery, or equipment sold, less the credit for the used
12 machine, machinery, or equipment taken in trade.

13 (b) There are exempted, however, from this section
14 and from the computation of the amount of the tax authorized
15 to be imposed in this section, the gross receipts of any
16 business and the gross proceeds of all sales which are
17 presently exempted under the state sales tax statutes from the
18 computation of the amount of the state sales tax.

19 (c) Any provision of this section to the contrary
20 notwithstanding, the amount of the additional levy shall not
21 exceed one percent.

22 Section 4. (a) The governing body of the county is
23 hereby authorized to levy and impose excise taxes on the
24 storage, use, or other consumption of property in the county
25 as hereinafter provided in this section:

1 (1) On the storage, use, or other consumption in the
2 county of tangible personal property, not including, however,
3 materials and supplies bought for use in fulfilling a contract
4 for the painting, repairing, or reconditioning of vessels,
5 barges, ships, other watercraft, and commercial fishing
6 vessels of over five tons load displacement as registered with
7 the United States Coast Guard and licensed by the State of
8 Alabama Department of Conservation and Natural Resources,
9 purchased at retail on or after the effective date of such
10 tax, for storage, use, or other consumption in the county at
11 the rate of up to one percent of the sales price of such
12 property or the amount of tax collected by the seller,
13 whichever is greater, except as provided in subdivision (2) of
14 this subsection.

15 (2) Where any used automotive vehicle or truck
16 trailer, semitrailer, or house trailer is taken in trade, or
17 in a series of trades, as a credit or part payment on the sale
18 of a new or used vehicle, the tax levied herein shall be paid
19 on the net difference, that is, the price of the new or used
20 vehicle sold less the credit for the used vehicle taken in
21 trade.

22 (b) There are exempted from this section, and from
23 the taxes authorized to be imposed by this section, the
24 storage, use, or other consumption of property the storage,
25 use, or other consumption of which is presently exempted under

1 the state use tax statutes from the state use tax. Subject to
2 those exemptions, every person storing or using or otherwise
3 consuming in the county tangible personal property purchased
4 at retail on or after the effective date of any such taxes
5 imposed pursuant to the authorization contained in this
6 section shall be liable for the taxes so imposed, and the
7 liability shall not be extinguished until the tax has been
8 paid by such person; provided, however, that a receipt from a
9 retailer maintaining a place of business in the county given
10 to the purchaser, or other receipt or documentation regarding
11 payment of tax permitted under applicable rules and
12 regulations, shall be sufficient to relieve the purchaser from
13 further liability for tax to which such receipt or
14 documentation may refer.

15 (c) Any provision of Section 4 to the contrary
16 notwithstanding, the amount of the additional levy shall not
17 exceed one percent.

18 Section 5. Each person engaging or continuing within
19 the county in a business subject to the sales tax authorized
20 to be levied in Section 3 shall add to the sales price and
21 collect from the purchaser the amount due by the taxpayer on
22 account of the tax. It shall be unlawful for any person
23 subject to the sales tax authorized to be levied in Section 3
24 to fail or refuse to add to the sales price and to collect
25 from the purchaser the amount herein required to be so added

1 to the sales price and collected from the purchaser, and it
2 shall likewise be unlawful for any person subject to the tax
3 to refund or offer to refund all or any part of the amount so
4 collected or to absorb or advertise directly or indirectly the
5 absorption or refund of the tax or any portion thereof.

6 Section 6. (a) The governing body of the county
7 shall administer and collect the taxes herein authorized to be
8 levied and collected, or shall cause such taxes to be
9 administered and collected by the State Department of Revenue
10 or a private collection agency at the same time and in the
11 same manner as the state sales tax and state use tax are
12 collected, pursuant to, and in accordance with, the applicable
13 provisions of Sections 11-3-11.2 and 11-3-11.3 of the code.
14 Without limiting the generality of the foregoing, the
15 governing body of the county or other collection agency shall
16 have the same rights, remedies, power, and authority,
17 including the right to adopt and implement the same
18 procedures, as would be available to the State Department of
19 Revenue if the taxes herein authorized were being
20 administered, enforced, and collected by the State Department
21 of Revenue. The governing body may retain or may pay to the
22 State Department of Revenue or a private collection agency, as
23 a fee for the cost of collecting such taxes, an amount not to
24 exceed five percent of the proceeds of such taxes so
25 collected. If the governing body of the county or the State

1 Department of Revenue administers and collects the taxes, the
2 amount retained by the governing body or paid to the State
3 Department of Revenue as a collection fee shall not exceed the
4 actual cost of collection, or an amount that does not exceed
5 five percent of the proceeds of the taxes collected, whichever
6 amount is less.

7 (b) With respect to the taxes herein authorized to
8 be levied and imposed by it, the county shall be deemed to be
9 a self-administered county, as that term is defined in Section
10 40-2A-3 of the code.

11 Section 7. The governing body shall call an advisory
12 countywide referendum election on the question of whether the
13 qualified electors of the county support or oppose authorizing
14 the county commission to levy additional county sales and use
15 taxes. All costs of the advisory referendum, including, but
16 not limited to, the cost of publishing the notice and of
17 furnishing ballots or renting voting machines, shall be paid
18 by the county. If a majority of the voters voting in the
19 advisory referendum oppose authorizing the county commission
20 to levy additional county sales and use taxes, this act shall
21 be null and void and of no further effect. If a majority of
22 the voters voting in the advisory referendum approve
23 authorizing the county commission to levy additional county
24 sales and use taxes, the county commission shall have sole

1 discretion to determine whether to levy or not levy the taxes
2 authorized by this act.

3 Section 8. The taxes authorized to be levied
4 pursuant to this act shall constitute a debt due the county
5 and may be collected by civil suit, in addition to all other
6 methods provided by law and in this act. The taxes, together
7 with any interest and penalties with respect thereto, shall
8 constitute and be secured by a lien upon the property of any
9 person from whom the taxes are due or who is required to
10 collect the taxes. All the provisions of the revenue laws of
11 the state which apply to the enforcement of liens for license
12 taxes due the state shall apply fully to the collection of the
13 taxes herein authorized to be levied. The governing body of
14 the county, the State Department of Revenue, or private
15 collection agency, as determined by the governing body, shall
16 collect the taxes and enforce this act, and the governing body
17 of the county or any private collection agency collecting such
18 taxes shall have and exercise all rights and remedies that the
19 State Department of Revenue would have if the taxes herein
20 authorized were being administered, enforced, and collected by
21 the State Department of Revenue. The governing body of the
22 county, the State Department of Revenue, or private collection
23 agency may employ special counsel as it deems necessary from
24 time to time to enforce collection of the taxes levied
25 pursuant to this act and otherwise to enforce this act,

1 including the institution, prosecution, and defense of any
2 litigation involving this act. The governing body, the State
3 Department of Revenue, or private collection agency shall pay
4 such special counsel such fees as it deems necessary and
5 proper from the proceeds of the tax collected by it hereunder.

6 Section 9. All provisions of the state sales tax
7 statutes with respect to payment, assessment, and collection
8 of the state sales tax, making of reports, and keeping and
9 preserving records with respect thereto, interest after the
10 due date of the state sales tax, penalties for failure to pay
11 the tax, make reports or otherwise comply with the state sales
12 tax statutes, the promulgation of rules and regulations with
13 respect to the state sales tax, and the administration and
14 enforcement of the state sales tax statutes, which are not
15 inconsistent with this act, when applied to the sales taxes
16 authorized to be levied herein, shall apply to the sales taxes
17 authorized to be levied herein; and all provisions of the
18 state use tax statutes with respect to payment, assessment,
19 and collection of the state use tax, making of reports, and
20 keeping and preserving records with respect thereto, interest
21 after the due date of the state use tax, penalties for failure
22 to pay the tax, make reports, or otherwise to comply with the
23 state use tax statutes, the promulgation of rules and
24 regulations with respect to the state use tax and the
25 administration and enforcement of the state use tax statutes,

1 which are not inconsistent with this act, when applied to the
2 use taxes authorized to be levied herein, shall apply to the
3 use taxes authorized to be levied herein. The governing body,
4 the State Department of Revenue, or private collection agency
5 shall have and exercise the same powers, duties, and
6 obligations with respect to the taxes levied under this act
7 that are imposed on the Commissioner and State Department of
8 Revenue by the state sales tax statutes and state use tax
9 statutes. All provisions of the state sales tax statutes and
10 the state use tax statutes that are made applicable by this
11 act to the taxes herein authorized to be levied and to the
12 administration of this act are incorporated herein by
13 reference and made a part hereof as if fully set forth herein.

14 Section 10. Notwithstanding any provision of law to
15 the contrary, none of the taxes herein authorized to be levied
16 and collected may be abated by any governmental or other
17 public body pursuant to Chapter 9B of Title 40 of the code or
18 otherwise.

19 Section 11. The proceeds of any taxes levied
20 pursuant to the authorization contained in this act shall be
21 used only for the purpose of providing funds to pay the costs
22 of construction, maintenance, or operation of licensed
23 hospital facilities in the county. The entire proceeds derived
24 by the county from the taxes herein authorized to be levied,
25 including any income derived from the investment of such

1 proceeds, shall be paid over and deposited, promptly upon
2 receipt thereof, into a separate and distinct fund or account
3 of the county, which shall be accounted for as other county
4 funds. The county may anticipate the proceeds from the taxes
5 so required to be paid to it by issuing, for any of the
6 purposes for which the taxes are herein authorized to be
7 levied, funding or refunding bonds, warrants, or certificates
8 of indebtedness of the county, and may pledge for the payment
9 of the principal thereof and interest thereon the proceeds
10 from the taxes so paid to it; provided however, and
11 notwithstanding anything in this act to the contrary, the term
12 of any and all funding or refunding bonds, warrants, or
13 certificates of indebtedness of the county authorized to be
14 issued by this section shall not exceed 30 years. The pledge
15 of such proceeds by the county for the payment of the
16 principal of and interest on bonds, warrants, or certificates
17 of indebtedness issued by the county shall constitute a part
18 of the contract with the holders of the bonds, warrants, or
19 certificates of indebtedness and such contract shall be
20 protected from impairment to the fullest extent provided by
21 the federal Constitution and the Constitution of Alabama of
22 1901, as amended.

23 Section 12. (a) If the governing body of the county
24 elects to levy and impose any of the taxes herein authorized
25 to be levied and imposed, it shall specify in the resolution

1 levying and imposing such taxes the first day of the second
2 calendar month next following that during which such levy is
3 made as the effective date of such levy. Such resolution may
4 provide such other terms or provisions relating to the levy,
5 collection, administration, and enforcement of such taxes as
6 are not contrary to or inconsistent with this act.

7 (b) The governing body of the county, at any time
8 and from time to time after the levy of any of the taxes
9 herein authorized, but subject to succeeding provisions of
10 this section, and subject to constitutional limitations on the
11 impairment of contracts, may terminate any of the taxes herein
12 authorized to be levied by it.

13 (c) No tax levied hereunder may be terminated by the
14 county, as authorized in the preceding provisions of this
15 section, if there are at the time outstanding and unpaid any
16 bonds, warrants, notes, or other securities or obligations
17 issued by the county, and which by their terms are payable, in
18 whole or in part, out of, or secured by a pledge of, any
19 revenues or proceeds from any of such taxes.

20 (d) The governing body of the county shall adopt a
21 resolution terminating any tax levied pursuant to this act
22 immediately upon all bonds, warrants, notes, or other
23 securities or obligations issued by the county to construct
24 and open for operation a licensed hospital facility, and which
25 by their terms are payable, in whole or in part, out of, or

1 secured by a pledge of, any revenues or proceeds from any of
2 such taxes, shall have been fully paid and retired. It is
3 expressly understood that the governing body of the county
4 shall not continue any such taxes to pay or retire any debt,
5 bonds, warrants, notes, or other securities or obligations
6 issued by the county not incurred to construct and open for
7 operation a licensed hospital facility.

8 (e) In the event that any or all such taxes are so
9 terminated, any proceeds thereof that are at the time on
10 deposit with the county that are thereafter received, shall be
11 held by the county and expended only for purposes for which
12 the taxes were herein authorized to be levied.

13 Section 13. The provisions of this act are
14 severable. If any part of this act is declared invalid or
15 unconstitutional, that declaration shall not affect the part
16 which remains.

17 Section 14. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 07-APR-15.

Jeff Woodard
Clerk

Senate

16-APR-15

Passed