

1 HB463
2 176147-2
3 By Representative Beech (N & P)
4 RFD: Local Legislation
5 First Read: 22-MAR-16

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Washington County; authorizing the
14 county commission to levy a sales and use tax and a leasing
15 tax; providing for the collection, distribution, and use of
16 the proceeds of the taxes; prescribing penalties and fixing
17 punishment for violation of this act; and providing for a
18 referendum.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act applies to Washington County.

21 Section 2. As used in this act, the following words
22 have the following meanings:

23 (1) DEPARTMENT. The Department of Revenue.

24 (2) EQUIPMENT. Machinery or tools employed for
25 agriculture, horticulture, livestock, grazing, lawn and
26 garden, construction, industrial, maritime, mining, or
27 forestry usage, including tractors.

1 (3) LEASING TAX. A tax paralleling the tax imposed
2 by the state leasing or renting of tangible personal property
3 statutes, including, but not limited to, Title 40, Chapter 12,
4 Article 4, Code of Alabama 1975.

5 (4) SALES AND USE TAX. A tax paralleling the tax
6 imposed by the state sales and use tax statutes, including,
7 but not limited to, Title 40, Chapter 23, Code of Alabama
8 1975.

9 Section 3. (a) Commencing February 1, 2017, the
10 County Commission of Washington County may levy, in addition
11 to all other previously authorized taxes:

12 (1) A one percent sales and use tax on gross sales;
13 provided, however, the rate shall be one-half percent on the
14 sale or use of any automotive vehicle, motorboat, truck
15 trailer, trailer, semitrailer, or travel trailer required to
16 be registered or licensed with the judge of probate.

17 (2) A one percent leasing tax on the gross proceeds
18 derived from the leasing or rental of any equipment or
19 passenger automotive vehicle.

20 (b) The gross proceeds of all sales which are
21 presently exempt under the state sales and use tax statutes
22 are exempt from the taxes authorized by this act.

23 Section 4. The taxes levied by this act shall be
24 collected by the state Department of Revenue at the same time
25 and in the same manner as state sales and use taxes and
26 leasing taxes are collected. On or prior to the date the tax
27 is due, each person subject to the tax shall file with the

1 department a report in the form prescribed by the department.
2 The report shall set forth, with respect to all sales and
3 business transactions that are required to be used as a
4 measure of the tax levied, a correct statement of the gross
5 proceeds of all the sales and gross receipts of all business
6 transactions. The report shall also include items of
7 information pertinent to the tax as the department may
8 require. Any person subject to a tax levied by this act may
9 defer reporting credit sales until after their collection, and
10 in the event the person defers reporting them, the person
11 shall thereafter include in each monthly report all credit
12 collections made during the preceding month, and shall pay the
13 tax due at the time of filing the report. All reports filed
14 with the department under this section shall be available for
15 inspection by the county commission, or its designee.

16 Section 5. Each person engaging or continuing in a
17 business subject to a tax levied by this act shall add to the
18 sales price or leasing price, as applicable, and collect from
19 the purchaser or lessor the amount due by the taxpayer because
20 of the sale or lease. It shall be unlawful for any person
21 subject to a tax levied by this act to fail or refuse to add
22 to the sales price or lease price and to collect from the
23 purchaser or lessor the amount required to be added to the
24 sale or lease price. It shall be unlawful for any person
25 subject to the tax levied by this act to refund or offer to
26 refund all or any part of the amount collected or to absorb or

1 advertise directly or indirectly the absorption or refund of
2 any portion of the tax.

3 Section 6. The taxes levied by this act shall
4 constitute a debt due Washington County. The tax, together
5 with any interest and penalties, shall constitute and be
6 secured by a lien upon the property of any person from whom
7 the tax is due or who is required to collect the tax. The
8 department shall collect the tax, enforce this act, and have
9 and exercise all rights and remedies that the state or the
10 department has for collection of the state sales and use tax
11 and state leasing tax. The department may employ special
12 counsel as is necessary to enforce collection of a tax levied
13 by this act and to enforce this act. The department shall pay
14 the special counsel any fees it deems necessary and proper
15 from the proceeds of the taxes collected by it for Washington
16 County.

17 Section 7. All provisions of the state statutes with
18 respect to the payment, assessment, and collection of the
19 state sales and use tax and the state leasing tax, making of
20 reports, keeping and preserving records, penalties for failure
21 to pay the tax, promulgating rules and regulations with
22 respect to the state sales and use tax and the state leasing
23 tax, and the administration and enforcement of the state sales
24 and use tax statutes and the state leasing tax statutes that
25 are not inconsistent with this act shall apply to the taxes
26 levied under this act. The Commissioner of Revenue and the
27 department shall have and exercise the same powers, duties,

1 and obligations with respect to the tax levied under this act
2 that are imposed on the commissioner and department by the
3 state sales and use tax statutes and the state leasing tax.
4 All provisions of the state sales and use tax statutes and
5 state leasing tax statutes that are made applicable by this
6 act to the tax levied under this act, and to the
7 administration and enforcement of this act, are incorporated
8 by reference and made a part of this act as if fully set forth
9 herein.

10 Section 8. The department shall charge Washington
11 County for collecting any tax levied under this act in an
12 amount or percentage of total collections as may be agreed
13 upon by the commissioner and the Washington County Commission.
14 The charge shall not exceed five percent of the total amount
15 of the tax collected in the county. The charge may be deducted
16 each month from the gross revenues from the tax before
17 certification of the amount of the proceeds due Washington
18 County for that month. The Commissioner of Revenue shall pay
19 into the State Treasury all amounts collected under this act,
20 as the tax is received by the department on or before the
21 first day of each successive month. The commissioner shall
22 certify to the state Comptroller the amount collected and paid
23 into the State Treasury for the benefit of Washington County
24 during the month immediately preceding the certification. The
25 state Comptroller shall issue a warrant each month payable to
26 the County Treasurer of Washington County in an amount equal

1 to the certified amount which shall be paid into the county
2 general fund.

3 Section 9. The proceeds of any tax levied under this
4 act shall be deposited in a county special revenue fund to be
5 expended only for the maintenance, repair, replacement, or
6 construction of roads and bridges in Washington County.

7 Section 10. This act shall become operative only if
8 approved by a majority of the qualified electors of Washington
9 County who vote in an election to be held in conjunction with
10 the next regularly scheduled general election held in the
11 county. The notice of the election shall be given by the judge
12 of probate and the election shall be held, conducted, and the
13 results canvassed in the manner as other county elections. The
14 question shall be:

15 "Do you favor the adoption of Act _____ of the 2016
16 Regular Session of the Legislature, which authorizes the levy
17 of a sales and use tax in the county, commencing February 1,
18 2017, earmarked only for maintenance and repair of county
19 roads and bridges in an amount of one-half percent on the
20 sales and use of motor vehicles and one percent on all other
21 sales, as well as a leasing tax in the county in an amount of
22 one percent on the leasing of equipment and automobiles? Yes (
23) No ()."

24 The county shall pay any costs and expenses not
25 otherwise reimbursed by a governmental agency which are
26 incidental to the election. If a majority of the votes cast in
27 the election are "Yes," this act shall be operative

1 immediately. If a majority of the votes cast for the question
2 are "No," this act shall be null and void and shall have no
3 further effect. The judge of probate shall certify the results
4 of the election to the Secretary of State.

5 Section 11. This act shall become effective on
6 February 1, 2017.