

1 HB573  
2 168286-3  
3 By Representative Robinson (N & P)  
4 RFD: Jefferson County Legislation  
5 First Read: 30-APR-15

1 ENGROSSED

2  
3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 Relating to Jefferson County; to authorize the  
9 Jefferson County Commission to levy and assess, subject to the  
10 limitations set forth herein, a privilege or license tax  
11 against retail sales of tangible personal property and  
12 amusements (a "sales tax") and an excise tax on the storage,  
13 use, or consumption of tangible personal property (a "use  
14 tax"); to make legislative findings; to provide for  
15 definitions; to provide that the rate of sales and use taxes  
16 authorized by this act shall not exceed one percent; to  
17 require the simultaneous cancellation of a certain existing  
18 sales and use tax levy in the county if the taxes authorized  
19 by this act are levied by the county; to provide additional  
20 restrictions; to provide that the provisions of the state  
21 sales and use tax laws and regulations which are not  
22 inconsistent with this act shall be applicable with respect to  
23 the taxes authorized by this act; to provide for the continued  
24 levy of the taxes authorized herein following the repeal of  
25 either or both of the state sales tax or the state use tax; to  
26 provide for the collection and enforcement of the taxes  
27 authorized by this act; to require the sales taxes authorized

1 by this act to be collected at the point of sale; to provide  
2 for the promulgation of rules and procedures; to provide for  
3 distribution of the proceeds of the taxes authorized herein  
4 first to debt service and other amounts due with respect to  
5 certain warrants issued for certain designated public school  
6 purposes, second to the general fund of the county, third to  
7 the Jefferson County 2015 Sales Tax Fund, fourth to the  
8 Jefferson County Community Service Fund, fifth to the  
9 Birmingham-Jefferson County Transit Authority, sixth to the  
10 Birmingham Zoo, Inc., and seventh to the general fund of the  
11 county; to create and provide for the Jefferson County 2015  
12 Sales Tax Fund; to provide for distributions from the  
13 Jefferson County 2015 Sales Tax Fund to schools serving county  
14 residents; to create and provide for the Jefferson County  
15 Community Service Committee; to create and provide for the  
16 Jefferson County Community Service Fund; to provide for the  
17 expenditure of amounts deposited in the Jefferson County  
18 Community Service Fund by the Jefferson County Community  
19 Service Committee upon recommendations from members of the  
20 Jefferson County Legislative Delegation; to provide for the  
21 termination of the taxes authorized by this act upon the  
22 defeasance or other full payment of refunding school warrants  
23 provided for herein; to provide that the provisions of this  
24 act are severable; and to provide for an effective date.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. This act shall only apply to Jefferson  
27 County.

1           Section 2. (a) It is the intention of the  
2           Legislature by the passage of this act to authorize the county  
3           to levy and provide for the collection of, in addition to all  
4           other taxes authorized by law, except as provided in Section  
5           4, a sales tax and a use tax conforming with and parallel to  
6           the state sales tax and the state use tax at a rate not  
7           exceeding the maximum rates set forth herein.

8           (b) The Legislature hereby finds and declares that  
9           each tax authorized by this act is a sales or use tax and is  
10          not a gross receipts tax in the nature of a sales tax, as such  
11          term is defined in Section 40-2A-3(8) of the Code of Alabama  
12          1975, as amended, and used in Section 11-51-209 of the Code of  
13          Alabama 1975, as amended.

14          (c) In view of the county's recent financial  
15          difficulties, the invalidation of certain taxes that  
16          previously provided significant revenues to the county, and  
17          the conclusion of the county's Chapter 9 bankruptcy  
18          proceedings, the Legislature hereby finds and declares that it  
19          is necessary, desirable, and in the best interests of  
20          residents of the county that the Jefferson County Commission  
21          be provided additional flexibility with respect to its revenue  
22          sources and budget.

23          (d) The Legislature hereby finds and declares that  
24          providing additional funding for public schools in the county  
25          will benefit the public welfare and education of residents of  
26          the county.

1 (e) This act shall be liberally construed in  
2 conformity with the intentions and findings expressed in this  
3 section.

4 Section 3. (a) As used in this act, the following  
5 words, terms, and phrases shall have the following respective  
6 meanings except where the context clearly indicates a  
7 different meaning:

8 (1) ACT 405. Act 405 of the 1967 Regular Session of  
9 the Legislature (Acts 1967, p. 1021), as amended.

10 (2) AVERAGE DAILY MEMBERSHIP. The meaning ascribed  
11 in Section 16-13-232, Code of Alabama 1975.

12 (3) COMMITTEE. The Jefferson County Community  
13 Service Committee authorized in Section 11.

14 (4) COUNTY. Jefferson County, Alabama.

15 (5) COUNTY COMMISSION. The Jefferson County  
16 Commission.

17 (6) EXISTING SCHOOL WARRANTS. Collectively, the  
18 following limited obligation warrants issued by the county for  
19 the benefit of public schools in the county: a. Limited  
20 Obligation School Warrants, Series 2004-A, b. Limited  
21 Obligation School Warrants, Series 2005-A and c. Limited  
22 Obligation School Warrants, Series 2005-B.

23 (7) JEFFERSON COUNTY LEGISLATIVE DELEGATION. The  
24 elected members of the House of Representatives and the Senate  
25 from districts wholly or partially within the county.

26 (8) REFUNDING SCHOOL WARRANTS. Any warrants or other  
27 obligations of the county issued after the effective date of

1 this act to refinance, on such terms as the county commission  
2 shall determine in its discretion, either a. the existing  
3 school warrants, or b. any warrants subsequently issued for  
4 the purpose of refinancing such warrants. Refunding school  
5 warrants shall be issued under the statutes codified as  
6 Chapter 28 of Title 11, Code of Alabama 1975, as heretofore or  
7 hereafter amended, or any other law of the state available for  
8 such purpose. Refunding school warrants shall be limited  
9 obligations of the county secured by, and payable solely from,  
10 the portion of the taxes authorized by this act and described  
11 in Section 9(a). Refunding school warrants shall not be  
12 payable from any other revenues of the county and shall not  
13 constitute a general debt or obligation of the county within  
14 the meaning of any provision of the Constitution of Alabama of  
15 1901, as heretofore or hereafter amended.

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

18 (10) STATE SALES TAX STATUTES. Division 1 of Article  
19 1 of Chapter 23 of Title 40, Code of Alabama 1975, as  
20 heretofore or hereafter amended, including all other statutes  
21 of the state which expressly set forth any exemptions from the  
22 computation of the tax levied in the state sales tax statutes  
23 and all other statutes of the state which expressly apply to  
24 or purport to affect the administration of the state sales tax  
25 statutes, and the incidence and collection of the taxes  
26 imposed therein.

1           (11) STATE USE TAX. The tax or taxes imposed by the  
2 state use tax statutes.

3           (12) STATE USE TAX STATUTES. Article 2 of Chapter 23  
4 of Title 40, Code of Alabama 1975, as heretofore or hereafter  
5 amended, including all other statutes of the state which  
6 expressly set forth any exemptions from the computation of the  
7 tax levied in the state use tax statutes and all other  
8 statutes of the state which expressly apply to or purport to  
9 affect the administration of the state use tax statutes, and  
10 the incidence and collection of the taxes imposed therein.

11           (13) 2015 SALES TAX FUND. A governmental fund of the  
12 county which is created hereunder and shall be entitled  
13 "Jefferson County 2015 Sales Tax Fund."

14           (b) Except where another meaning is clearly  
15 indicated by the context, all definitions set forth in the  
16 state sales tax statutes and the state use tax statutes shall  
17 be effective as definitions of the words, terms, and phrases  
18 used in this act. All words, terms, and phrases used herein,  
19 other than those hereinabove specifically defined, shall have  
20 the respective meanings ascribed to them in the state sales  
21 tax statutes or the state use tax statutes and shall have the  
22 same scope and effect that the same words, terms, and phrases  
23 have where used in the state sales tax statutes or the state  
24 use tax statutes.

25           Section 4. (a) Subject to subsection (d) of this  
26 section, the county commission is authorized, by resolution  
27 duly adopted, to levy, in addition to all other taxes now

1 imposed or authorized by law, and to collect as herein  
2 provided, a privilege or license tax, herein called a sales  
3 tax, against each person making retail sales of tangible  
4 personal property or amusements in the county at a rate not to  
5 exceed one percent of gross proceeds of sales or gross  
6 receipts, as the case may be, and an excise tax, herein called  
7 a use tax, on the storage, use, or other consumption of  
8 tangible personal property in the county purchased at retail  
9 at a rate not to exceed one percent of the sales price of such  
10 property.

11 (b) Any sales tax or use tax levied by the county  
12 commission pursuant to this section shall apply to and be  
13 levied upon every person or other entity required to pay, or  
14 upon whom shall have been levied, the state sales tax or state  
15 use tax.

16 (c) Notwithstanding the foregoing, the taxes  
17 authorized to be levied pursuant to this act shall not apply  
18 to the sale or use of property or services which are exempt  
19 under the state sales tax statutes or the state use tax  
20 statutes and corresponding regulations promulgated thereunder.

21 (d) Upon initial levy by the county of the taxes  
22 authorized by this act, the county commission shall  
23 simultaneously cancel the county's existing sales and use  
24 taxes currently being levied by the county under Ordinance  
25 1769 of the county commission, as amended, that are pledged to  
26 the existing school warrants, provided that the county has  
27 previously or will simultaneously retire or defease the



1 existing school warrants. The sales and use taxes authorized  
2 by this act and the sales and use taxes authorized to be  
3 levied by the county pursuant to Ordinance 1769 of the county  
4 commission shall not both apply to any taxable sale or  
5 storage, use, or consumption so as to result in a cumulative  
6 tax rate from both such taxes that is greater than one  
7 percent.

8 (e) In the event of the repeal of either or both of  
9 the state sales tax statutes or state use tax statutes, the  
10 county is authorized to continue to levy, administer, collect,  
11 and enforce the sales and use taxes authorized by this act.

12 Section 5. Pursuant to and in conformity with  
13 Article 1 of Chapter 3 of Title 11, Code of Alabama 1975, the  
14 county may, by ordinance or resolution, administer and  
15 collect, or contract for the collection of, the sales and use  
16 taxes authorized by this act.

17 Section 6. Each person engaging or continuing in a  
18 business subject to the sales taxes authorized to be levied by  
19 this act shall add to the sales price or admission fee and  
20 collect from the purchaser or the person paying the admission  
21 fee the amount due by the taxpayer on account of the sale or  
22 admission. It shall be unlawful for any person subject to the  
23 sales taxes authorized to be levied by this act to fail or  
24 refuse to add to the sales price or admission fee and not  
25 collect from the purchaser or person paying the admission fee  
26 the amount required to be added to the sale or admission  
27 price. It shall be unlawful for any person subject to the

1 sales taxes authorized to be levied by this act to refund or  
2 offer to refund all or any part of the amount collected or to  
3 absorb or advertise directly or indirectly the absorption or  
4 refund of any portion of such tax or taxes. The sales taxes  
5 authorized by this act shall conclusively be presumed to be a  
6 direct tax on the retail consumer, pre-collected for the  
7 purpose of convenience only.

8 Section 7. The taxes authorized to be levied by this  
9 act shall constitute a debt due the county. Such taxes,  
10 together with any interest and penalties permitted by law,  
11 shall constitute and be secured by a lien upon the property of  
12 any person from whom the tax or taxes are due or that is  
13 required to collect the tax or taxes.

14 Section 8. All provisions of the state sales tax  
15 statutes and state use tax statutes with respect to the  
16 payment, assessment, and collection of the state sales tax and  
17 state use tax, making of reports, keeping and preserving  
18 records, interest or penalties, or both, for failure to pay  
19 such taxes or late payment of such taxes, promulgating rules  
20 and regulations with respect to the state sales tax and state  
21 use tax, and the administration and enforcement of the state  
22 sales tax statutes and state use tax statutes shall apply to  
23 the taxes authorized to be levied by this act, except for the  
24 rate of tax and except where otherwise inapplicable or  
25 otherwise expressly provided for by this act. The county and  
26 any designee or agent shall have and exercise the same powers,  
27 duties, and obligations with respect to the taxes authorized

1 to be levied under this act that are provided the Department  
2 of Revenue and the Revenue Commissioner by the state sales tax  
3 statutes or state use tax statutes or provided the county  
4 under Act 405. All provisions of the state sales tax statutes  
5 and state use tax statutes or of Act 405 that are made  
6 applicable by this act to the taxes authorized to be levied  
7 under this act, and the administration and enforcement of this  
8 act, are incorporated by reference and made a part of this act  
9 as if fully set forth herein.

10 Section 9. (a) The proceeds of the taxes authorized  
11 herein collected each month by the county, after any  
12 deductions for cost of collection, shall be distributed at  
13 such times as ~~may~~ shall be directed by the county commission  
14 in the priority and respective amounts set forth below:

15 (1) First, for so long as any refunding school  
16 warrants are outstanding and are not defeased or otherwise  
17 fully paid, so much of the proceeds received during a fiscal  
18 year of the county as may be necessary to satisfy the county's  
19 obligations with respect to the refunding school warrants,  
20 including payment of the principal of, premium, if any, and  
21 interest on the refunding school warrants due during such  
22 fiscal year of the county, any ongoing expenses of  
23 administration of the refunding school warrants, amounts  
24 required to be deposited in any debt service reserve fund for  
25 the refunding school warrants, and amounts necessary to  
26 provide for payment of rebate, if any, or other amounts due to  
27 the United States, shall be paid over to the trustee or paying

1 agent for the refunding school warrants to be held in a fund  
2 or funds solely for payment of such amounts due with respect  
3 to the refunding school warrants. The portion of the taxes  
4 authorized herein and required to be paid over to the trustee  
5 or paying agent for the refunding school warrants shall be  
6 segregated from all other receipts from the taxes authorized  
7 herein, shall be devoted solely to the payment of amounts due  
8 with respect to the refunding school warrants, and shall not  
9 be available to pay general governmental expenses of the  
10 county.

11 (2) Second, to the extent that there remain  
12 additional proceeds of the taxes authorized to be levied  
13 herein following the applications authorized in subdivision  
14 (1), such remaining additional proceeds, up to thirty-six  
15 million three hundred thousand dollars (\$36,300,000) per  
16 fiscal year of the county, shall be deposited into the general  
17 fund of the county for use and appropriation as the county  
18 commission shall determine in its discretion.

19 (3) Third, to the extent that there remain  
20 additional proceeds of the taxes authorized to be levied  
21 herein following the applications authorized in subdivisions  
22 (1) and (2), such remaining additional proceeds, up to  
23 eighteen million dollars (\$18,000,000) per fiscal year of the  
24 county, shall be deposited into the 2015 Sales Tax Fund. Funds  
25 on deposit in the 2015 Sales Tax Fund shall be distributed in  
26 accordance with the provisions of Section 10.

1           (4) Fourth, to the extent that there remain  
2 additional proceeds of the taxes authorized to be levied  
3 herein following the applications authorized in subdivisions  
4 (1), (2), and (3), such remaining additional proceeds, up to  
5 three million six hundred thousand dollars (\$3,600,000) per  
6 fiscal year of the county, shall be deposited in the Jefferson  
7 County Community Service Fund to be expended as provided in  
8 Section 11.

9           (5) Fifth, to the extent that there remain  
10 additional proceeds of the taxes authorized to be levied  
11 herein following the applications authorized in subdivisions  
12 (1), (2), (3), and (4), such remaining additional proceeds, up  
13 to two million dollars (\$2,000,000) per fiscal year of the  
14 county, shall be paid over to the Birmingham-Jefferson County  
15 Transit Authority for each of the first 10 fiscal years of the  
16 county following the adoption of this act, and thereafter up  
17 to one million dollars (\$1,000,000) per fiscal year of the  
18 county.

19           (6) Sixth, to the extent that there remain  
20 additional proceeds of the taxes authorized to be levied  
21 herein following the applications authorized in subdivisions  
22 (1), (2), (3), (4), and (5), such remaining additional  
23 proceeds, up to five hundred thousand dollars (\$500,000) per  
24 fiscal year of the county, shall be paid over to Birmingham  
25 Zoo, Inc.

26           (7) Seventh, to the extent that there remain  
27 additional proceeds of the taxes authorized to be levied

1 herein following the applications authorized in subdivisions  
2 (1), (2), (3), (4), (5), and (6), such remaining additional  
3 proceeds, shall be deposited into the general fund of the  
4 county for use and appropriation as the county commission  
5 shall determine in its discretion.

6 (b) The amounts specified in subdivisions (1)  
7 through (6) shall be paid and distributed in full so long as  
8 the proceeds of the taxes authorized to be levied herein are  
9 sufficient for such purposes.

10 Section 10. (a) There is hereby created a  
11 governmental fund of the county to be designated the Jefferson  
12 County 2015 Sales Tax Fund. The county commission shall  
13 maintain the 2015 Sales Tax Fund and shall administer it  
14 according to its normal fund administration procedures.

15 (b) As promptly as practicable after the end of each  
16 fiscal year of the county, funds on deposit in the 2015 Sales  
17 Tax Fund as of September 30 of each year shall be distributed  
18 to the city or county boards of education then serving  
19 students resident in the county according to the following  
20 procedure:

21 (1) Each county or city board of education serving  
22 any portion of the county shall certify in writing to the  
23 county commission its average daily membership of students  
24 resident in the county, its certified enrollment, calculated  
25 in accordance with Article 11 of Chapter 13 of Title 16, Code  
26 of Alabama 1975, or any successor thereto. County or city  
27 boards of education may use their certification to the state

1 Department of Education under the state Foundation Program for  
2 this purpose to the extent such certification includes only  
3 students resident in the county.

4 (2) Upon receipt of the certified enrollment from  
5 each board of education described in this section, the county  
6 commission shall determine the total number of students  
7 resident in the county and enrolled in public schools serving  
8 the county.

9 (3) As promptly as practicable thereafter, the  
10 county commission shall distribute from the 2015 Sales Tax  
11 Fund to each board of education described in this section an  
12 amount equal to its pro rata share of the amount on deposit in  
13 the 2015 Sales Tax Fund as of September 30 of the prior fiscal  
14 year of the county, taking into account each board of  
15 education's certified enrollment and the total number of  
16 students resident in the county and enrolled in public schools  
17 serving the county.

18 (c) Absent manifest error, the determination by the  
19 county commission of the distribution of funds from the 2015  
20 Sales Tax Fund shall be conclusive.

21 Section 11. (a) There is hereby created the  
22 Jefferson County Community Service Committee. The committee  
23 shall consist of four members, one of whom shall be elected by  
24 each of the Jefferson County Democratic House Delegation, the  
25 Jefferson County Republican House Delegation, the Jefferson  
26 County Democratic Senate Delegation, and the Jefferson County  
27 Republican Senate Delegation. Members of the Jefferson County

1 Legislative Delegation shall not be eligible for election to  
2 the committee. Members of the committee shall be elected at a  
3 meeting of the Jefferson County Legislative Delegation held in  
4 the first year of each quadrennium of the Legislature and  
5 shall be residents and qualified electors of the county. The  
6 committee shall establish rules and procedures for its  
7 proceedings and activities.

8 (b) There is hereby created a public fund to be  
9 designated the Jefferson County Community Service Fund. The  
10 committee shall be the custodian of, and shall be responsible  
11 for the proper expenditure of, the Jefferson County Community  
12 Service Fund.

13 (c) Funds on deposit in the Jefferson County  
14 Community Service Fund shall be used solely for one or more of  
15 the following purposes in the county, provided that any use of  
16 such funds must serve a public purpose:

17 (1) To support public schools, public roads, public  
18 museums, public libraries, public zoos, public parks,  
19 neighborhood associations, public athletic facilities, public  
20 youth sports associations, public sidewalks, public trails, or  
21 public greenways;

22 (2) To support the performing arts;

23 (3) To support nonprofit entities that, at the time  
24 a recommendation for expenditure is filed with the committee,  
25 have received funding from the United Way of Central Alabama  
26 within the last 12 months and are not excluded from receiving  
27 additional United Way funding;



1           (4) To support police departments, the county's  
2 sheriff's office, or fire departments or districts in the  
3 county; or

4           (5) To support publicly available assistance  
5 programs established for the benefit of low income residential  
6 customers of the county's public sanitary sewer system.

7           (d) Subject to the provisions of this act, the  
8 amount deposited in the Jefferson County Community Service  
9 Fund shall be allocated equally between the Jefferson County  
10 House Delegation and the Jefferson County Senate Delegation.  
11 The amounts so allocated shall be further allocated equally  
12 among the members of the House Delegation and the Senate  
13 Delegation. From the amounts so allocated to them, the members  
14 of the House and Senate Delegations may recommend one or more  
15 expenditures from the Jefferson County Community Service Fund  
16 for purposes described in subsection (c). Such expenditures  
17 shall be made from revenues derived from the taxes authorized  
18 herein for the prior fiscal year of the county and deposited  
19 in the Jefferson County Community Service Fund.

20           (e) The committee shall consider and approve or deny  
21 each recommended expenditure pursuant to its rules for review  
22 and approval of disbursements from the Jefferson County  
23 Community Service Fund.

24           (f) Any amounts derived from the taxes authorized  
25 herein during the prior fiscal year of the county remaining on  
26 deposit in the Jefferson County Community Service Fund on

1 September 30 of any year shall be paid over to the county for  
2 deposit into the general fund.

3 Section 12. The taxes authorized to be levied by  
4 this act shall be levied only for so long as any refunding  
5 school warrants are outstanding and are not defeased or  
6 otherwise fully paid, and when all refunding school warrants  
7 have been fully paid in accordance with the terms thereof, the  
8 levy of the taxes authorized by this act shall terminate  
9 unless extended by law.

10 Section 13. The provisions of this act are  
11 severable. If a court of competent jurisdiction adjudges  
12 invalid or unconstitutional any clause, sentence, paragraph,  
13 section, or part of this act, the judgment or decree shall not  
14 affect, impair, invalidate, or nullify the remainder of this  
15 act, but the effect of the decision shall be confined to the  
16 clause, sentence, paragraph, section, or part of this act  
17 adjudged to be invalid or unconstitutional.

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

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House of Representatives

Read for the first time and re-ferred to the House of Representa-tives committee on Jefferson County Legislation..... . . . . . 30-APR-15

Read for the second time and placed on the calendar 1 amendment ..... . . . . . 05-MAY-15

Read for the third time and passed as amended..... . . . . . 12-MAY-15

Yeas 13, Nays 3, Abstains 54

Jeff Woodard  
Clerk