

1 HB776  
2 140447-1  
3 By Representative Chesteen (N & P)  
4 RFD: Local Legislation  
5 First Read: 02-MAY-12

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Geneva County; to authorize the county  
14 commission to levy a one cent sales tax, subject to a  
15 referendum, for constructing and maintaining a jail with any  
16 excess proceeds for road and bridge projects and resource  
17 officers for schools.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. This act shall only apply to Geneva  
20 County.

21 Section 2. As used in this act, state sales tax  
22 means the tax imposed by the state sales and use tax statutes,  
23 including, but not limited to, Sections 40-23-1, 40-23-2,  
24 40-23-3, and 40-23-4, Code of Alabama 1975.

25 Section 3. (a) The County Commission of Geneva  
26 County may levy, in addition to all other taxes, including,

1 but not limited to, municipal gross receipts license taxes, a  
2 one-cent sales tax.

3 (b) The proceeds of all sales which are presently  
4 exempt under the state sales and use tax statutes are exempt  
5 from the tax authorized by this act.

6 Section 4. The tax authorized by this act shall be  
7 collected by the State Department of Revenue or the county  
8 commission or other entity which the county commission has  
9 contracted with to collect the taxes at the same time and in  
10 the same manner as state sales taxes are collected. On or  
11 prior to the date the tax is due, each person subject to the  
12 tax shall file with the department or other entity a report in  
13 the form prescribed by the department. The report shall set  
14 forth, with respect to all sales and business transactions  
15 that are required to be used as a measure of the tax levied,  
16 items of information pertinent to the tax as the department  
17 may require. Any person subject to the tax authorized by this  
18 act may defer reporting credit sales until after their  
19 collection, and in the event the person defers reporting them,  
20 the person shall thereafter include in each monthly report all  
21 credit collections made during the preceding month, and shall  
22 pay the tax due at the time of filing the report. All reports  
23 filed with the department or other entity under this section  
24 shall be available for inspection by the county commission, or  
25 its designee.

26 Section 5. Each person engaging or continuing in a  
27 business subject to the tax authorized by this act, shall add

1 to the sales price or admission fee and collect from the  
2 purchaser or the person paying the admission fee the amount  
3 due by the taxpayer because of the sale or admission. It shall  
4 be unlawful for any person subject to the tax to fail or  
5 refuse to add to the sales price or admission fee and to  
6 collect from the purchaser or person paying the admission fee  
7 the amount required to be added to the sale or admission  
8 price. It shall be unlawful for any person subject to the tax  
9 authorized by this act to refund or offer to refund all or any  
10 part of any amount collected or to absorb or advertise  
11 directly or indirectly the absorption or refund of any portion  
12 of the tax.

13 Section 6. The tax authorized by this act shall  
14 constitute a debt due Geneva County. If levied, the tax,  
15 together with any interest and penalties, shall constitute and  
16 be secured by a lien upon the property of any person from whom  
17 the tax is due or who is required to collect the tax. The  
18 department or other entity shall collect the tax, enforce this  
19 act, and have and exercise all rights and remedies that the  
20 state or the department has for collection of the state sales  
21 tax. The department or other entity may employ special counsel  
22 as is necessary to enforce collection of the tax authorized by  
23 this act and to enforce this act. The department or other  
24 entity shall pay the special counsel any fees it deems  
25 necessary and proper from the proceeds of any tax collected by  
26 it for Geneva County.

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

18           Section 8. The department or other entity shall  
19 charge Geneva County for collecting any tax authorized under  
20 this act in an amount or percentage of total collections as  
21 may be agreed upon by the commissioner or the entity and the  
22 Geneva County Commission. The charge shall not exceed five  
23 percent of the total amount of the tax collected in the county  
24 or an amount as otherwise provided in the contract. The charge  
25 may be deducted each month from the gross revenues from the  
26 tax before certification of the amount of the proceeds due  
27 Geneva County for that month. The Commissioner of Revenue or

1 other entity shall pay into the State Treasury all amounts  
2 collected under the authority of this act, as received by the  
3 department or entity on or before the first day of each  
4 successive month. The commissioner or entity shall certify to  
5 the State Comptroller the amount collected and paid into the  
6 State Treasury or otherwise for the benefit of Geneva County  
7 during the month immediately preceding the certification. The  
8 state Comptroller shall issue a warrant each month payable or  
9 the entity shall remit monthly or as otherwise agreed upon to  
10 the County Treasurer of Geneva County in an amount equal to  
11 the certified amount which shall be paid into the county  
12 general fund to be used for the construction of and for  
13 maintaining a new jail with any excess proceeds to be used for  
14 road and bridge projects and to hire resource officers for the  
15 Geneva County Schools.

16 Section 9. Sections 1 to 8, inclusive, shall become  
17 operative only if approved by a majority of the qualified  
18 electors of Geneva County. The election shall be held in  
19 conjunction with the November 2012 general election. The  
20 following language shall be included on the ballot: "Do you  
21 authorize the County Commission of Geneva County to levy an  
22 additional one cent sales and use tax? Yes ( ) No ( )."

23 The county shall pay any costs and expenses not  
24 otherwise reimbursed by a governmental agency which are  
25 incidental to the election. If a majority of the votes cast in  
26 the election are "Yes," Sections 1 to 8, inclusive, shall  
27 become operative on the first day of the second month next

1 following its passage. If the majority of the votes are "No,"  
2 this act shall be repealed and shall have no further effect.  
3 The Judge of Probate of Geneva County shall certify the  
4 results of the election to the Secretary of State.

5 Section 10. This act shall become effective  
6 immediately following its passage and approval by the  
7 Governor, or its otherwise becoming law.