

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

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ENROLLED, An Act,

Relating to Geneva County; to authorize the county commission to levy a one percent sales tax, subject to a referendum, for constructing and maintaining a jail with any excess proceeds for road and bridge projects and resource officers for schools.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

Section 3. (a) The County Commission of Geneva County may levy, in addition to all other ~~taxes, including, authorized taxes but not limited to, municipal gross receipts license taxes,~~ a ~~one-cent~~ one percent sales tax.

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

Section 4. The tax authorized by this act shall be collected by the State Department of Revenue or the county commission or other entity which the county commission has contracted with to collect the taxes at the same time and in

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

17 Section 5. Each person engaging or continuing in a
18 business subject to the tax authorized by this act, shall add
19 to the sales price or admission fee and collect from the
20 purchaser or the person paying the admission fee the amount
21 due by the taxpayer because of the sale or admission. It shall
22 be unlawful for any person subject to the tax to fail or
23 refuse to add to the sales price or admission fee and to
24 collect from the purchaser or person paying the admission fee
25 the amount required to be added to the sale or admission

1 price. It shall be unlawful for any person subject to the tax
2 authorized by this act to refund or offer to refund all or any
3 part of any amount collected or to absorb or advertise
4 directly or indirectly the absorption or refund of any portion
5 of the tax.

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

20 Section 7. All provisions of the state sales tax
21 statutes with respect to the payment, assessment, and
22 collection of the state sales tax, making of reports, keeping
23 and preserving records, penalties for failure to pay the tax,
24 promulgating rules and regulations with respect to the state
25 sales tax, and the administration and enforcement of the state

1 sales tax statutes which are not inconsistent with this act
2 shall apply to the tax authorized under this act. The State
3 Commissioner of Revenue and the department or other entity
4 shall have and exercise the same powers, duties, and
5 obligations with respect to any tax levied under this act that
6 are imposed on the commissioner and department by the state
7 sales tax statutes. All provisions of the state sales tax
8 statutes that are made applicable by this act to any tax
9 authorized under this act, and to the administration and
10 enforcement of this act, are incorporated by reference and
11 made a part of this act as if fully set forth herein.

12 Section 8. The department or other entity shall
13 charge Geneva County for collecting any tax authorized under
14 this act in an amount or percentage of total collections as
15 may be agreed upon by the commissioner or the entity and the
16 Geneva County Commission. The charge shall not exceed five
17 percent of the total amount of the tax collected in the county
18 or an amount as otherwise provided in the contract. The charge
19 may be deducted each month from the gross revenues from the
20 tax before certification of the amount of the proceeds due
21 Geneva County for that month. The Commissioner of Revenue or
22 other entity shall pay into the State Treasury all amounts
23 collected under the authority of this act, as received by the
24 department or entity on or before the first day of each
25 successive month. The commissioner or entity shall certify to

1 the State Comptroller the amount collected and paid into the
2 State Treasury or otherwise for the benefit of Geneva County
3 during the month immediately preceding the certification. The
4 state Comptroller shall issue a warrant each month payable or
5 the entity shall remit monthly or as otherwise agreed upon to
6 the County Treasurer of Geneva County in an amount equal to
7 the certified amount which shall be paid into the county
8 general fund to be used for the construction of and for
9 maintaining a new jail with any excess proceeds to be used for
10 road and bridge projects and to hire resource officers for the
11 Geneva County Schools.

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

20 The county shall pay any costs and expenses not
21 otherwise reimbursed by a governmental agency which are
22 incidental to the election. If a majority of the votes cast in
23 the election are "Yes," Sections 1 to 8, inclusive, shall
24 become operative on the first day of the second month next
25 following its passage. If the majority of the votes are "No,"

1 this act shall be repealed and shall have no further effect.
2 The Judge of Probate of Geneva County shall certify the
3 results of the election to the Secretary of State.

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

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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 08-MAY-12.

Greg Pappas
Clerk

Senate	10-MAY-12	Amended and Passed
House	16-MAY-12	Concurred in Senate Amendment