

1 SB316
2 183739-5
3 By Senator Sanford
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 15-MAR-17

1 SB316

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to county and municipal local taxes; to
12 amend Section 11-3-11.3, Code of Alabama 1975, relating to the
13 collection of county taxes by the Revenue Department and
14 Section 11-51-208, Code of Alabama 1975, relating to the
15 collection of municipal taxes by the Revenue Department, to
16 provide that the interest rate on delinquent taxes would be as
17 provided by general law; and to amend Section 11-51-194, Code
18 of Alabama 1975, relating to the issuance of delivery
19 licenses, to delete certain provisions for increases in the
20 rate, to provide an exemption for taxpayers making a small
21 amount of deliveries per year in a municipality, and to
22 provide for an issuance fee.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 11-3-11.3, 11-51-194, and
25 11-51-208, Code of Alabama 1975, are amended to read as
26 follows:

27 "§11-3-11.3.

1 "(a) Counties may, upon request of the county
2 commission, engage the Department of Revenue to collect any
3 county sales, use, rental, lodgings, tobacco, or other local
4 taxes for which there is a corresponding state levy. Subject
5 to subsections (d) and (e) below, the department shall collect
6 a county sales, use, rental, lodgings, tobacco, or other tax
7 for which there is a corresponding state levy on behalf of the
8 requesting county. Any county sales, use, rental, or lodgings
9 tax levy administered and collected by the Department of
10 Revenue pursuant to this section, whether the levy is imposed
11 pursuant to the authority of Section 40-12-4, or any general,
12 special, or local act of the Legislature, shall parallel the
13 corresponding state tax levy, except for the rate of tax, and
14 shall be subject to all definitions, exceptions, exemptions,
15 proceedings, requirements, provisions, rules, regulations,
16 direct pay permits and drive-out certificate procedures,
17 statutes of limitation, penalties, fines, punishments, and
18 deductions as applicable to the corresponding state tax,
19 except where otherwise provided in this section, including
20 provisions for the enforcement and collection of taxes. The
21 Department of Revenue shall make available to those counties
22 for which it collects a sales, use, rental, or lodgings tax
23 collected pursuant to this section the same services which are
24 made available to municipal governments pursuant to Division 4
25 of Article 2 of Chapter 51 and Article 3 of Chapter 51.

26 "(b) The Department of Revenue shall prepare and
27 distribute those reports, forms, and other information as may

1 be necessary to provide for its collection of any county tax
2 it collects and, on request, shall make all reports available
3 for inspection by the governing body of the county. In
4 collecting a county sales, use, rental, or lodgings tax, the
5 department shall have all the authority and duties as it has
6 in connection with the collection of the corresponding state
7 tax including, without limitation, the provisions of Chapters
8 2A, 12, 23, and 26 of Title 40.

9 "(c) (1) The Commissioner of Revenue shall deposit
10 into the State Treasury all county taxes collected and, on a
11 biweekly basis, shall certify to the state Comptroller the
12 amount of taxes collected for the approximate two-week period
13 immediately preceding the certification and the amount, less
14 the Department of Revenue's actual cost of collection, to be
15 distributed to each county and which shall be paid to the
16 treasurer or other custodian of funds of the county within
17 three days after certification thereof.

18 "(2) The department shall charge each county the
19 actual cost to the department for collecting a tax.
20 Notwithstanding the preceding sentence, however, the charge
21 shall not exceed two percent of the amount collected for each
22 county. At least once each month, the state Comptroller shall
23 issue a warrant to the Department of Revenue for the
24 collection charges due as determined by the Commissioner of
25 Revenue. Payment shall be from funds collected under this
26 section and shall be the actual cost of collection, not to
27 exceed two percent of the amount collected for each county.

1 "(3) Within 60 days after the end of each fiscal
2 year, the department, in cooperation with the office of the
3 Examiner of Public Accounts, shall recompute its actual costs
4 for collection of county taxes for the preceding fiscal year.
5 Any collection over-charge shall be redistributed to the
6 counties for which the department collects local taxes, on a
7 pro rata basis of each county's receipts. No under-charge
8 shall be recovered, either directly or indirectly, from any
9 county.

10 "(d) Except where the department is collecting on
11 July 1, 1998, any county which has a tax levy that will be
12 collected by the Department of Revenue pursuant to the
13 provisions of this section shall forward a certified copy of
14 the enabling ordinance or resolution to the department at
15 least 30 days prior to the first day of the month on which it
16 is to begin collecting the tax.

17 "(e) A new levy, or a levy changed by an amendment
18 of a heretofore adopted levy, which will be collected under
19 this section shall not be subject to collection by the
20 Department of Revenue until the first day of the month next
21 following the expiration of 30 days after receipt by the
22 department of a certified copy of the enabling ordinance or
23 resolution with any amendment thereto.

24 "(f) The Department of Revenue shall from time to
25 time issue such rules and regulations for making returns and
26 for ascertainment, assessment, collection, and administration
27 of taxes subject to the provisions of this section as it may

1 deem necessary to enforce its provisions and shall furnish any
2 municipal or county government with a copy of those rules and
3 regulations within 15 days of final adoption. Upon request,
4 the Department of Revenue shall furnish any taxpayer with a
5 copy of those rules and regulations.

6 "(g) Any self-administered county governing body, as
7 defined in Section 40-2A-3(20), may elect, by the adoption of
8 an ordinance or resolution, to assess interest on any tax
9 delinquency. Any such assessment of interest shall be
10 consistent with the provisions of Section 40-23-2.1. Any
11 self-administered county governing body may also elect, by the
12 adoption of an ordinance or resolution, to pay interest on any
13 refund of tax erroneously paid. In the event that the
14 governing body elects to assess interest on any tax
15 delinquency, the governing body must also elect to pay
16 interest, at the same rate charged by the county on tax
17 delinquencies, on any refund of tax erroneously paid. ~~Unless~~
18 ~~otherwise specified in the ordinance or resolution in which~~
19 ~~the county governing body elects to assess or pay interest~~
20 ~~determined in accordance with Section 40-1-44, the~~ The
21 applicable interest rate to be charged by or due from the
22 county shall be ~~one percent per month~~ determined pursuant to
23 Section 40-1-44. References in this subsection to "erroneously
24 paid" taxes on which interest shall be due to the taxpayer
25 shall only mean and refer to taxes paid to the
26 self-administered county or its agent as a result of any
27 error, omission, or inaccurate advice by or on behalf of the

1 self-administered county, including in connection with a prior
2 examination of its books and records by the self-administered
3 county or its agent.

4 "(h) ~~Notwithstanding subsection (g), the~~ The
5 applicable interest rate to be assessed on any tax delinquency
6 or paid on any refund of erroneously paid taxes with respect
7 to all county sales, use, rental, and lodgings tax levies
8 collected by the Department of Revenue shall be determined in
9 accordance with Section 40-1-44.

10 "§11-51-194.

11 "(a) (1) Each municipality shall allow the purchase
12 of a delivery license by any business that has no other
13 physical presence within the municipality or its police
14 jurisdiction for the privilege of delivering its merchandise
15 therein. The amount of the delivery license shall not exceed
16 one hundred dollars (\$100), ~~provided that each municipality~~
17 ~~may review the propriety of the license tax every five years,~~
18 ~~and may increase or decrease the license tax under the~~
19 ~~standards prescribed by Section 11-51-90 with respect to the~~
20 ~~uniform license issuance fee.~~ Nothing herein shall prohibit a
21 municipality from requiring by ordinance the purchase of a
22 decal by the taxpayer for each delivery vehicle making
23 deliveries within the municipality or its police jurisdiction.
24 The charge for such decal shall not exceed the municipality's
25 actual cost of the decal.

1 "(2) Notwithstanding any other provision of law, a
2 municipality may charge a taxpayer an issuance fee for a
3 business delivery license not to exceed ten dollars (\$10).

4 "(b) As used in this section, a delivery license
5 shall mean a fixed rate business license issued by a
6 municipality for the limited privilege of delivering and
7 requisite set-up and installation, by the taxpayer's employees
8 or agents, of the taxpayer's own merchandise in that
9 municipality, by means of delivery vehicles owned, leased, or
10 contracted by the taxpayer; provided that the gross receipts
11 derived from the sale and any requisite set-up or installation
12 of all merchandise so delivered into the municipality shall
13 not exceed seventy-five thousand dollars (\$75,000) during the
14 license year, and any set-up or installation shall relate only
15 to (1) that required by the contract between the taxpayer and
16 the customer or as may be required by state or local law, and
17 (2) the merchandise so delivered. Mere delivery of the
18 taxpayer's merchandise by common carrier shall not allow the
19 taxing jurisdiction to assess a business license tax or a
20 delivery license tax against the taxpayer, but the gross
21 receipts derived from any sale and delivery accomplished by
22 means of a common carrier shall be counted against the
23 seventy-five thousand dollar (\$75,000) limitation described in
24 the preceding sentence if the taxpayer also during the same
25 license year sells and delivers into the taxing jurisdiction
26 using a delivery vehicle other than a common carrier. Provided
27 that the dollar limitation prescribed above shall be

1 increased, but not decreased, every five years under the
2 standards prescribed by Section 11-51-90 with respect to the
3 uniform license issuance fee and may be increased by a
4 municipality at any time, up to one hundred fifty thousand
5 dollars (\$150,000), by adoption of an ordinance. A common
6 carrier, contract carrier, or similar delivery service making
7 deliveries on behalf of others shall not be entitled to
8 purchase a delivery license hereunder.

9 "(c) A taxpayer that otherwise meets the criteria
10 for the purchase of a delivery license pursuant to subsections
11 (a) and (b) is not required to purchase a delivery license or
12 a regular business license if the following criteria apply:
13 (1) The taxpayer's gross receipts that are derived from within
14 the municipality or its police jurisdiction do not exceed
15 twenty-five thousand dollars (\$25,000) during the year; and
16 (2) the taxpayer has no other physical presence within the
17 municipality or its police jurisdiction during the year. Any
18 other taxpayer that meets the criteria for the purchase of a
19 delivery license, as provided in subsections (a) and (b), and
20 meets those criteria during the current license year as well,
21 shall purchase either a delivery license or a regular business
22 license otherwise applicable to the taxpayer, at its option.

23 "(d) Notwithstanding Section 11-51-90.2, the
24 delivery license shall be calculated in arrears, based on the
25 related gross receipts during the preceding license year.

26 "(e) The purchase of a delivery license or the
27 exemption from the purchase of a delivery license pursuant to

1 subsection (c) shall not, in and of itself, establish nexus
2 between the taxpayer and the municipality for purposes of the
3 taxes levied by or under the authority of Title 40 or other
4 provisions of this title, nor does the purchase of a delivery
5 license, in and of itself, establish that nexus does not exist
6 between the taxpayer and the municipality.

7 "(f) If at any time during the current license year
8 the taxpayer fails to meet the criteria specified in
9 subsections (a) and (b), then within ~~10~~ 45 days after any of
10 the criteria have been violated or exceeded, the taxpayer
11 shall purchase ~~all appropriate business licenses from the~~
12 ~~municipality or its designee, for the entire license year and~~
13 ~~without regard to this section~~ a business delivery license or
14 other appropriate license from the municipality and may be
15 subject to a penalty not to exceed ten dollars (\$10).

16 "§11-51-208.

17 "(a) Municipalities may, upon request of the
18 municipal governing body, engage the Department of Revenue to
19 collect their municipal sales, use, rental, and lodgings tax.
20 Subject to subsections (c) and (d), the Department of Revenue
21 shall collect the municipal sales, use, rental, and lodgings
22 tax on behalf of the requesting municipality. The Department
23 of Revenue shall prepare and distribute reports, forms, and
24 other information as may be necessary to provide for the
25 collection of any municipal tax it collects and, on request,
26 shall make all reports available for inspection by the
27 governing body of the municipality. In collecting a municipal

1 sales, use, rental, or lodgings tax, the department shall have
2 all the authority and duties as it has in connection with the
3 collection of the corresponding state tax including, without
4 limitation, the provisions of Chapters 2A, 12, 23, and 26 of
5 Title 40.

6 "(b) (1) The Commissioner of Revenue shall deposit
7 into the State Treasury all municipal taxes collected and, on
8 a biweekly basis, shall certify to the state Comptroller the
9 amount of taxes collected for the approximate two-week period
10 immediately preceding the certification and the amount, less
11 the Department of Revenue's actual cost of collection, to be
12 distributed to each municipality, which shall be paid to the
13 treasurer or other custodian of funds of the municipality
14 within three days after certification thereof.

15 "(2) The department shall charge each municipality
16 the actual cost to the department for collecting its tax.
17 Notwithstanding the preceding sentence, however, the charge
18 shall not exceed two percent of the amount collected for each
19 municipality. At least once each month, the state Comptroller
20 shall issue a warrant to the Department of Revenue for the
21 collection charges due as determined by the Commissioner of
22 Revenue. Payment shall be from funds collected under this
23 section and shall be the actual cost of collection, not to
24 exceed two percent of the amount collected for each
25 municipality.

26 "(3) Within 60 days after the end of each fiscal
27 year, the department, in cooperation with the office of the

1 Examiner of Public Accounts, shall recompute its actual costs
2 for collection of municipal taxes for the preceding fiscal
3 year. Any collection over-charge shall be redistributed to the
4 municipalities for which the department collects local taxes,
5 on a pro rata basis of each municipality's receipts. No
6 undercharge shall be recovered, either directly or indirectly,
7 from any municipality.

8 "(c) Except where the department is collecting on
9 July 1, 1998, any municipality which has a tax levy that will
10 be collected by the Department of Revenue pursuant to the
11 provisions of this section shall forward a certified copy of
12 the enabling act, ordinance, or resolution to the department
13 at least 30 days prior to the first day of the first month on
14 which the department is to begin collecting the tax.

15 "(d) A new levy, or a levy changed by an amendment
16 of a heretofore adopted levy, which will be collected under
17 this section shall not be subject to collection by the
18 Department of Revenue until the first day of the month next
19 following the expiration of 30 days after receipt by the
20 department of a certified copy of the enabling act, ordinance,
21 or resolution with any amendments thereto.

22 "(e) Subject to the provisions of this section, the
23 Department of Revenue shall from time to time issue such rules
24 and regulations for making returns and for ascertainment,
25 assessment, collection, and administration of taxes subject to
26 the provisions of this section as it may deem necessary to
27 enforce its provisions and shall furnish any county or

1 municipal governing body with a copy of those rules and
2 regulations within 15 days of final adoption. Upon request,
3 the Department of Revenue shall furnish any taxpayer with a
4 copy of those rules and regulations.

5 "(f) Any self-administered municipal governing body,
6 as defined in Section 40-2A-3(20), may elect, by the adoption
7 of an ordinance or resolution, to assess interest on any tax
8 delinquency. Any such assessment of interest shall be
9 consistent with the provisions of Section 40-23-2.1. Any
10 self-administered municipal governing body may also elect, by
11 the adoption of an ordinance or resolution, to pay interest on
12 any refund of tax erroneously paid. In the event that the
13 governing body elects to assess interest on any tax
14 delinquency, the governing body must also elect to pay
15 interest, at the same rate charged by the municipality on tax
16 delinquencies, on any refund of tax erroneously paid. ~~Unless~~
17 ~~otherwise specified in the ordinance or resolution in which~~
18 ~~the municipal governing body elects to assess and pay interest~~
19 ~~determined in accordance with Section 40-1-44, the~~ The
20 applicable interest rate to be charged by or due from the
21 municipality shall be ~~one percent per month~~ determined
22 pursuant to Section 40-1-44. References in this subsection to
23 "erroneously paid" taxes on which interest shall be due to the
24 taxpayer shall only mean and refer to taxes erroneously paid
25 to the self-administered municipality or its agent as a result
26 of any error, omission, or inaccurate advice by or on behalf
27 of the self-administered municipality, including in connection

1 with a prior examination of its books and records by the
2 self-administered municipality or its agent.

3 "(g) ~~Notwithstanding subsection (f), the~~ The
4 applicable interest rate to be assessed on any tax delinquency
5 or paid on any refund of erroneously paid taxes with respect
6 to all municipal sales, use, rental, and lodgings tax levies
7 collected by the Department of Revenue shall be determined in
8 accordance with Section 40-1-44."

9 Section 2. This act shall become effective on the
10 first day of the third month following its passage and
11 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Fiscal Responsibility and Economic
Development..... 15-MAR-17

Read for the second time and placed on the calen-
dar 1 amendment..... 06-APR-17

Read for the third time and passed as amended 13-APR-17

Yeas 23
Nays 4

Patrick Harris,
Secretary.