

1 SB332
2 115472-1
3 By Senator Benefield (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 02-FEB-10

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Chambers County; to amend Section
14 45-9-244, Code of Alabama 1975; to provide further for the
15 disbursement of a portion of the tobacco tax to Valley Haven
16 School, to the county commission to be used by water districts
17 for feeder lines, subject to guidelines provided by the county
18 commission and to the county treasury for scholarships for
19 local residents to be administered by a board appointed by the
20 legislative delegation; and to abolish the District Community
21 Service Office.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 45-9-244, Code of Alabama 1975,
24 is amended to read as follows:

25 "§45-9-244.

26 "(a) Upon adoption of the Legislature, there is
27 hereby imposed on every person, firm, or corporation that

1 sells, stores, delivers, uses, or otherwise consumes tobacco
2 or tobacco products in Chambers County, a county privilege,
3 license, or excise tax in the following amounts:

4 "(1) Twenty-five cents (\$.25) for each package of
5 cigarettes made of tobacco or any substitute therefor.

6 "(2) Twelve cents (\$.12) for each cigar of any
7 description made of tobacco or any substitute therefor, but
8 not including cigarette sized and near cigarette sized cigars
9 which shall be taxed in the same manner as cigarettes under
10 subdivision (1).

11 "(3) Twenty-five cents (\$.25) for each sack, can,
12 package, or other container of smoking tobacco, including
13 granulated, plug cut, crimp cut, ready rubbed, and other kinds
14 and forms of tobacco which are prepared in such manner
15 suitable for smoking in a pipe or cigarette.

16 "(4) Twenty-five cents (\$.25) for each sack, plug,
17 package, or other container of chewing tobacco, which tobacco
18 is prepared in such manner suitable for chewing only and not
19 suitable for smoking as described in subdivision (3).

20 "(5) Twenty-five cents (\$.25) for each can, bottle,
21 glass, tumbler, package, or other container of snuff made of
22 tobacco or any substitute therefor.

23 "(6) Twenty-five cents (\$.25) for each package of
24 tobacco paper, both gummed and ungummed.

25 "The privilege, license, or excise tax shall be in
26 addition to all other taxes imposed by law and shall be
27 collected in the same manner as other taxes on tobacco, except

1 that when the license tax required by this section has been
2 paid by a wholesaler or seller of the products, that payment
3 shall be sufficient. The legislative intent is that the tax
4 shall be paid only once on each package of cigarettes, chewing
5 tobacco, snuff, cigars of every description, and smoking
6 tobacco of every description, and for each package of tobacco
7 paper, whether gummed or ungummed.

8 "(b) Every person, firm, corporation, club, or
9 association that sells, stores, or receives for the purpose of
10 selling or storing in Chambers County, any cigarettes, cigars,
11 snuff, and smoking tobacco products shall add the amount of
12 the license or privilege tax levied and assessed to the price
13 of the cigarettes, cigars, snuff, and smoking tobacco
14 products. It is the purpose and intent of this subsection that
15 the tax levied is, in fact, a levy on the consumer with the
16 person, firm, corporation, club, or association that sells or
17 stores or receives for the purpose of distributing the
18 cigarettes, cigars, snuff, and smoking tobacco products acting
19 merely as an agent for the collection of the tax. The dealer,
20 storer, or distributor shall state the amount of the tax
21 separately from the price of the cigarettes, cigars, snuff,
22 and smoking tobacco products on all price display signs, sales
23 or delivery slips, bills, and statements which advertise or
24 indicate the price of the cigarettes, cigars, snuff, and
25 smoking tobacco products.

26 "(c) It shall be unlawful for any dealer, storer,
27 distributor, or any person, firm, or corporation that sells,

1 delivers, uses, or otherwise consumes tobacco products in
2 Chambers County, for which the tax is levied, to fail or
3 refuse to add to the sales price and collect from the
4 purchaser the amount due on account of the tax herein
5 provided, to refund or offer to refund all or any part of the
6 amount collected or absorbed, or advertise directly or
7 indirectly, the absorption of the tax or any portion thereof.
8 Any person, firm, corporation, club, or association violating
9 this subsection shall be subject to a civil penalty of not
10 less than twenty-five dollars (\$25) nor more than five hundred
11 dollars (\$500). Each section in violation of this subsection
12 shall constitute a separate offense.

13 "(1) The State Department of Revenue may collect all
14 taxes levied pursuant to this section at the same time and in
15 the same manner as state sales and use taxes are collected.

16 "(2) The tax levied herein shall be paid by affixing
17 stamps that are required for the payment of the tax imposed by
18 Section 40-25-1 to 40-25-28, inclusive.

19 "~~(3) The county in conjunction with the district~~
20 ~~community service office may~~ shall contract with ~~any entity,~~
21 ~~including~~ the State Department of Revenue, to purchase stamps
22 to be affixed. The department may have the same duties
23 relative to the preparation and sale of stamps to evidence the
24 payment of the tax that it has relative to the preparation and
25 sale of stamps under Section 40-25-1 to 40-25-28, inclusive.

26 "(4) In accordance with Section 40-25-2(g), in the
27 event the aforementioned tobacco stamps are not available for

1 affixing to tobacco products packages and containers, or by
2 the authority of a duly promulgated regulation eliminating the
3 requirement of affixing county tobacco stamps, the entity,
4 including the Commissioner of the Department of Revenue, may
5 require a monthly report in lieu of stamps to report the
6 amount of tax due. The monthly report shall be in a form
7 approved by the commissioner and adopted by the department
8 under the Alabama Administrative Procedure Act, Title 41,
9 Chapter 22. If monthly reports are not required to be filed by
10 a person, firm, or corporation that sells, stores, delivers,
11 uses, or otherwise consumes tobacco products in Chamber County
12 with the State Department of Revenue, these reports shall be
13 filed with the Chambers County Commission.

14 "(d) All laws, rules, and regulations of the
15 department relating to the manner and time of payment of the
16 tax levied by Sections 40-25-1 to 40-25-28, inclusive,
17 requiring reports from dealers and prescribing penalties for
18 violations shall apply with equal force to the tax levied by
19 this section as provided for in this section.

20 ~~"(e) There is hereby created the district community~~
21 ~~service office serving Randolph, Clay, and Chambers Counties.~~
22 ~~Office space in Chambers County and sufficient personnel,~~
23 ~~office furniture, office equipment, telephone service, and~~
24 ~~accommodation for the members of the legislative delegation~~
25 ~~serving the respective counties shall be provided. Personnel~~
26 ~~for the office shall be selected by the members of the~~
27 ~~legislative delegation and may or may not be considered county~~

1 ~~employees for the purposes of being eligible to participate in~~
2 ~~and be eligible for benefits available to county employees.~~
3 ~~Members of the legislative delegation may contract for~~
4 ~~services or employment with such personnel. The personnel~~
5 ~~shall serve at the pleasure of the members of the legislative~~
6 ~~delegation. The office shall be charged with serving the~~
7 ~~constituents of the district and disbursing any and all~~
8 ~~funding from community grant programs and any other grant~~
9 ~~funding authorized by the Legislature.~~

10 ~~"(f)~~ (e)(1) The proceeds from the tax authorized,
11 less two percent of the actual cost of collection shall be
12 distributed to the Chambers County General Fund to be expended
13 as follows:

14 "a. Fifteen percent shall be retained in the
15 Chambers County General Fund to be utilized as are other
16 county funds.

17 "b. Twenty-five percent of the proceeds shall be
18 distributed to a special account to be utilized exclusively
19 for county fire and rescue protection purposes, as provided in
20 subdivision (2).

21 "c. ~~Forty-eight~~ percent of the proceeds shall be
22 distributed to the Chambers County Industrial Development
23 Council.

24 ~~"d. Twenty percent of the proceeds shall be utilized~~
25 ~~exclusively to fund the district community service office~~
26 ~~serving Chambers, Clay, and Randolph Counties as provided in~~
27 ~~subdivision (3).~~

1 "d. Two percent of the proceeds shall be distributed
2 to Valley Haven School.

3 "e. Eight percent of the proceeds shall be
4 distributed to the Chambers County Commission to be deposited
5 into a separate fund in the county treasury and, subject to an
6 application process developed by the county commission,
7 disbursed to water districts in the county for the purpose of
8 installing feeder lines. The county commission may develop
9 guidelines, promulgate rules, and institute an application
10 process to provide for disbursement of the funds.

11 "f. Two percent of the proceeds shall be deposited
12 into a fund in the county treasury earmarked for scholarships
13 for residents of Chambers County to be administered and
14 awarded by a Scholarship Board consisting of three persons
15 appointed by the legislative delegation representing Chambers
16 County.

17 "(2) The county commission may enter into a service
18 contract with the Chambers County Volunteer Fire and Rescue
19 Association which represents more than one fire and/or rescue
20 department to provide fire and rescue protection to a part or
21 all of the county. The county commission may develop criteria
22 which shall be met by the association with which it enters
23 into contract. The compensation for the contract shall be paid
24 from funds in the special account. The association may be
25 composed of volunteer fire and rescue departments which are
26 located within the county. Compensation paid to the
27 association pursuant to the service contract shall be

1 distributed by the association to the volunteer fire and
2 rescue departments in the manner the association's governing
3 body deems appropriate. The association shall develop
4 standards and criteria which shall be met by all its member
5 fire and rescue departments. Each officer of the association
6 shall be a member in good standing of a volunteer fire
7 department. Any member fire and rescue department which fails
8 to meet the standards and criteria shall be denied its share
9 of the funding. The association shall give noncomplying member
10 fire and rescue departments proper notice of all deficiencies
11 and a reasonable time period to correct the deficiencies
12 before any funds shall be denied.

13 ~~"(3) The district community service office shall be~~
14 ~~charged with serving the constituents of the district and~~
15 ~~disbursing any and all funding from community grant programs~~
16 ~~and any other grant funding authorized by the Legislature.~~

17 ~~"(g) (f)~~ This section shall not be construed to
18 apply to cigarettes, cigars, snuff, smoking tobacco, and like
19 tobacco products stored by a wholesale dealer for the purpose
20 of resale or reshipment outside of the county which are
21 actually resold or reshipped."

22 Section 2. The District Community Service Office
23 serving Randolph, Clay, and Chambers Counties is abolished.

24 Section 3. This act shall become effective on
25 September 30, 2010.