

1 HB609
2 152164-5
3 By Representatives McMillan, Shiver, Faust, Baker and Davis (N
4 & P)
5 RFD: Baldwin County Legislation
6 First Read: 11-APR-13

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
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8 Relating to Baldwin County and the Baldwin County
9 Oil and Gas Severance Tax Trust Fund created by Act 89-959; to
10 amend Section 45-2-245.20 of the Code of Alabama 1975, to
11 authorize Baldwin County to borrow from the Baldwin County Oil
12 and Gas Severance Tax Trust Fund and the trustees to loan the
13 trust fund to Baldwin County.

14 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

15 Section 1. Section 45-2-245.20 of the Code of
16 Alabama 1975, is amended to read as follows:

17 "§45-2-245.20.

18 "(a) Any laws or parts of laws to the contrary
19 notwithstanding, any annual privilege tax levied upon persons
20 engaging in the business of producing or severing oil or gas
21 or other hydrocarbons from the soil or waters of Baldwin
22 County measured by the gross value of such oil or gas or other
23 hydrocarbons and which tax is applicable only in Baldwin
24 County and under which collections were being made on January
25 1, 1987, shall be continued and collected only as herein
26 prescribed.

1 "(1) All revenues collected from such local
2 severance taxes, shall, beginning the first day of the month
3 following May 19, 1989, be paid into the general fund of the
4 county exclusively for transfer and deposit into the trust
5 fund hereby established until the total sum of fifteen million
6 dollars (\$15,000,000) in severance tax revenues of the type
7 described in this section, excluding any interest income on
8 amounts deposited therein from such total sum, has been
9 deposited into such trust fund. Upon the deposit into the
10 trust fund of the county general fund of a total of fifteen
11 million dollars (\$15,000,000) in such severance tax revenues,
12 any local law authorizing or levying such tax, including,
13 without limitation, Act No. 2120, H. 2450, Regular Session
14 1971 (Acts 1971, Vol. V, p. 3399), shall stand repealed and no
15 further taxes shall be levied thereunder. Any such local oil
16 and gas severance tax revenues in excess of such fifteen
17 million dollars (\$15,000,000) amount collected in Baldwin
18 County after the time the total of such tax proceeds paid into
19 such trust fund established hereby for Baldwin County shall
20 reach fifteen million dollars (\$15,000,000), shall be refunded
21 as promptly as shall be reasonably practicable to the payers
22 thereof. ~~The~~ Except as is set forth below, the county
23 commission shall not be authorized to make any expenditure
24 from any monies composing the corpus of the trust fund so long
25 as it shall remain in existence. The trust fund shall be
26 designated as the "Baldwin County Oil and Gas Severance Tax

1 Trust Fund," and is hereinafter referred to as the "trust
2 fund."

3 "(2) Commencing with the first year in which the
4 trust fund provided for in this section shall receive deposits
5 as required hereunder, and in each year thereafter, the
6 Baldwin County Commission shall take steps to ensure that the
7 trust fund shall retain the total severance tax revenues paid
8 therein plus 10 percent of any net income or interest
9 generated by the investment of such severance tax revenues,
10 which sum shall be and become a part of the corpus of the
11 trust fund. A sum, not to exceed 90 percent of the net income
12 or interest thereby generated from the investments, shall be
13 distributed quarterly, semi-annually, or annually, as
14 designated by the trustees of the trust, to the General Fund
15 of Baldwin County for which the trust fund is established
16 pursuant to this section.

17 "(3) The county commission shall constitute the
18 trustees of the trust, provided, however, that the commission
19 may in its discretion appoint one or more trustees or escrow
20 agents for the trust, which trustees or escrow agents shall be
21 trust companies or national or state banks having powers of a
22 trust company within or without the State of Alabama. The
23 trustees shall invest the corpus of the trust only in direct
24 general obligations of, or obligations the payment of the
25 principal of and interest on which are unconditionally and
26 irrevocably guaranteed by the United States of America.
27 Provided, however, that notwithstanding any legal limitation

1 that might otherwise be applicable, the trustees shall further
2 have the authority in their discretion to invest such trust
3 fund in certificates of deposit of any savings and loan
4 associations or banks, whether federally or state chartered,
5 whose principal office is located in this state, provided that
6 such funds so invested are fully secured by pledges of
7 securities of the type described in the immediately preceding
8 sentence hereof. Provided, however, that notwithstanding any
9 legal limitation that might otherwise be applicable, the
10 trustees shall further have the authority in their discretion
11 to loan, in one transaction and one transaction only, all or
12 any part of the funds on deposit in the trust fund to Baldwin
13 County, and the Baldwin County Commission shall have the
14 authority in their discretion, in one transaction and one
15 transaction only, to borrow the funds from the trust fund and
16 shall be required to expend all funds so borrowed solely for
17 the purpose of economic and industrial development in Baldwin
18 County or for the construction, maintenance, or repair of
19 roads and bridges within Baldwin County directly related to
20 specific economic and industrial development projects. Any
21 loan by the trust fund shall be a general obligation of
22 Baldwin County, the repayment of which shall be made in equal
23 semi-annual installments of principal and interest over a term
24 not to exceed 15 years from the date of the loan, at a rate of
25 interest equal to one percent more than the published market
26 rate payable on 10-year term U. S. Treasury Notes prevailing

1 on the date of the loan. Repaid principal funds may not be
2 borrowed a second time pursuant to this provision.

3 "(4) Upon the deposit into a trust fund established
4 pursuant to this section of the total sum of fifteen million
5 dollars (\$15,000,000) in severance tax revenues of the type
6 described in this section, excluding any interest as income in
7 such total sum, and the consequent repeal of the local law
8 authorizing or levying such tax, the Baldwin County Commission
9 shall be thereafter prohibited from levying or collecting,
10 directly or indirectly, any local county severance tax of the
11 type described in this section that was in existence prior to
12 January 1, 1987.

13 "(b) It is specifically provided that this section
14 shall not be construed to repeal or be in any way deemed
15 amendatory of any of the provisions of Article 1 of Chapter 20
16 of Title 40, as amended."

17 Section 2. This act shall become effective
18 immediately following its passage and approval by the
19 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 Baldwin County
Legislation..... 11-APR-13

Acted on by Baldwin County Legisla-
tion as Favorable with 1 substitute
. 18-APR-13

Read for the third time and passed
as amended..... 23-APR-13

Yeas 32, Nays 0, Abstains 54

Jeff Woodard
Clerk