

1 HB609
2 140906-4
3 By Representatives McMillan, Shiver, Faust, Baker and Davis
4 (N & P)
5 RFD: Baldwin County Legislation
6 First Read: 11-APR-13

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

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

22 "§45-2-245.20.

23 "(a) Any laws or parts of laws to the contrary
24 notwithstanding, any annual privilege tax levied upon persons
25 engaging in the business of producing or severing oil or gas
26 or other hydrocarbons from the soil or waters of Baldwin
27 County measured by the gross value of such oil or gas or other

1 hydrocarbons and which tax is applicable only in Baldwin
2 County and under which collections were being made on January
3 1, 1987, shall be continued and collected only as herein
4 prescribed.

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 V, p. 3399), shall stand repealed and no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

1 from any monies composing the corpus of the trust fund so long
2 as it shall remain in existence. The trust fund shall be
3 designated as the "Baldwin County Oil and Gas Severance Tax
4 Trust Fund," and is hereinafter referred to as the "trust
5 fund."

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

20 "(3) The county commission shall constitute the
21 trustees of the trust, provided, however, that the commission
22 may in its discretion appoint one or more trustees or escrow
23 agents for the trust, which trustees or escrow agents shall be
24 trust companies or national or state banks having powers of a
25 trust company within or without the State of Alabama. The
26 trustees shall invest the corpus of the trust only in direct
27 general obligations of, or obligations the payment of the

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

1 interest equal to one percent more than the published market
2 rate payable on 10-year term U. S. Treasury Notes prevailing
3 on the date of the loan. Repaid principal funds may not be
4 borrowed a second time pursuant to this provision. In
5 addition, notwithstanding subdivision (2), any interest paid
6 on the principal to the trust fund shall be paid by the trust
7 fund to the Baldwin Community and Economic Development
8 Foundation, Inc., and used for economic and industrial
9 development projects and for infrastructure or job creation.

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

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

24 Section 2. This act shall become effective
25 immediately following its passage and approval by the
26 Governor, or its otherwise becoming law.