

1 HB609
2 157927-2
3 By Representative Boman (N & P)
4 RFD: Local Legislation
5 First Read: 18-MAR-14

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Fayette County; to authorize the county
14 commission to levy a one percent sales and use tax; to provide
15 for collection of the tax and the distribution of the
16 proceeds; and to provide that the tax shall automatically
17 terminate unless continued by the electors of Fayette County
18 at a referendum on the subject.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall only apply to Fayette
21 County.

22 Section 2. As used in this act, "state sales tax"
23 means the tax imposed by the state sales and use tax statutes,
24 including, but not limited to, Sections 40-23-1, 40-23-2,
25 40-23-3, and 40-23-4, Code of Alabama 1975.

26 Section 3. (a) In addition to all other authorized
27 taxes, the Fayette County Commission is authorized to levy a

1 one percent sales and use tax in the county on the gross
2 receipts of each business.

3 (b) The gross receipts of any business and the gross
4 proceeds of all sales which are presently exempt under the
5 state sales and use tax statutes are exempt from the tax
6 authorized by this act. Notwithstanding the foregoing, the
7 amount authorized to be levied pursuant to this act shall not
8 be levied against the sale of automobiles, farm machinery,
9 boats, and machinery used for manufacturing, which are exempt
10 from the provisions of this act.

11 (c) The tax herein authorized, if levied, shall
12 automatically terminate on October 30, 2017, unless continued
13 pursuant to a majority vote of the electors voting at a
14 referendum on the first Tuesday in October 2017, for that
15 purpose.

16 Section 4. The tax shall be collected by the State
17 Department of Revenue or the county commission or other entity
18 which the county commission has contracted with to collect the
19 taxes at the same time and in the same manner as state sales
20 taxes are collected. On or prior to the date the tax is due,
21 each person subject to the tax shall file with the department
22 or other entity a report in the form prescribed by the
23 department. The report shall set forth, with respect to all
24 sales and business transactions that are required to be used
25 as a measure of the tax levied, items of information pertinent
26 to the tax as the department may require. Any person subject
27 to the tax authorized by this act may defer reporting credit

1 sales until after their collection, and in the event the
2 person defers reporting them, the person shall thereafter
3 include in each monthly report all credit collections made
4 during the preceding month, and shall pay the tax due at the
5 time of filing the report. All reports filed with the
6 department or other entity under this section shall be
7 available for inspection by the county commission, or its
8 designee.

9 Section 5. Each person engaging or continuing in a
10 business subject to the tax authorized by this act shall add
11 to the sales price or admission fee and collect from the
12 purchaser or the person paying the admission fee the amount
13 due by the taxpayer because of the sale or admission. It shall
14 be unlawful for any person subject to the tax to fail or
15 refuse to add to the sales price or admission fee and to
16 collect from the purchaser or person paying the admission fee
17 the amount required to be added to the sale or admission
18 price. It shall be unlawful for any person subject to the tax
19 levied by this act to refund or offer to refund all or any
20 part of any amount collected or to absorb or advertise
21 directly or indirectly the absorption or refund of any portion
22 of the tax.

23 Section 6. The tax authorized by this act shall
24 constitute a debt due Fayette County. The tax, together with
25 any interest and penalties, shall constitute and be secured by
26 a lien upon the property of any person from whom the tax is
27 due or who is required to collect the tax. The department or

1 other entity shall collect the tax, enforce this act, and have
2 and exercise all rights and remedies that the state or the
3 department has for collection of the state sales tax. The
4 department or other entity may employ special counsel as is
5 necessary to enforce collection of the tax authorized by this
6 act and to enforce this act.

7 Section 7. All provisions of the state sales tax
8 statutes with respect to the payment, assessment, and
9 collection of the state sales tax, making of reports, keeping
10 and preserving records, penalties for failure to pay the tax,
11 promulgating rules and regulations with respect to the state
12 sales tax, and the administration and enforcement of the state
13 sales tax statutes which are not inconsistent with this act
14 shall apply to the tax authorized under this act. The State
15 Commissioner of Revenue and the department or other entity
16 shall have and exercise the same powers, duties, and
17 obligations with respect to this tax that are imposed on the
18 commissioner and department by the state sales tax statutes.
19 All provisions of the state sales tax statutes that are made
20 applicable by this act, and to the administration and
21 enforcement of this act, are incorporated by reference and
22 made a part of this act as if fully set forth herein.

23 Section 8. The department or other entity shall
24 charge Fayette County for collecting any tax authorized under
25 this act in an amount or percentage of total collections as
26 may be agreed upon by the commissioner or the entity and the
27 Fayette County Commission. The charge shall not exceed five

1 percent of the total amount of the tax collected in the county
2 or an amount as otherwise provided in the contract. The charge
3 may be deducted each month from the gross revenues from the
4 tax before certification of the amount of the proceeds due for
5 that month. The Commissioner of Revenue or other entity shall
6 pay into the State Treasury all amounts collected under the
7 authority of this act, as received by the department or entity
8 on or before the first day of each successive month. The
9 commissioner or entity shall certify to the state Comptroller
10 the amount collected and paid into the State Treasury or
11 otherwise for the benefit of Fayette County during the month
12 immediately preceding the certification. The state Comptroller
13 shall issue a warrant each month payable or the entity shall
14 remit monthly or as otherwise agreed upon to the County
15 Treasurer of Fayette County in an amount equal to the
16 certified amount which shall be paid into the county general
17 fund to be used as follows:

18 (1) Forty percent (40%) to the Fayette County
19 Hospital Board, Inc.

20 (2) Forty percent (40%) to the Fayette County Board
21 of Education.

22 (3) Twenty percent (20%) to the county commission to
23 be used only for debt reduction or matching of state and
24 federal grants.

25 Section 9. This act shall remain operative only
26 through October 31, 2017, after which date the act is repealed
27 unless its continuation is approved by a majority of the

1 qualified electors of the county at a referendum held on the
2 first Tuesday in October 2017. The following language shall be
3 included on the ballot: "Do you authorize the continuation of
4 the one percent sales and use tax authorized by Act 2014-___?
5 Yes () No ()."

6 The Fayette County Hospital Board, Inc., shall pay
7 40 percent of the costs of the election, the Fayette County
8 Board of Education shall pay 40 percent of the costs of the
9 election, and the Fayette County Commission shall pay 20
10 percent of the costs of the election. If a majority of the
11 votes cast in the election are "Yes," the act shall remain
12 operative. If the majority of the votes are "No," Act 2014-___
13 shall be repealed and shall have no further effect. The Judge
14 of Probate of Fayette County shall certify the results of the
15 election to the Secretary of State.

16 Section 10. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.