

1 HB528
2 175802-3
3 By Representative Ford (N & P)
4 RFD: Local Legislation
5 First Read: 12-APR-16

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Etowah County; to amend Sections
14 45-28-91.01 and 45-28-91.02, Code of Alabama 1975, relating to
15 the distribution of lodging taxes; to further provide for the
16 distribution of a portion of the tax; to remove the exemption
17 for campgrounds; and to further provide for the distribution
18 and use of certain lodging tax proceeds.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Sections 45-28-91.01 and 45-28-91.02,
21 Code of Alabama 1975, are amended to read as follows:

22 "§45-28-91.01.

23 "(a) There is hereby created the new Etowah County
24 Tourism Board. The new board shall consist of one member
25 appointed by each member of the Etowah County House
26 Legislative Delegation, one member appointed by the senator
27 representing Etowah County, one member appointed by the county

1 commission, one member appointed by the Mayor of Gadsden, one
2 member appointed by the Etowah County Mayor's Association, one
3 member appointed by the Etowah/Gadsden Chamber of Commerce,
4 and one member appointed by the local hotel industry. Members
5 shall serve two year terms until November 30, 2011, when the
6 next term shall be four years. No person shall be appointed to
7 the board unless he or she is a qualified elector of Etowah
8 County.

9 "(b) The Etowah County Tourism Board created by this
10 part shall promote the tourism industry in the county,
11 including, but not limited to, working with potential
12 visitors; coordinating with media representatives; providing
13 support and materials for area events, attractions, and
14 accommodations; promoting the county as a destination for
15 leisure and travel; marketing the county to individuals,
16 groups, and consumer travelers, tour operators, travel
17 planners, and meeting planners; assisting the county with
18 tourism issues and development, both nationally and
19 internationally; employing such employees as are necessary to
20 accomplish the purposes of this section; and performing all
21 things necessary including the construction of any facility,
22 for the promotion of tourism. Notwithstanding the foregoing,
23 the first priority shall be to interview and hire a full-time
24 tourism director to conduct all activities.

25 "(c) The board shall elect a chair, a vice chair, a
26 treasurer, and such other officers as it deems necessary. The
27 board shall set the terms of such officers. The treasurer may

1 or may not be a member of the board. The treasurer shall act
2 as custodian of all funds, from whatever source derived,
3 received by the board. The treasurer shall deposit the funds
4 in a separate account in a bank or trust company which is duly
5 qualified and doing business in Etowah County.

6 "(d) Contracts by the board shall be executed by the
7 chair and ratified by the board. A simple majority of the
8 members present is necessary for the transaction of any
9 business by the board. The board may retain legal counsel. The
10 board may employ an architect and enter into contracts for
11 services in designing and supervising the construction of any
12 facility that it desires to construct. No member of the board
13 shall be interested, directly or indirectly, in any contract
14 of work, materials, or services.

15 "(e) The board shall have the power to do all of the
16 following:

17 "(1) To sue and be sued.

18 "(2) To acquire property and rights and interests in
19 property by gift, lease, or purchase.

20 "(3) To have a seal and alter the same at pleasure.

21 "(4) To appoint officers, agents, or employees as
22 deemed necessary.

23 "(5) To make contracts and to execute all
24 instruments necessary to lease or purchase and own real or
25 personal property to be used for the furtherance of the
26 purposes for the accomplishment of which the board is created.

1 "(6) To accept or receive gifts, bequests, and
2 devises.

3 "(7) To invest its funds not needed to meet
4 disbursements in bonds or obligations of the United States of
5 America or deposit such funds in any bank or building and loan
6 association, provided the deposit is fully insured by a
7 federal corporation or agency of the federal government
8 insuring deposits in financial institutions or secured by a
9 deposit of bonds or obligations of the United States of
10 America.

11 "(8) To incur and engage in marketing and
12 promotional expenditures and activities in furtherance of its
13 purposes and as determined by the board in its discretion.

14 "(f) (1) Subject to the conditions, qualifications,
15 and restrictions set forth in subdivision (2), the board may
16 borrow money. As security for any money borrowed, together
17 with interest thereon, and any obligations incurred or
18 assumed, the board may mortgage, pledge, or otherwise transfer
19 and convey its real, personal, and mixed property, or any part
20 or parts thereof, whether then owned or thereafter acquired,
21 including any franchises then owned or thereafter or hereafter
22 adopted and all or any part of any funds of the board. In
23 resolution authorizing the mortgage given to secure the
24 payment thereof, the board, in addition to its other powers,
25 shall have the power to agree with the several holders of the
26 mortgage to make, enter, and perform covenants and agreements
27 as to:

1 "a. The conduct, management, and maintenance of the
2 properties held by the board or of the activities, operations,
3 and enterprises then or thereafter conducted by the board.

4 "b. Insurance of the properties of the board.

5 "c. Restrictions on the exercise of the powers of
6 the board to dispose, or to limit or regulate the use of all
7 or any part of the properties of the board.

8 "d. The use and disposition of any moneys of the
9 board, including taxes payable to the board under any act of
10 the Legislature heretofore or hereafter adopted and revenues
11 derived or to be derived from the activities, operations, and
12 enterprises of all or any part of the properties of the board,
13 including any part or parts theretofore constructed or
14 acquired and any parts, extensions, replacements, or
15 improvements thereof or thereafter constructed or acquired.

16 "e. The setting aside of the taxes payable to the
17 board under any act of the Legislature heretofore or hereafter
18 adopted or use of the revenues or the moneys of the board or
19 reserves and sinking funds, and the source, custody, security,
20 regulation, application, and disposition thereof.

21 "f. The assumption or payment or discharge of any
22 indebtedness, liens, or other claims relating to any part of
23 the properties of the board or any obligations constituting,
24 or which may constitute, a lien on the properties or any part
25 thereof.

26 "g. Limitations or other evidences of indebtedness
27 or upon the incurrance of indebtedness of the board.

1 "(2) The power vested in the board to pledge taxes
2 to be paid to the board or to pledge revenue of the board
3 shall not be construed as undertaking or purporting to empower
4 the board to pledge any tax or any revenue if the pledge is
5 prohibited by the Constitution of Alabama of 1901. It is
6 expressly provided that the board shall have the power to
7 pledge any tax paid to the board or revenue of the board, the
8 pledge of which is authorized by the Constitution of Alabama
9 of 1901.)

10 "§45-28-91.02.

11 "~~The~~ (a) (1) Beginning October 1, 2016, the first
12 four hundred ninety-one thousand dollars (\$491,000) of the
13 annual proceeds of any lodging tax due Etowah County pursuant
14 to Section 45-28-243, Section 45-28-243.01, or any other
15 lodging tax payable to the county shall be paid into the
16 county treasury to be distributed to the Etowah County Tourism
17 Board established by this part to be used to carry out the
18 purposes of this part. The remaining portion of the proceeds
19 shall be distributed to the Etowah County Mega Sports Complex
20 Authority.

21 "(2) Notwithstanding any provision of Section
22 45-28-243 or Section 45-28-243.01, the lodging taxes levied by
23 Section 45-28-243 and Section 45-28-243.01 shall not apply to
24 ~~campgrounds or to~~ rooms, lodgings, or accommodations supplied
25 for a period of 30 continuous days or more in any place ~~or to~~
26 ~~any accommodation currently in existence which has 20 rooms or~~
27 ~~less for rent on May 14, 2009."~~

1 Section 2. (a) The portion of the proceeds
2 distributed to the Etowah County Mega Sports Complex Authority
3 under Section 45-28-91.02(a)(1), Code of Alabama 1975, shall
4 revert to the Etowah County Tourism Board, if, within three
5 years from the effective date of this act, the Etowah County
6 Mega Sports Complex Authority has not made substantial
7 progress.

8 (b) For the purposes of this section, "substantial
9 progress" means securing architectural drawings for the
10 project, purchasing land upon which facilities will be
11 located, and having engaged an architectural firm for the
12 construction of the project.

13 Section 3. The provisions of this act are severable.
14 If any part of this act is declared invalid or
15 unconstitutional, that declaration shall not affect the part
16 which remains.

17 Section 4. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.