

1 SB316  
2 183739-4  
3 By Senator Sanford  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 15-MAR-17

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8 SYNOPSIS: Under existing law, a county or municipality  
9 may engage the Department of Revenue to collect  
10 local taxes.

11 This bill would specify that the interest  
12 rate on past due taxes would be as provided by  
13 general law and would delete provisions for  
14 interest at one percent per month.

15 Under existing law, municipalities are  
16 authorized to allow the purchase of a delivery  
17 license fee not to exceed \$100 and may increase the  
18 business delivery license fee.

19 This bill would delete the provisions for  
20 increases and set the fee at \$100. The bill would  
21 also exempt a business from the purchase of a  
22 delivery license if its deliveries do not exceed  
23 \$5,000 per year and the business has no physical  
24 presence in the municipality or its police  
25 jurisdiction.

26  
27 A BILL

1 TO BE ENTITLED

2 AN ACT

3  
4 Relating to county and municipal local taxes; to  
5 amend Section 11-3-11.3, Code of Alabama 1975, relating to the  
6 collection of county taxes by the Revenue Department and  
7 Section 11-51-208, Code of Alabama 1975, relating to the  
8 collection of municipal taxes by the Revenue Department, to  
9 provide that the interest rate on delinquent taxes would be as  
10 provided by general law; and to amend Section 11-51-194, Code  
11 of Alabama 1975, relating to the issuance of delivery  
12 licenses, to delete certain provisions for increases in the  
13 rate, to provide an exemption for taxpayers making a small  
14 amount of deliveries per year in a municipality, and to  
15 provide for an issuance fee.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 11-3-11.3, 11-51-194, and  
18 11-51-208, Code of Alabama 1975, are amended to read as  
19 follows:

20 "§11-3-11.3.

21 "(a) Counties may, upon request of the county  
22 commission, engage the Department of Revenue to collect any  
23 county sales, use, rental, lodgings, tobacco, or other local  
24 taxes for which there is a corresponding state levy. Subject  
25 to subsections (d) and (e) below, the department shall collect  
26 a county sales, use, rental, lodgings, tobacco, or other tax  
27 for which there is a corresponding state levy on behalf of the

1 requesting county. Any county sales, use, rental, or lodgings  
2 tax levy administered and collected by the Department of  
3 Revenue pursuant to this section, whether the levy is imposed  
4 pursuant to the authority of Section 40-12-4, or any general,  
5 special, or local act of the Legislature, shall parallel the  
6 corresponding state tax levy, except for the rate of tax, and  
7 shall be subject to all definitions, exceptions, exemptions,  
8 proceedings, requirements, provisions, rules, regulations,  
9 direct pay permits and drive-out certificate procedures,  
10 statutes of limitation, penalties, fines, punishments, and  
11 deductions as applicable to the corresponding state tax,  
12 except where otherwise provided in this section, including  
13 provisions for the enforcement and collection of taxes. The  
14 Department of Revenue shall make available to those counties  
15 for which it collects a sales, use, rental, or lodgings tax  
16 collected pursuant to this section the same services which are  
17 made available to municipal governments pursuant to Division 4  
18 of Article 2 of Chapter 51 and Article 3 of Chapter 51.

19 "(b) The Department of Revenue shall prepare and  
20 distribute those reports, forms, and other information as may  
21 be necessary to provide for its collection of any county tax  
22 it collects and, on request, shall make all reports available  
23 for inspection by the governing body of the county. In  
24 collecting a county sales, use, rental, or lodgings tax, the  
25 department shall have all the authority and duties as it has  
26 in connection with the collection of the corresponding state

1 tax including, without limitation, the provisions of Chapters  
2 2A, 12, 23, and 26 of Title 40.

3 "(c) (1) The Commissioner of Revenue shall deposit  
4 into the State Treasury all county taxes collected and, on a  
5 biweekly basis, shall certify to the state Comptroller the  
6 amount of taxes collected for the approximate two-week period  
7 immediately preceding the certification and the amount, less  
8 the Department of Revenue's actual cost of collection, to be  
9 distributed to each county and which shall be paid to the  
10 treasurer or other custodian of funds of the county within  
11 three days after certification thereof.

12 "(2) The department shall charge each county the  
13 actual cost to the department for collecting a tax.  
14 Notwithstanding the preceding sentence, however, the charge  
15 shall not exceed two percent of the amount collected for each  
16 county. At least once each month, the state Comptroller shall  
17 issue a warrant to the Department of Revenue for the  
18 collection charges due as determined by the Commissioner of  
19 Revenue. Payment shall be from funds collected under this  
20 section and shall be the actual cost of collection, not to  
21 exceed two percent of the amount collected for each county.

22 "(3) Within 60 days after the end of each fiscal  
23 year, the department, in cooperation with the office of the  
24 Examiner of Public Accounts, shall recompute its actual costs  
25 for collection of county taxes for the preceding fiscal year.  
26 Any collection over-charge shall be redistributed to the  
27 counties for which the department collects local taxes, on a

1 pro rata basis of each county's receipts. No under-charge  
2 shall be recovered, either directly or indirectly, from any  
3 county.

4 "(d) Except where the department is collecting on  
5 July 1, 1998, any county which has a tax levy that will be  
6 collected by the Department of Revenue pursuant to the  
7 provisions of this section shall forward a certified copy of  
8 the enabling ordinance or resolution to the department at  
9 least 30 days prior to the first day of the month on which it  
10 is to begin collecting the tax.

11 "(e) A new levy, or a levy changed by an amendment  
12 of a heretofore adopted levy, which will be collected under  
13 this section shall not be subject to collection by the  
14 Department of Revenue until the first day of the month next  
15 following the expiration of 30 days after receipt by the  
16 department of a certified copy of the enabling ordinance or  
17 resolution with any amendment thereto.

18 "(f) The Department of Revenue shall from time to  
19 time issue such rules and regulations for making returns and  
20 for ascertainment, assessment, collection, and administration  
21 of taxes subject to the provisions of this section as it may  
22 deem necessary to enforce its provisions and shall furnish any  
23 municipal or county government with a copy of those rules and  
24 regulations within 15 days of final adoption. Upon request,  
25 the Department of Revenue shall furnish any taxpayer with a  
26 copy of those rules and regulations.

1           "(g) Any self-administered county governing body, as  
2 defined in Section 40-2A-3(20), may elect, by the adoption of  
3 an ordinance or resolution, to assess interest on any tax  
4 delinquency. Any such assessment of interest shall be  
5 consistent with the provisions of Section 40-23-2.1. Any  
6 self-administered county governing body may also elect, by the  
7 adoption of an ordinance or resolution, to pay interest on any  
8 refund of tax erroneously paid. In the event that the  
9 governing body elects to assess interest on any tax  
10 delinquency, the governing body must also elect to pay  
11 interest, at the same rate charged by the county on tax  
12 delinquencies, on any refund of tax erroneously paid. ~~Unless~~  
13 ~~otherwise specified in the ordinance or resolution in which~~  
14 ~~the county governing body elects to assess or pay interest~~  
15 ~~determined in accordance with Section 40-1-44, the~~ The  
16 applicable interest rate to be charged by or due from the  
17 county shall be ~~one percent per month~~ determined pursuant to  
18 Section 40-1-44. References in this subsection to "erroneously  
19 paid" taxes on which interest shall be due to the taxpayer  
20 shall only mean and refer to taxes paid to the  
21 self-administered county or its agent as a result of any  
22 error, omission, or inaccurate advice by or on behalf of the  
23 self-administered county, including in connection with a prior  
24 examination of its books and records by the self-administered  
25 county or its agent.

26           "(h) ~~Notwithstanding subsection (g), the~~ The  
27 applicable interest rate to be assessed on any tax delinquency

1 or paid on any refund of erroneously paid taxes with respect  
2 to all county sales, use, rental, and lodgings tax levies  
3 collected by the Department of Revenue shall be determined in  
4 accordance with Section 40-1-44.

5 "§11-51-194.

6 "(a) (1) Each municipality shall allow the purchase  
7 of a delivery license by any business that has no other  
8 physical presence within the municipality or its police  
9 jurisdiction for the privilege of delivering its merchandise  
10 therein. The amount of the delivery license shall not exceed  
11 one hundred dollars (\$100), ~~provided that each municipality~~  
12 ~~may review the propriety of the license tax every five years,~~  
13 ~~and may increase or decrease the license tax under the~~  
14 ~~standards prescribed by Section 11-51-90 with respect to the~~  
15 ~~uniform license issuance fee.~~ Nothing herein shall prohibit a  
16 municipality from requiring by ordinance the purchase of a  
17 decal by the taxpayer for each delivery vehicle making  
18 deliveries within the municipality or its police jurisdiction.  
19 The charge for such decal shall not exceed the municipality's  
20 actual cost of the decal.

21 "(2) Notwithstanding any other provision of law, a  
22 municipality may charge a taxpayer an issuance fee for a  
23 business delivery license not to exceed ten dollars (\$10).

24 "(b) As used in this section, a delivery license  
25 shall mean a fixed rate business license issued by a  
26 municipality for the limited privilege of delivering and  
27 requisite set-up and installation, by the taxpayer's employees



1 or agents, of the taxpayer's own merchandise in that  
2 municipality, by means of delivery vehicles owned, leased, or  
3 contracted by the taxpayer; provided that the gross receipts  
4 derived from the sale and any requisite set-up or installation  
5 of all merchandise so delivered into the municipality shall  
6 not exceed seventy-five thousand dollars (\$75,000) during the  
7 license year, and any set-up or installation shall relate only  
8 to (1) that required by the contract between the taxpayer and  
9 the customer or as may be required by state or local law, and  
10 (2) the merchandise so delivered. Mere delivery of the  
11 taxpayer's merchandise by common carrier shall not allow the  
12 taxing jurisdiction to assess a business license tax or a  
13 delivery license tax against the taxpayer, but the gross  
14 receipts derived from any sale and delivery accomplished by  
15 means of a common carrier shall be counted against the  
16 seventy-five thousand dollar (\$75,000) limitation described in  
17 the preceding sentence if the taxpayer also during the same  
18 license year sells and delivers into the taxing jurisdiction  
19 using a delivery vehicle other than a common carrier. Provided  
20 that the dollar limitation prescribed above shall be  
21 increased, but not decreased, every five years under the  
22 standards prescribed by Section 11-51-90 with respect to the  
23 uniform license issuance fee and may be increased by a  
24 municipality at any time, up to one hundred fifty thousand  
25 dollars (\$150,000), by adoption of an ordinance. A common  
26 carrier, contract carrier, or similar delivery service making

1 deliveries on behalf of others shall not be entitled to  
2 purchase a delivery license hereunder.

3 "(c) A taxpayer that otherwise meets the criteria  
4 for the purchase of a delivery license pursuant to subsections  
5 (a) and (b) is not required to purchase a delivery license or  
6 a regular business license if the following criteria apply:  
7 (1) The taxpayer's gross receipts that are derived from within  
8 the municipality or its police jurisdiction do not exceed five  
9 thousand dollars (\$5,000) during the year; and (2) the  
10 taxpayer has no other physical presence within the  
11 municipality or its police jurisdiction during the year. Any  
12 other taxpayer that meets the criteria for the purchase of a  
13 delivery license, as provided in subsections (a) and (b), and  
14 meets those criteria during the current license year as well,  
15 shall purchase either a delivery license or a regular business  
16 license otherwise applicable to the taxpayer, at its option.

17 "(d) Notwithstanding Section 11-51-90.2, the  
18 delivery license shall be calculated in arrears, based on the  
19 related gross receipts during the preceding license year.

20 "(e) The purchase of a delivery license or the  
21 exemption from the purchase of a delivery license pursuant to  
22 subsection (c) shall not, in and of itself, establish nexus  
23 between the taxpayer and the municipality for purposes of the  
24 taxes levied by or under the authority of Title 40 or other  
25 provisions of this title, nor does the purchase of a delivery  
26 license, in and of itself, establish that nexus does not exist  
27 between the taxpayer and the municipality.

1           "(f) If at any time during the current license year  
2 the taxpayer fails to meet the criteria specified in  
3 subsections (a) and (b), then within ~~10~~ 45 days after any of  
4 the criteria have been violated or exceeded, the taxpayer  
5 shall purchase ~~all appropriate business licenses from the~~  
6 ~~municipality or its designee, for the entire license year and~~  
7 ~~without regard to this section~~ a business delivery license or  
8 other appropriate license from the municipality and may be  
9 subject to a penalty not to exceed ten dollars (\$10).

10           "§11-51-208.

11           "(a) Municipalities may, upon request of the  
12 municipal governing body, engage the Department of Revenue to  
13 collect their municipal sales, use, rental, and lodgings tax.  
14 Subject to subsections (c) and (d), the Department of Revenue  
15 shall collect the municipal sales, use, rental, and lodgings  
16 tax on behalf of the requesting municipality. The Department  
17 of Revenue shall prepare and distribute reports, forms, and  
18 other information as may be necessary to provide for the  
19 collection of any municipal tax it collects and, on request,  
20 shall make all reports available for inspection by the  
21 governing body of the municipality. In collecting a municipal  
22 sales, use, rental, or lodgings tax, the department shall have  
23 all the authority and duties as it has in connection with the  
24 collection of the corresponding state tax including, without  
25 limitation, the provisions of Chapters 2A, 12, 23, and 26 of  
26 Title 40.

1           "(b) (1) The Commissioner of Revenue shall deposit  
2 into the State Treasury all municipal taxes collected and, on  
3 a biweekly basis, shall certify to the state Comptroller the  
4 amount of taxes collected for the approximate two-week period  
5 immediately preceding the certification and the amount, less  
6 the Department of Revenue's actual cost of collection, to be  
7 distributed to each municipality, which shall be paid to the  
8 treasurer or other custodian of funds of the municipality  
9 within three days after certification thereof.

10           "(2) The department shall charge each municipality  
11 the actual cost to the department for collecting its tax.  
12 Notwithstanding the preceding sentence, however, the charge  
13 shall not exceed two percent of the amount collected for each  
14 municipality. At least once each month, the state Comptroller  
15 shall issue a warrant to the Department of Revenue for the  
16 collection charges due as determined by the Commissioner of  
17 Revenue. Payment shall be from funds collected under this  
18 section and shall be the actual cost of collection, not to  
19 exceed two percent of the amount collected for each  
20 municipality.

21           "(3) Within 60 days after the end of each fiscal  
22 year, the department, in cooperation with the office of the  
23 Examiner of Public Accounts, shall recompute its actual costs  
24 for collection of municipal taxes for the preceding fiscal  
25 year. Any collection over-charge shall be redistributed to the  
26 municipalities for which the department collects local taxes,  
27 on a pro rata basis of each municipality's receipts. No

1 undercharge shall be recovered, either directly or indirectly,  
2 from any municipality.

3 "(c) Except where the department is collecting on  
4 July 1, 1998, any municipality which has a tax levy that will  
5 be collected by the Department of Revenue pursuant to the  
6 provisions of this section shall forward a certified copy of  
7 the enabling act, ordinance, or resolution to the department  
8 at least 30 days prior to the first day of the first month on  
9 which the department is to begin collecting the tax.

10 "(d) A new levy, or a levy changed by an amendment  
11 of a heretofore adopted levy, which will be collected under  
12 this section shall not be subject to collection by the  
13 Department of Revenue until the first day of the month next  
14 following the expiration of 30 days after receipt by the  
15 department of a certified copy of the enabling act, ordinance,  
16 or resolution with any amendments thereto.

17 "(e) Subject to the provisions of this section, the  
18 Department of Revenue shall from time to time issue such rules  
19 and regulations for making returns and for ascertainment,  
20 assessment, collection, and administration of taxes subject to  
21 the provisions of this section as it may deem necessary to  
22 enforce its provisions and shall furnish any county or  
23 municipal governing body with a copy of those rules and  
24 regulations within 15 days of final adoption. Upon request,  
25 the Department of Revenue shall furnish any taxpayer with a  
26 copy of those rules and regulations.

1           "(f) Any self-administered municipal governing body,  
2 as defined in Section 40-2A-3(20), may elect, by the adoption  
3 of an ordinance or resolution, to assess interest on any tax  
4 delinquency. Any such assessment of interest shall be  
5 consistent with the provisions of Section 40-23-2.1. Any  
6 self-administered municipal governing body may also elect, by  
7 the adoption of an ordinance or resolution, to pay interest on  
8 any refund of tax erroneously paid. In the event that the  
9 governing body elects to assess interest on any tax  
10 delinquency, the governing body must also elect to pay  
11 interest, at the same rate charged by the municipality on tax  
12 delinquencies, on any refund of tax erroneously paid. ~~Unless~~  
13 ~~otherwise specified in the ordinance or resolution in which~~  
14 ~~the municipal governing body elects to assess and pay interest~~  
15 ~~determined in accordance with Section 40-1-44, the The~~  
16 applicable interest rate to be charged by or due from the  
17 municipality shall be ~~one percent per month~~ determined  
18 pursuant to Section 40-1-44. References in this subsection to  
19 "erroneously paid" taxes on which interest shall be due to the  
20 taxpayer shall only mean and refer to taxes erroneously paid  
21 to the self-administered municipality or its agent as a result  
22 of any error, omission, or inaccurate advice by or on behalf  
23 of the self-administered municipality, including in connection  
24 with a prior examination of its books and records by the  
25 self-administered municipality or its agent.

26           "(g) ~~Notwithstanding subsection (f), the The~~  
27 applicable interest rate to be assessed on any tax delinquency

1 or paid on any refund of erroneously paid taxes with respect  
2 to all municipal sales, use, rental, and lodgings tax levies  
3 collected by the Department of Revenue shall be determined in  
4 accordance with Section 40-1-44."

5 Section 2. This act shall become effective on the  
6 first day of the third month following its passage and  
7 approval by the Governor, or its otherwise becoming law.