

1 SB385  
2 197594-4  
3 By Senator Jones (N & P)  
4 RFD: Local Legislation  
5 First Read: 07-MAY-19

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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, 45-28-91.02, and 45-28-91.05, Code of Alabama  
15 1975, relating to the Etowah County Tourism Board, and  
16 Sections 45-28-243.02 and 45-28-244.01, Code of Alabama 1975,  
17 relating to Etowah County lodging and sales and use taxes; to  
18 transfer all authority for the feasibility study relating to  
19 funding and the construction, operation, and maintenance of a  
20 mega sports complex in the county from the Etowah County Mega  
21 Sports Complex Authority to the Etowah County Tourism Board;  
22 to change the distribution of certain lodging and sales and  
23 use taxes from the Etowah County Mega Sports Complex Authority  
24 to the Etowah County Tourism Board; to add Section 45-28-91.06  
25 to the Code of Alabama 1975, to provide for the transfer of  
26 all assets and liabilities of the Etowah County Mega Sports  
27 Complex Authority to the Etowah County Tourism Board and

1 provide for the dissolution of the authority; and to repeal  
2 Section 45-28-220.03, relating to membership, powers, and  
3 duties of the Etowah County Mega Sports Complex Authority.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 45-28-91.01, 45-28-91.02,  
6 45-28-91.05, 45-28-243.02, and 45-28-244.01 of the Code of  
7 Alabama 1975, are amended to read as follows:

8 "§45-28-91.01.

9 "(a) ~~There is hereby created the new~~ The Etowah  
10 County Tourism Board is continued in existence. The ~~new~~ board  
11 shall consist of ~~one~~ the following members:

12 "(1) One member appointed by each ~~member~~ of the  
13 three members of the Etowah County House Legislative  
14 Delegation, ~~one member~~.

15 "(2) Two members appointed by the senator  
16 representing Etowah County, ~~one~~.

17 "(3) One county commissioner member appointed by the  
18 county commission, ~~one~~.

19 "(4) One member appointed by the Mayor of Gadsden,  
20 ~~one~~.

21 "(5) One mayor or city council member appointed by  
22 the Etowah County Mayor's Association, ~~one~~.

23 "(6) One member from the hotel or hospitality  
24 industry within the county appointed by the Etowah/Gadsden  
25 Chamber of Commerce, ~~and one member appointed by the local~~  
26 ~~hotel industry~~.

1           "(b) Members shall serve ~~two~~ four year terms ~~until~~  
2 ~~November 30, 2011, when the next term shall be four years that~~  
3 expire 60 days after the regularly scheduled gubernatorial  
4 election. No person shall be appointed to the board unless he  
5 or she is a qualified elector of Etowah County. Members of the  
6 board shall serve at the pleasure of the appointing authority  
7 and shall be removed from the board after failing to attend  
8 three consecutive properly noticed regular meetings of the  
9 board. A vacancy on the board for any reason shall be filled  
10 by appointment by the original appointing authority for the  
11 unexpired term.

12           "~~(b)~~ (c) The Etowah County Tourism Board ~~created by~~  
13 ~~this part~~ shall promote the tourism industry in the county,  
14 including, but not limited to, working with potential  
15 visitors; coordinating with media representatives; providing  
16 support and materials for area events, attractions, and  
17 accommodations; promoting the county as a destination for  
18 leisure and travel; marketing the county to individuals,  
19 groups, and consumer travelers, tour operators, travel  
20 planners, ~~and~~ meeting planners, sports teams, and athletic  
21 groups; assisting the county with tourism issues and  
22 development, both nationally and internationally; employing  
23 ~~such a~~ director and other employees as ~~are~~ necessary to  
24 accomplish the purposes of this section; evaluating the  
25 feasibility of and, if warranted, the construction, operation,  
26 and maintenance of, a mega sports complex; and performing all  
27 things necessary including the construction of any facility,

1 for the promotion of tourism. ~~Notwithstanding the foregoing,~~  
2 ~~the first priority shall be to interview and hire a full-time~~  
3 ~~tourism director to conduct all activities.~~ The director and  
4 other employees of the board shall be employed at will. The  
5 employment of the director serving on the effective date of  
6 the act adding this sentence shall be subject to the approval  
7 of the board. If the board does not approve the director  
8 serving on the effective date of the act adding this sentence,  
9 the board shall employ a new director. The annual compensation  
10 of the director, as set by the board, may not exceed the  
11 annual salary paid to the Director of the Alabama Tourism  
12 Department.

13 ~~"(c)~~ (d) The board shall elect a chair, a vice chair,  
14 a treasurer, and ~~such~~ other officers as ~~it~~ the board deems  
15 necessary. ~~The board,~~ and shall set the terms of ~~such~~ those  
16 officers. The treasurer may or may not be a member of the  
17 board. The treasurer shall act as custodian of all funds, from  
18 whatever source derived, received by the board. The treasurer  
19 shall deposit the funds in a separate account in a bank or  
20 trust company which is duly qualified and doing business in  
21 Etowah County.

22 ~~"(d)~~ (e) Contracts by the board shall be executed by  
23 the chair and ratified by the board. A simple majority of the  
24 members present is necessary for the transaction of any  
25 business by the board. The board may retain legal counsel. The  
26 board may employ an architect and enter into contracts for  
27 services in designing and supervising the construction of any

1 facility that it desires to construct. No member of the board  
2 shall be interested, directly or indirectly, in any contract  
3 of work, materials, or services.

4 "~~(e)~~ (f) The board shall have the power to do all of  
5 the following:

6 "(1) To sue and be sued.

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

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

10 "(4) To appoint officers, agents, or employees as  
11 deemed necessary.

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

16 "(6) To accept or receive gifts, bequests, and  
17 devises.

18 "(7) To invest its funds not needed to meet  
19 disbursements in bonds or obligations of the United States of  
20 America or deposit such funds in any bank or building and loan  
21 association, provided the deposit is fully insured by a  
22 federal corporation or agency of the federal government  
23 insuring deposits in financial institutions or secured by a  
24 deposit of bonds or obligations of the United States of  
25 America.

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

4           "~~(f)~~(g) (1) Subject to the conditions,  
5 qualifications, and restrictions set forth in subdivision (2),  
6 the board may borrow money. As security for any money  
7 borrowed, together with interest thereon, and any obligations  
8 incurred or assumed, the board may mortgage, pledge, or  
9 otherwise transfer and convey its real, personal, and mixed  
10 property, or any part or parts thereof, whether then owned or  
11 thereafter acquired, including any franchises then owned or  
12 thereafter or hereafter adopted and all or any part of any  
13 funds of the board. In resolution authorizing the mortgage  
14 given to secure the payment thereof, the board, in addition to  
15 its other powers, shall have the power to agree with the  
16 several holders of the mortgage to make, enter, and perform  
17 covenants and agreements as to:

18           "a. The conduct, management, and maintenance of the  
19 properties held by the board or of the activities, operations,  
20 and enterprises then or thereafter conducted by the board.

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

22           "c. Restrictions on the exercise of the powers of  
23 the board to dispose, or to limit or regulate the use of all  
24 or any part of the properties of the board.

25           "d. The use and disposition of any moneys of the  
26 board, including taxes payable to the board under any act of  
27 the Legislature heretofore or hereafter adopted and revenues

1 derived or to be derived from the activities, operations, and  
2 enterprises of all or any part of the properties of the board,  
3 including any part or parts theretofore constructed or  
4 acquired and any parts, extensions, replacements, or  
5 improvements thereof or thereafter constructed or acquired.

6 "e. The setting aside of the taxes payable to the  
7 board under any act of the Legislature heretofore or hereafter  
8 adopted or use of the revenues or the moneys of the board or  
9 reserves and sinking funds, and the source, custody, security,  
10 regulation, application, and disposition thereof.

11 "f. The assumption or payment or discharge of any  
12 indebtedness, liens, or other claims relating to any part of  
13 the properties of the board or any obligations constituting,  
14 or which may constitute, a lien on the properties or any part  
15 thereof.

16 "g. Limitations or other evidences of indebtedness  
17 or upon the incurrance of indebtedness of the board.

18 "(2) The power vested in the board to pledge taxes  
19 to be paid to the board or to pledge revenue of the board  
20 shall not be construed as undertaking or purporting to empower  
21 the board to pledge any tax or any revenue if the pledge is  
22 prohibited by the Constitution of Alabama of 1901. It is  
23 expressly provided that the board shall have the power to  
24 pledge any tax paid to the board or revenue of the board, the  
25 pledge of which is authorized by the Constitution of Alabama  
26 of 1901.

27 "§45-28-91.02.



1           "(a) (1) Beginning October 1, 2016, the first four  
2 hundred ninety-one thousand dollars (\$491,000) of the annual  
3 proceeds of any lodging tax due Etowah County pursuant to  
4 Section 45-28-243, Section 45-28-243.01, or any other lodging  
5 tax payable to the county, shall be paid into the county  
6 treasury to be distributed to the Etowah County Tourism Board  
7 established by this part to be used to carry out the purposes  
8 of this part. The remaining portion of the proceeds shall be  
9 distributed to the Etowah County Mega Sports Complex  
10 Authority.

11           "(2) Beginning October 1, 2019, the annual proceeds  
12 of any lodging tax due Etowah County pursuant to Section  
13 45-28-243, Section 45-28-243.01, or any other lodging tax  
14 payable to the county, shall be paid into the county treasury  
15 to be distributed to the Etowah County Tourism Board  
16 established by this part to be used to carry out the purposes  
17 of this part.

18           "(b) Notwithstanding any provision of Section  
19 45-28-243 or Section 45-28-243.01, the lodging taxes levied by  
20 Section 45-28-243 and Section 45-28-243.01 shall not apply to  
21 rooms, lodgings, or accommodations supplied for a period of 30  
22 continuous days or more in any place.

23           "§45-28-91.05.

24           "~~(a) The portion of the proceeds distributed to the~~  
25 ~~Etowah County Mega Sports Complex Authority under Section~~  
26 ~~45-28-91.02(a) (1) shall revert to the Etowah County Tourism~~  
27 ~~Board, if, within three years from May 12, 2016, the Etowah~~

1 ~~County Mega Sports Complex Authority has not made substantial~~  
2 ~~progress.~~

3 ~~"(b) For the purposes of this section, substantial~~  
4 ~~progress means securing architectural drawings for the~~  
5 ~~project, purchasing land upon which facilities will be~~  
6 ~~located, and having engaged an architectural firm for the~~  
7 ~~construction of the project.~~

8 "(a) The Etowah County Tourism Board shall contract  
9 with a qualified entity to perform an in depth economic impact  
10 analysis and a thorough study on the feasibility of developing  
11 a mega sports complex in the location proposed on the  
12 effective date of the act adding this subsection, or another  
13 location.

14 "(b) The board shall appoint a committee of board or  
15 non-board members, consisting of residents of Etowah County,  
16 to study and evaluate all factors relating to the  
17 construction, maintenance, and operation of a mega sports  
18 complex in Etowah County, for implementation and  
19 administration by the board. Members of the committee shall  
20 serve without compensation at the pleasure of the board. The  
21 evaluation shall include, but not be limited to, the following  
22 considerations and issues:

23 "(1) The feasibility of a mega sports complex for  
24 the county.

25 "(2) The actions taken and documentation generated  
26 by the Etowah County Mega Sports Complex Authority.

1                   "(3) What should be included in a mega sports  
2 complex.

3                   "(4) The location of the mega sports complex.

4                   "(5) The cost associated with acquiring and  
5 maintaining a mega sports complex.

6                   "(6) Possible funding sources for the mega sports  
7 complex.

8                   "(c) If the board determines, based on the  
9 feasibility study and in depth economic impact analysis  
10 conducted pursuant to subsections (a) and (b), that the  
11 construction, operation, and maintenance of the mega sports  
12 complex will be cost effective, the board shall initiate the  
13 development and management of a mega sports complex in the  
14 county.

15                   "(d) The board shall also have the following powers  
16 and duties:

17                   "(1) To acquire or lease real property for the  
18 development of sports or other recreational facilities and  
19 related improvements for public purposes.

20                   "(2) To make, enter into, and execute contracts,  
21 agreements, or other instruments necessary to accomplish the  
22 purposes of this section.

23                   "(3) To establish and appoint committees and hire  
24 staff which the board deems necessary for the carrying out of  
25 its functions.

1           "(4) To accept any and all donations and grants of  
2 money, equipment, supplies, materials, and services, and to  
3 receive, utilize, and dispose of same.

4           "(5) To perform other functions as may be necessary  
5 or appropriate to achieve the purposes of this section.

6           "(e) All T.V.A. in-lieu-of-taxes payments to Etowah  
7 County retained by the county and not transferred to the City  
8 of Sardis pursuant to Section 40-28-2, shall be held for the  
9 Etowah County Legislative Delegation to be allocated for  
10 various needs within the county which may include, but are not  
11 limited to, the financing and operation of a mega sports  
12 complex.

13           "§45-28-243.02.

14           "In Etowah County, beginning on the effective date  
15 of the act amending this section, the portion of the tax  
16 proceeds collected pursuant to Section 40-26-1, which is  
17 distributed to the Etowah County Commission pursuant to  
18 Section 40-26-20, to be used for the promotion of tourism,  
19 recreation, and conventions, shall be distributed to the  
20 Etowah County ~~Mega Sports Complex Authority~~ Tourism Board for  
21 the construction of a Mega Sports Complex. If the Etowah  
22 County Tourism Board does not build a mega sports complex,  
23 these funds shall remain with the Etowah County Commission.

24           "§45-28-244.01.

25           "(a) In Etowah County, there is levied a one cent  
26 (\$0.01) county sales and use tax in all areas of the county,  
27 which may become effective no sooner than January 1, 1996.

1           "(b) The tax shall parallel the state sales and use  
2 taxes including exemptions therefrom and enforcement  
3 proceedings therefor. The Etowah County Commission may  
4 administer and collect this tax, or contract with a private  
5 entity or the State Department of Revenue to administer and  
6 collect this tax, and provide for enforcement penalties by  
7 resolution. The county commission, the State Department of  
8 Revenue, or a private entity collecting the tax may retain an  
9 amount or percentage of the total proceeds collected in such  
10 an amount as may be agreed upon by the members of the county  
11 commission, but in no event shall the charge exceed two  
12 percent of the total amount of tax collected under this  
13 section.

14           "(c) The net proceeds of any sales and use tax  
15 levied pursuant to this section shall be distributed annually  
16 as follows:

17           "(1) The first sixty thousand dollars (\$60,000) to  
18 the Smeltzer Education Training Center.

19           "(2) The next fifty thousand dollars (\$50,000)  
20 divided equally between the Mental Retardation 310 Center and  
21 CED Mental Health Center to be used only in Etowah County for  
22 operations.

23           "(3) Beginning January 1, ~~2017~~ 2020, the next three  
24 hundred thousand dollars (\$300,000) to the Etowah County ~~Mega~~  
25 ~~Sports Complex Authority for the development and management of~~  
26 ~~a public mega sports complex in the county~~ Tourism Board for  
27 the construction of a mega sports complex. If the Etowah

1 County Tourism Board does not continue construction of a mega  
2 sports complex within the three years following the effective  
3 date of the act amending this subdivision, then these funds  
4 shall be divided proportionately among the other entities  
5 receiving allocations from the sales and use tax pursuant to  
6 this subsection.

7           "(4)a. Fifty percent of the remaining proceeds to be  
8 used only for construction, maintenance, equipment, or  
9 supplies shall be distributed as follows: 85 percent to the  
10 Gadsden School System, the Etowah County School System, and  
11 the Attalla School System on a pro rata basis, according to  
12 the official average daily attendance for the previous school  
13 year, and 15 percent to Gadsden State Community College for  
14 use in Etowah County. Gadsden State Community College shall  
15 provide an annual accounting to a joint meeting of the Etowah  
16 County Commission and the county legislative delegation. Each  
17 school board shall receive and administer the proceeds of the  
18 sales and use taxes and shall have the authority to issue  
19 bonds, secure financing, and retire debt.

20           "b. Notwithstanding paragraph a., due to the current  
21 financial condition of the school systems and Gadsden State  
22 Community College, which is the result of the necessity of  
23 declaring proration during the last three fiscal years, up to  
24 35 percent may be used to pay the salaries of the certified  
25 personnel of the school systems or Gadsden State Community  
26 College.

1           "(5) Sixty-five percent of the remaining 50 percent  
2 to the Etowah County Fund for juvenile detention, debt  
3 retirement, senior citizen services, and public safety. From  
4 these funds, the county shall be responsible for insurance,  
5 utilities, and maintenance of the community buildings in the  
6 unincorporated areas of the county completed or approved by  
7 the effective date of the act adding this language with funds  
8 from the Community Development Committee. All future  
9 construction of community buildings in the unincorporated  
10 areas shall be approved by the county commission.

11           "(6) Eighteen percent of the remaining fifty percent  
12 to the Etowah County Community Development Committee which  
13 shall be divided equally among the three House of  
14 Representatives districts in Etowah County. The funds in each  
15 district shall be expended only on projects located in the  
16 respective House district. The expenditure of funds for each  
17 respective district shall be voted on and approved by the  
18 respective House district appointee and Senate appointee. The  
19 House appointee and Senate appointee for a district may call a  
20 district meeting for the purpose of this provision.

21           "(7) Six percent of the remaining 50 percent to the  
22 Etowah County Library Committee. Of this amount, two thousand  
23 five hundred dollars (\$2,500) shall be distributed annually to  
24 each public school library.

25           "(8) Six percent of the remaining 50 percent to be  
26 shared equally among county volunteer fire departments.

1           "(9) Five percent of the remaining 50 percent to the  
2 Etowah County Sheriff's Department to augment salaries of  
3 deputies and supplement payroll.

4           "(d) After September 30, 2015, the following  
5 entities shall have their distributions reduced by nine  
6 percent each, as calculated by the county administrator:

7           "(1) Gadsden State Community College pursuant to  
8 subdivision (4)a. of subsection (c).

9           "(2) Etowah County Fund pursuant to subdivision (5)  
10 of subsection (c).

11           "(3) Etowah County Community Development Committee  
12 pursuant to subdivision (6) of subsection (c).

13           "(4) Etowah County Library Committee pursuant to  
14 subdivision (7) of subsection (c).

15           "(e) Beginning October 1, 2015, and each year  
16 thereafter, the county administrator shall distribute the  
17 total amount resulting from the nine percent reductions  
18 provided in subsection (d) as follows:

19           "(1) Etowah County Drug Enforcement Task Force, 45.8  
20 percent.

21           "(2) Etowah County District Attorney, solely for the  
22 hiring of an assistant district attorney, 11.2 percent.

23           "(3) Etowah County Sheriff's Department, to augment  
24 salaries of deputies and supplement payroll, 43 percent.

25           "(f) There is created the Etowah County Community  
26 Development Committee. Each member of the Etowah County  
27 Legislative Delegation shall appoint one member to the



1 committee. The Etowah County Administrator shall serve as a  
2 nonvoting member of the committee. The committee shall receive  
3 and administer the tax proceeds pursuant to this section. The  
4 committee shall have the authority to issue bonds, secure  
5 financing, and retire debt.

6 "(g) There is created the Etowah County Library  
7 Committee. Each member of the Etowah County Legislative  
8 Delegation shall appoint one member to the committee. The  
9 Etowah County Administrator shall serve as a nonvoting member  
10 of the committee. The committee shall receive and administer  
11 the tax proceeds pursuant to this section. The committee shall  
12 have the authority to issue bonds, secure financing, and  
13 retire debt.

14 "(h) There is created the Etowah County Sales Tax  
15 Account. The proceeds of the sales tax shall be deposited into  
16 the Etowah County Sales Tax Account and distributed according  
17 to this section. Any redistribution of the funds shall not  
18 reduce the amount of revenue needed to meet the obligations of  
19 any existing bonded indebtedness on the effective date of  
20 redistribution."

21 Section 2. Section 45-28-91.06 is added to the Code  
22 of Alabama 1975, to read as follows:

23 §45-28-91.06.

24 (a) On the effective date of the act adding this  
25 section, all financial, legal, and other documents and records  
26 in the possession of the Etowah County Mega Sports Complex  
27 Authority, and all websites and social media accounts, shall

1 be relinquished by the authority to the Etowah County Tourism  
2 Board. Notwithstanding any contrary provision of Section  
3 45-28-220.03, as repealed by the act adding this section,  
4 commencing on the effective date of the act adding this  
5 section the sole function of the existing membership of the  
6 authority is to wind up the affairs of the authority and  
7 assist the board in the transfer of all assets and liabilities  
8 of the authority to the board pursuant to subsection (b) and  
9 the dissolution of the authority pursuant to subsection (c).  
10 Pending dissolution of the authority, the composition,  
11 functioning, and operation of the authority shall be under the  
12 complete jurisdiction and control of the Etowah County Tourism  
13 Board.

14 (b) Within the 18-month period immediately following  
15 the effective date of the act adding this section, the assets  
16 and liabilities of the Etowah County Mega Sports Complex  
17 Authority, pursuant to a schedule and plan adopted by the  
18 board, in consultation with the members of the Etowah County  
19 Legislative Delegation, shall be transferred to the Etowah  
20 County Tourism Board. The transfer shall include all assets of  
21 the Etowah County Mega Sports Complex Authority and shall be  
22 conditioned upon the assumption or discharge by the Etowah  
23 County Tourism Board of all liabilities of the Etowah County  
24 Mega Sports Complex Authority, including, without limitation,  
25 all indebtedness, contracts, and retirement obligations. Any  
26 assumption of obligations by the Etowah County Tourism Board  
27 shall be evidenced by resolution of that board.

1                   (c) Upon the completion of the transfer of the  
2 assets and liabilities of the authority pursuant to subsection  
3 (b), the Etowah County Mega Sports Complex Authority shall be  
4 dissolved.

5                   Section 3. All laws or parts of laws which conflict  
6 with this act are repealed; and specifically, Section  
7 45-28-220.03 of the Code of Alabama 1975, relating to the  
8 Etowah County Mega Sports Complex Authority, is repealed,  
9 effective 18 months after the effective date of the act adding  
10 this section.

11                   Section 4. This act shall become effective on the  
12 first day of the third month following its passage and  
13 approval by the Governor, or its otherwise becoming law.