

1 HB435  
2 147528-3  
3 By Representatives Warren and Vance (N & P)  
4 RFD: Lee County Legislation  
5 First Read: 20-MAR-13



1       §40-23-2(2), and §40-23-61(a), outside the corporate limits of  
2       the Cities of Auburn, Opelika, and Phenix City. The gross  
3       proceeds of all sales and use of products or services which  
4       are presently exempt under the state sales and use tax  
5       statutes are exempt from the tax authorized by this act.

6               Section 4. The tax authorized to be levied by this  
7       act shall be collected by the state Department of Revenue or  
8       other entity as determined by the county commission at the  
9       same time and in the same manner as state sales and use taxes  
10      are collected. On or prior to the date the tax is due, each  
11      person subject to the tax shall file with the department a  
12      report in the form prescribed by the department. The report  
13      shall set forth, with respect to all sales and business  
14      transactions that are required to be used as a measure of the  
15      tax levied, a correct statement of the gross proceeds of all  
16      the sales and gross receipts of all business transactions. The  
17      report shall also include items of information pertinent to  
18      the tax as the department may require. Any person subject to  
19      the tax levied by this act may defer reporting credit sales  
20      until after their collection, and in the event the person  
21      defers reporting them, the person shall thereafter include in  
22      each monthly report all credit collections made during the  
23      preceding month, and shall pay the tax due at the time of  
24      filing the report. All reports filed with the department under  
25      this section shall be available for inspection by the county  
26      commission or its designee.

1           Section 5. Each person engaging or continuing in a  
2 business subject to any tax levied pursuant to the authority  
3 of this act shall add to the sales price or admission fee and  
4 collect from the purchaser or the person paying the admission  
5 fee the amount due by the taxpayer because of the sale or  
6 admission. It shall be unlawful for any person subject to the  
7 tax to fail or refuse to add to the sale price or admission  
8 fee and to collect from the purchaser or person paying the  
9 admission fee the amount required to be added to the sale or  
10 admission price. It shall be unlawful for any person subject  
11 to the tax authorized to be levied by this act to refund or  
12 offer to refund all or any part of the amount collected or to  
13 absorb or advertise directly or indirectly the absorption or  
14 refund of any portion of the tax.

15           Section 6. The tax authorized to be levied by this  
16 act shall constitute a debt due Lee County. The tax, together  
17 with any interest and penalties, shall constitute and be  
18 secured by a lien upon the property of any person from whom  
19 the tax is due or who is required to collect the tax. The  
20 department shall collect the tax, enforce this act, and have  
21 and exercise all rights and remedies that the state or the  
22 department has for collection of the state sales and use tax.  
23 The department may employ special counsel as is necessary to  
24 enforce collection of the tax levied by this act and to  
25 enforce this act. The department shall pay special counsel any  
26 fees it deems necessary and proper from the proceeds of the  
27 tax collected by it for Lee County.

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

18           Section 8. The department shall charge Lee County  
19 for collecting the tax authorized to be levied under this act  
20 in an amount or percentage of total collections as may be  
21 agreed upon by the commissioner and the Lee County Commission.  
22 The charge shall not exceed five percent of the total amount  
23 of the tax collected in the county. The charge may be deducted  
24 each month from the gross revenues from the tax before  
25 certification of the amount of the proceeds due Lee County for  
26 that month. The Commissioner of Revenue shall pay into the  
27 State Treasury all amounts collected under this act as the tax

1 is received by the department on or before the first day of  
2 each successive month. The commissioner shall certify to the  
3 state Comptroller the amount collected and paid into the State  
4 Treasury for the benefit of Lee County during the month  
5 immediately preceding the certification. The state Comptroller  
6 shall issue a warrant each month payable to the County  
7 Treasurer of Lee County in an amount equal to the certified  
8 amount which shall be paid into the county general fund to be  
9 used as follows:

10 (1) Fifty percent of the proceeds shall be used to  
11 provide funding for a parks and recreation program in the  
12 county, including, but not limited to, the purchase of land  
13 for parks, construction of recreation facilities, providing  
14 support staff and maintenance equipment, and improving access  
15 to areas of recreation.

16 (2) Fifty percent shall be used to provide funding  
17 for additional deputy sheriffs with an emphasis on school  
18 safety in the county schools.

19 Section 9. Sections 1 through 8 of this act shall  
20 become operative only if approved by a majority of the  
21 qualified electors of the county residing outside the  
22 corporate limits of the Cities of Auburn, Opelika, and Phenix  
23 City who vote in an election to be held on the day designated  
24 by the judge of probate. The notice of the election shall be  
25 given by the judge of probate and the election shall be held,  
26 conducted, and the results canvassed in the manner as other

1 county elections. The election shall be held at a date set by  
2 the county commission. The question shall be as follows:

3 "Do you favor generating funds to support additional  
4 deputy sheriffs with an emphasis on school safety and county  
5 recreation through the levying of a one cent sales and use tax  
6 outside the corporate limits of the Cities of Auburn, Opelika,  
7 and Phenix City by adopting Act 2013- , 2013 Regular Session?

8 "Yes ( ) No ( )."

9 The county shall pay any costs and expenses not  
10 otherwise reimbursed by a governmental agency which are  
11 incidental to the election. If a majority of the votes cast in  
12 the election are "Yes," Sections 1 thorough 8 shall become  
13 operative immediately. If the majority of the votes are "No,"  
14 this act shall be repealed and shall have no further effect.  
15 The judge of probate shall certify the results of the election  
16 to the Secretary of State.

17 Section 10. This act shall become effective on the  
18 first day of the third month following its passage and  
19 approval by the Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Lee County Leg-  
islation..... . . . . . 20-MAR-13

Read for the second time and placed  
on the calendar with 1 amendment . . . . . 18-APR-13

Read for the third time and passed  
as amended..... . . . . . 23-APR-13

Yeas 29, Nays 0, Abstains 55

Jeff Woodard  
Clerk