

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

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Lee County; to authorize the county  
14 commission to levy an additional sales and use tax outside the  
15 corporate limits of the Cities of Auburn, Opelika, and Phenix  
16 City; to provide for the collection, distribution, and use of  
17 the proceeds of the tax; to provide for the enforcement of the  
18 act; and to provide for a referendum.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall only apply to those areas  
21 outside the corporate limits of the Cities of Auburn, Opelika,  
22 and Phenix City in Lee County.

23 Section 2. As used in this act, state sales and use  
24 tax means the tax imposed by the state sales and use tax  
25 statutes, including, but not limited to, Sections 40-23-1,  
26 40-23-2, 40-23-3, 40-23-4, 40-23-60, 40-23-61, 40-23-62, and  
27 40-23-63 of the Code of Alabama 1975.

1           Section 3. Subject to the approval of the majority  
2 of the electors voting a referendum held for such purposes,  
3 the Lee County Commission may levy a one percent sales and use  
4 tax against gross sales, use, storage, or other consumption  
5 outside the corporate limits of the Cities of Auburn, Opelika,  
6 and Phenix City. The gross proceeds of all sales and use of  
7 products or services which are presently exempt under the  
8 state sales and use tax statutes are exempt from the tax  
9 authorized by this act.

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

1 filing the report. All reports filed with the department under  
2 this section shall be available for inspection by the county  
3 commission or its designee.

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

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

1 enforce this act. The department shall pay special counsel any  
2 fees it deems necessary and proper from the proceeds of the  
3 tax collected by it for Lee County.

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

21 Section 8. The department shall charge Lee County  
22 for collecting the tax authorized to be levied under this act  
23 in an amount or percentage of total collections as may be  
24 agreed upon by the commissioner and the Lee County Commission.  
25 The charge shall not exceed five percent of the total amount  
26 of the tax collected in the county. The charge may be deducted  
27 each month from the gross revenues from the tax before

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

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

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

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

1 given by the judge of probate and the election shall be held,  
2 conducted, and the results canvassed in the manner as other  
3 county elections. The election shall be held at a date set by  
4 the county commission. The question shall be as follows:

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

10 "Yes ( ) No ( )."

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

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