

1 HB391  
2 205501-1  
3 By Representatives Reynolds, Brown (C), Oliver, Kiel,  
4 Stadthagen, Stringer, Shiver, Sanderford, Ball, Whitt,  
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6 Wheeler and McCutcheon  
7 RFD: Ways and Means Education  
8 First Read: 05-MAR-20

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8 SYNOPSIS: Under current law, airport authorities are  
9 exempt from certain taxes.

10 Also under current law, certain governmental  
11 entities that are otherwise sales and use tax  
12 exempt may be issued certificates of exemption from  
13 sales and use taxes on certain projects. A sales  
14 and use tax exemption certificate may be issued to  
15 certain contractors and subcontractors working on  
16 these projects.

17 Also under current law, certain governmental  
18 entities that are otherwise exempt from sales, use,  
19 or lodgings tax are required to annually obtain a  
20 certificate of exemption.

21 This bill would exempt airport authorities  
22 from paying sales and use taxes.

23 Also, this bill would include airport  
24 authorities in the list of governmental entities  
25 that may be issued a certificate of exemption from  
26 sales and use taxes on certain projects and in the

1 list of governmental entities that shall obtain an  
2 annual certificate of exemption.

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT

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8 To amend Sections 40-9-14.1 and 40-9-60, Code of  
9 Alabama 1975, relating to the tax exemption of airport  
10 authorities and certificates of exemption to governmental  
11 entities, contractors, etc. for certain tax exempt projects;  
12 to exempt airport authorities from sales and use taxes; to  
13 include airport authorities among those tax exempt entities  
14 that may receive tax exemption certificates for certain  
15 projects; and to include airport authorities among those that  
16 shall obtain an annual certificate of exemption.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Notwithstanding any other provision of  
19 law, beginning January 1, 2020, all airport authorities  
20 established pursuant to Chapter 3 of Title 4 of the Code of  
21 Alabama 1975, or by local law and contracts entered into by  
22 airport authorities on or after January 1, 2020, are exempted  
23 from paying any state, county, and municipal sales and use  
24 tax.

25 Section 2. Sections 40-9-14.1 and 40-9-60, Code of  
26 Alabama 1975, are amended to read as follows:

27 "§40-9-14.1.

1           "(a) For the purposes of this section, the term  
2 governmental entity means the State of Alabama and its  
3 political subdivisions, including a county, a municipality, an  
4 industrial or economic development board or authority, airport  
5 authority, and any public water or sewer authority, district,  
6 system, or board that otherwise is sales and use tax exempt. A  
7 governmental entity shall also include an educational  
8 institution of any of the foregoing Alabama political  
9 subdivisions including a public college or university, a  
10 county or city board of education, and the State Board of  
11 Education.

12           "(b) (1) The Department of Revenue shall issue a  
13 certificate of exemption to the governmental entity for each  
14 tax exempt project.

15           "(2) The Department of Revenue shall grant a  
16 certificate of exemption from state and local sales and use  
17 taxes to any contractor licensed by the State Licensing Board  
18 for General Contractors, or any subcontractor working under  
19 the same contract, for the purchase of building materials,  
20 construction materials and supplies, and other tangible  
21 personal property that becomes part of the structure that is  
22 the subject of a written contract for the construction of a  
23 building or other project, not to include any contract for the  
24 construction of any highway, road, or bridge, for and on  
25 behalf of a governmental entity which is exempt from the  
26 payment of sales and use taxes.

1           "(c) The use of a certificate of exemption for the  
2 purchase of tangible personal property pursuant to this  
3 section shall include only tangible personal property that  
4 becomes part of the structure that is the subject of the  
5 construction contract. Any contractor or subcontractor  
6 purchasing any tangible personal property pursuant to a  
7 certificate of exemption shall maintain an accurate cost  
8 accounting of the purchase and use of the property in the  
9 construction of the project.

10           "(d) A contractor who has an exemption from sales  
11 and use tax for the purchase of materials to use on a  
12 government project shall file, in a manner as prescribed by  
13 the department, reports of all exempt purchases. The reports  
14 shall be filed as a prerequisite to renewal of a certificate  
15 of exemption.

16           "(e) (1) The department may assess any contractor or  
17 subcontractor with state and local sales or use taxes on any  
18 item purchased with a certificate of exemption not properly  
19 accounted for and reported as required.

20           "(2) Any contractor or subcontractor who  
21 intentionally uses a certificate of exemption in violation of  
22 this section shall, in addition to the actual sales or use tax  
23 liability due, be subject to a civil penalty levied by the  
24 department in the amount of not less than a minimum of two  
25 thousand dollars (\$2,000) or two times any state and local  
26 sales or use tax due for the property and, based on the  
27 contractor's or subcontractor's willful misuse of the

1 certificate of exemption, may be barred from the use of any  
2 certificate of exemption on any project for up to two years.

3 "(f) The department may adopt rules to implement  
4 this section in order to effectuate the purposes of this  
5 section and to provide for accurate accounting and enforcement  
6 of this section.

7 "(g) In bidding the work on a tax exempt project,  
8 the bid form shall provide for an accounting for the tax  
9 savings.

10 "(h) The intent of this section is to lower the  
11 administrative cost for the governmental entity, contractor,  
12 and subcontractor for public works projects. It is not the  
13 intent of this section to change the basis for determining  
14 professional services from fair market value, which may  
15 include sales and use taxes.

16 "(i) This section shall be operative for contracts  
17 entered into with governmental entities as defined in  
18 subsection (a), not including public water or sewer  
19 authorities, districts, systems, or boards that otherwise are  
20 sales and use tax exempt, on January 1, 2014, or thereafter,  
21 and shall not apply to any contract entered into prior to  
22 January 1, 2014. This section shall be operative for contracts  
23 entered into with public water or sewer authorities,  
24 districts, systems, or boards that otherwise are sales and use  
25 tax exempt on January 1, 2019, and thereafter, and shall not  
26 apply to any contract entered into with such entities prior to  
27 January 1, 2019. In addition, this section shall not apply to

1 any contract change orders or contract extensions, including  
2 revised, renegotiated, or altered contracts, when the original  
3 contract was entered into prior to January 1, 2014, with a  
4 governmental entity. Nor shall this section apply to any  
5 contract change orders or contract extensions, including  
6 revised, renegotiated, or altered contracts with any public  
7 water or sewer authority, district, system, or board that  
8 otherwise is sales and use tax exempt, when the original  
9 contract was entered into prior to January 1, 2019. The  
10 Department of Revenue may adopt rules to implement this  
11 section.

12 "§40-9-60.

13 "(a) All persons or companies, including, but not  
14 limited to, those cited in this chapter, other than  
15 governmental entities, which have statutory exemption from the  
16 payment of Alabama sales and use taxes levied in, including,  
17 but not limited to, Chapter 23 of this title, or lodgings  
18 taxes levied in Chapter 26 of this title, regardless of the  
19 type of transaction or whether the tangible personal property  
20 is subject to sales and use tax or whether the accommodations  
21 are subject to lodgings tax, shall be required to annually  
22 obtain a certificate of exemption from the Department of  
23 Revenue. This requirement does not supersede or replace the  
24 provisions of Section 40-9-14.1 or any other provision of  
25 statute requiring an entity to obtain a certificate of  
26 exemption.

1            "This article only applies to entities that have  
2            been granted a general exemption from sales, use, or lodging  
3            taxes. The requirements of this article are not triggered by  
4            the purchase of tangible personal property that is exempt from  
5            sales and use tax.

6            "(1) For purposes of this article, the term  
7            governmental entity means the Federal Government, the State of  
8            Alabama, Alabama public schools, Alabama public universities,  
9            healthcare authorities, airport authorities, Alabama counties  
10           and municipalities, and public corporations incorporated under  
11           any of the provisions of Chapter 50 of Title 11, Chapter 50A  
12           of Title 11, Chapter 5 of Title 37, or Chapter 7 of Title 39.

13           "(2) The term governmental entity does not include  
14           public corporations, other than those public corporations  
15           described in subdivision (1), private schools, or private  
16           universities.

17           "(3) For purposes of this article, the term lodgings  
18           tax means Transient Occupancy Tax, levied in Chapter 26 of  
19           this title.

20           "(4) For the purposes of this article, the terms  
21           person or company shall have the same meaning as prescribed in  
22           Section 40-23-1.

23           "(b) Certificates of exemption shall be valid for  
24           one year from the date of issuance and shall be renewed  
25           annually each subsequent year. Any person or company that  
26           fails to obtain or renew a certificate of exemption prior to  
27           its expiration may not make tax exempt purchases or rent tax



1 exempt accommodations after the expiration. The Department of  
2 Revenue may assess any person or company with state and local  
3 sales, use, and lodgings tax for any transaction conducted  
4 with a certificate of exemption not properly accounted for and  
5 reported as required in Section 40-9-61. Any reports required  
6 by the Department of Revenue shall be filed as a prerequisite  
7 to the renewal of a certificate of exemption.

8 "(c) Any person or company that intentionally uses a  
9 certificate of exemption in violation of its intended purpose,  
10 in addition to the actual sales, use, and lodgings tax  
11 liability due, shall be subject to a civil penalty levied by  
12 the Department of Revenue in an amount of not less than  
13 two-thousand dollars (\$2,000) or two times any state and local  
14 sales, use, and lodgings tax due for the transactions,  
15 whichever is greater, and based on the person or company's  
16 willful misuse of the certificate of exemption, may be barred  
17 from the use of any certificate of exemption for up to two  
18 years.

19 "(d) This section shall be operative for all  
20 applicable exempt persons or companies on January 1, 2016.

21 "(e) The Department of Revenue may adopt rules to  
22 administer and implement this section and may adopt rules  
23 requiring an annual exemption certificate for persons or  
24 companies not subject to subsection (a), other than government  
25 entities, providing for an annual information report from such  
26 persons or companies, and imposing penalties equivalent to the  
27 penalties provided for in subsection (c) for noncompliance by

1       such persons or companies in order to verify exemptions and  
2       make reports to the Legislature."

3                 Section 3. This act shall become effective  
4       immediately following its passage and approval by the  
5       Governor, or its otherwise becoming law.