

1 HB545
2 208980-1
3 By Representatives Wingo and England (N & P)
4 RFD: Tuscaloosa County Legislation
5 First Read: 16-MAR-21

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to Tuscaloosa County; amending Sections 11
14 and 11A of Act 56 of the 1953 Regular Session (Acts 1953, p.
15 76), as amended by Act 94-535 of the 1994 Regular Session
16 (Acts 1994, p. 976), Act 94-554, 1994 Regular Session (Acts
17 1994, p. 1010), and Act 2015-202 of the 2015 Regular Session
18 (Acts 2015, p. 596), which authorized the levy and collection
19 of sales and use taxes in the county; to make further
20 provision for the duties and operation of the Tuscaloosa
21 County Road Improvement Commission and the commitment by the
22 commission of tax proceeds.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 11 and 11A of Act 56 of the 1953
25 Regular Session (Acts 1953, p. 76), as amended by Act 94-535
26 of the 1994 Regular Session (Acts 1994, p. 976), Act 94-554,
27 1994 Regular Session (Acts 1994, p. 1010), and Act 2015-202 of

1 the 2015 Regular Session (Acts 2015, p. 596), are amended to
2 read as follows:

3 "Section 11.

4 "(a) Any and all expenses, including ~~(but without~~
5 ~~limitation to)~~, but not limited to, salaries, office rent, and
6 other expenses that may be necessary to provide for the
7 collection and distribution of the taxes herein levied as may
8 be authorized or approved by the tax board, shall be deducted
9 by the tax board and paid out of the proceeds from collections
10 under this act before any distribution of proceeds. Provided,
11 however, that under no circumstances shall the funds held or
12 collected pursuant to Sections 3A and 4A of this act be
13 commingled with other funds held or collected by the tax
14 board, but shall be separately invested and accounted for and
15 all the expenses shall be charged against the proceeds
16 distributed to each recipient in proportion to the amount of
17 proceeds distributed. After deduction of expenses, the tax
18 board shall distribute the remaining proceeds from the taxes
19 collected under this act as follows:

20 "(1) No later than November 30 of each fiscal year,
21 sums sufficient to satisfy all pledges of tax proceeds
22 collected under this act that were entered into on or before
23 April 1, 2015, shall be paid to the general fund of the ~~city~~
24 City of Tuscaloosa, the City of Northport, the county, the
25 hospital authority, the county school system, and the ~~city~~
26 City of Tuscaloosa school system, as applicable, for payment
27 pursuant to such pledges; however, no sums may be distributed

1 pursuant to this subdivision in excess of the distribution
2 that the recipient would have received under this act as in
3 effect before the 2015 amendment to ~~the~~ this act.

4 "(2) No later than November 30 of each fiscal year,
5 twenty-five thousand dollars (\$25,000) shall be disbursed to
6 the general fund of each of the municipalities of Lakeview,
7 Brookwood, Vance, Coaling, and Coker for general municipal
8 purposes. This disbursement shall be made after the
9 distribution made pursuant to subdivision (1) and before any
10 other distribution is made pursuant to subdivisions (3) to
11 (9), inclusive.

12 "(3) Nineteen percent of the net distributable
13 amount, less and except any amounts paid to the ~~city~~ City of
14 Tuscaloosa pursuant to subdivision (1), shall be paid to the
15 ~~city~~ City of Tuscaloosa for general municipal purposes.

16 "(4) Five percent of the net distributable amount,
17 less and except any amounts paid to the City of Northport
18 pursuant to subdivision (1), shall be paid to the City of
19 Northport for general municipal purposes.

20 "(5) Fourteen and three-tenths percent of the net
21 distributable amount, less and except any amounts paid to the
22 county pursuant to subdivision (1), shall be paid to the
23 county for general county purposes.

24 "(6) Six and seven-tenths percent of the net
25 distributable amount, less and except any amounts paid to the
26 hospital authority pursuant to subdivision (1), shall be paid
27 to the hospital authority, which shall use the proceeds solely

1 to defray all or a part of the costs of any hospital operated
2 by the hospital authority for hospital services furnished to
3 charity patients who are residents of the county, including
4 any municipality therein.

5 "(7) Twenty-five percent of the net distributable
6 amount, less and except any amounts paid to the county school
7 system pursuant to subdivision (1), shall be paid to the
8 county school system, which shall use the proceeds solely for
9 public school purposes in the county, including, but ~~without~~
10 ~~limitation~~ not limited to, payment of any obligations of the
11 county board of education which have heretofore or may
12 hereafter be issued for any public school purposes, together
13 with the interest thereon and the necessary expenses in
14 connection with the issuance thereof, acquiring, providing, or
15 constructing schoolhouses and related buildings necessary or
16 convenient for public school purposes, and equipping,
17 furnishing, maintaining, repairing, or replacing any buildings
18 and acquiring sites therefor, or any other general public
19 school purposes.

20 "(8) Twenty percent of the net distributable amount,
21 less and except any amounts paid to the ~~city~~ City of
22 Tuscaloosa school system pursuant to subdivision (1), shall be
23 paid to the ~~city~~ City of Tuscaloosa school system, which shall
24 use the proceeds solely for public school purposes in the ~~city~~
25 City of Tuscaloosa, including, but without limitation to,
26 payment of any obligations of the city which have heretofore
27 or may hereafter be issued for any public school purposes,

1 together with the interest thereon and the necessary expenses
2 in connection with the issuance thereof, acquiring, providing,
3 or constructing schoolhouses and related buildings necessary
4 or convenient for public school purposes, and equipping,
5 furnishing, maintaining, repairing, or replacing any ~~such~~
6 building and acquiring sites therefor, or any other general
7 public school purposes.

8 "(9) All proceeds remaining shall be paid to, or at
9 the written direction of, the commission, for any application
10 provided in this act.

11 "(b) Tax proceeds shall be paid over to the
12 recipients ~~thereof~~ on or before the tenth day of the calendar
13 month next succeeding the calendar month in which the proceeds
14 have been received by the tax board. The tax board is hereby
15 authorized to retain on hand at all times as a revolving or
16 contingent fund for payment of its expenses, as provided for
17 in subsection (c) of Section 9, such amount of tax proceeds as
18 it deems expedient; provided, that as disbursements are made
19 from the revolving or contingent fund, the tax board shall
20 have the power, immediately or at such times as it deems
21 convenient, to restore the ~~moneys~~ monies so disbursed out of
22 the proceeds from the taxes herein levied; and provided
23 further, that the revolving or contingent fund shall not at
24 any time exceed 10 percent of the collections made under this
25 act during the then preceding calendar month.

26 "(c) The recipient of taxes under subsection (a) and
27 recipients of appropriations by the commission, by appropriate

1 proceedings, may appropriate, pledge, or enter into long-term
2 contracts encumbering or restricting the use of the tax
3 proceeds distributable to the recipient."

4 "Section 11A.

5 "(a) The Tuscaloosa County Road Improvement
6 Commission is created to provide oversight for the
7 prioritization and financing of public road and bridge
8 construction and maintenance projects that are financed by the
9 tax proceeds allocated for use by the commission in accordance
10 with ~~subdivision (9) of subsection (a) of Section 11~~ this act.
11 The commission shall not constitute, and shall not have the
12 authority and powers of, a private or public corporation, body
13 politic, or political subdivision of the State of Alabama;
14 provided, all of the following:

15 "(1) That the commission shall constitute a
16 governmental body for purposes of Chapter 25A of Title 36,
17 Code of Alabama 1975, and, for purposes of that chapter, the
18 commission may elect officers from its membership, a majority
19 of members shall constitute a quorum for the authorization of
20 the performance of the duties of the commission under this
21 act, and the commission and its members shall have the same
22 immunity from liability as a municipality and officers of a
23 municipality.

24 "(2) That the commission may receive the proceeds of
25 the taxes collected under this act as provided in Section
26 11(a) (9) and act as custodian for those proceeds, for

1 allocation and application as provided in this act and for no
2 other purpose.

3 "(3) That the commission may execute, deliver, and
4 perform agreements, commitments, and obligations the
5 commission determines necessary or required by law to provide
6 for the application of the tax proceeds allocated to or at the
7 direction of the commission for purposes of this act, and the
8 commission may exercise powers in aid of or necessary to
9 perform its duties under this act.

10 "(4) That the commission may perform any of its
11 duties under this act without consent of, filing with, or
12 notice to, the State of Alabama or any agency, board,
13 corporation, or department thereof.

14 "(5) That the commission and all funds held by the
15 commission or allocated at the direction of the commission are
16 exempt from all taxation by the State of Alabama and any
17 taxing authority of the state. Title to any property financed
18 or purchased by the proceeds of the taxes allocated to or at
19 the direction of the commission shall pass to and vest in the
20 governmental authority having jurisdiction over the property
21 immediately upon acquisition of the property.

22 "(6) That all agreements, commitments, and
23 obligations made or undertaken by the commission in
24 furtherance of the purposes of this act and which, on the date
25 of adoption of the amendatory act adding this language, are in
26 effect and are not the subject of judicial proceedings in any
27 court of proper jurisdiction are ratified and confirmed.

1 "(b) The commission shall be composed of the
2 following members:

3 "(1) The Mayor of the City of Tuscaloosa, or his or
4 her appointee, who shall be a resident of the ~~city~~ City of
5 Tuscaloosa and serve a term of office coextensive with the
6 term of office of the ~~mayor of the city~~ Mayor of the City of
7 Tuscaloosa making the appointment. The acceptance or
8 appointment shall be evidenced by an instrument signed by the
9 mayor of the city and delivered to the commission.

10 "(2) The Mayor of the City of Northport, or his or
11 her appointee, who shall be a resident of the City of
12 Northport and serve a term of office coextensive with the term
13 of office of the Mayor of the City of Northport making the
14 appointment. The acceptance or appointment shall be evidenced
15 by an instrument signed by the Mayor of the City of Northport
16 and delivered to the commission.

17 "(3) The ~~Chair~~ chair of the Tuscaloosa County
18 Commission, or his or her appointee, who shall be a resident
19 of the county and serve a term of office coextensive with the
20 term of office of the chair. The acceptance or appointment
21 shall be evidenced by an instrument signed by the chair and
22 delivered to the commission.

23 "(4) One member appointed by the West Alabama
24 Chamber of Commerce, who shall be a resident of the county and
25 shall serve a term of office of four years from the date of
26 appointment. The appointment shall be evidenced by an

1 instrument signed by the chair of the chamber of commerce and
2 delivered to the commission.

3 "(5) The Executive Director of the Tuscaloosa County
4 Industrial Development Authority, or his or her appointee, who
5 shall serve a term of office of four years from the date of
6 appointment. The acceptance or appointment shall be evidenced
7 by an instrument signed by the executive director and
8 delivered to the commission.

9 "(6) One member of the Tuscaloosa County Legislative
10 Delegation, selected by a majority of the members of the
11 delegation, who shall be a minority and a resident of the
12 county and serve a term of office coextensive with the term of
13 office of the members of the delegation. The selection shall
14 be evidenced by an instrument signed by a majority of the
15 members of the delegation and delivered to the commission.

16 "(7) One member of the Tuscaloosa County Legislative
17 Delegation, selected by a majority of the members of the
18 delegation, who shall be a resident of the county and serve a
19 term of office coextensive with the term of office of the
20 members of the delegation. The selection shall be evidenced by
21 an instrument signed by a majority of the members of the
22 delegation and delivered to the commission.

23 "(8) The Director of the Alabama Department of
24 Transportation, or his or her appointee, who shall serve in an
25 ex officio, unofficial, advisory, and nonvoting capacity and
26 shall serve a term of office coextensive with the term of
27 office of the Governor. The acceptance or appointment shall be

1 evidenced by an instrument signed by the director of the
2 department and delivered to the commission.

3 "(c) The commission shall apply the tax proceeds
4 received under this act in the following priority, with the
5 scope and the amount to be provided for each project to be
6 determined by the commission, in its sole discretion. The
7 commission, consistent with the following priorities, may
8 appropriate, convey, and transfer funds to the county, the
9 ~~city~~ City of Tuscaloosa, the City of Northport, the Alabama
10 Highway Authority, the Alabama Transportation Infrastructure
11 Bank, the Alabama Department of Transportation, or other
12 appropriate governmental bodies solely for the purpose of
13 funding roads and highways in the county. The commission shall
14 endeavor to fully fund each project, or the obligations issued
15 to fund each project, in a timely manner, after taking into
16 account other funding sources from the state or federal
17 government. The commission is under no obligation to fully
18 fund each project listed below before moving to the next
19 project listed:

20 "(1) Funds sufficient for the reimbursement of that
21 portion of the City of Northport, Alabama General Obligation
22 Warrants Series 2014-A, in the original amount of sixteen
23 million five hundred twenty thousand dollars (\$16,520,000),
24 issued on July 21, 2014, that is used for improvements to Mitt
25 Lary Road, determined as follows:

26 "a. The amount needed to defease the debt service on
27 that portion of the warrants; or

1 "b. An amount needed to defease 10 percent of such
2 amount each year for 10 years or, if sooner, until the
3 warrants have been fully paid or defeased; or

4 "c. The annual debt service on such portion of the
5 warrants until the same are paid in full or defeased.

6 "(2) Improvements to SR69 South.

7 "(3) Improvements to SR69 North including, but not
8 limited to, the intersection of Highway 43 and 69; however,
9 this shall not include any part of the Mitt Lary Road warrant
10 reimbursement identified in subdivision (1).

11 "(4) Martin Luther King Boulevard/Jack Warner
12 Parkway improvements.

13 "(5) Improvements to McFarland Boulevard/U.S. 82,
14 however, excluding any projects which have begun, for which a
15 bid has been let, or for which funds have been encumbered for
16 county projects on or before the effective date of the act
17 adding this section.

18 "(6) Improvements to McWright's Ferry Road.

19 "(7) Improvements to the Bear Creek Cutoff Road.

20 "(d) Any tax proceeds remaining after the
21 construction of or the repayment of any obligations issued for
22 the projects prescribed in subdivisions (1) to (7), inclusive,
23 of subsection (c) shall be allocated as follows:

24 "(1) Seventy-five percent to be administered by the
25 commission for significant roadway infrastructure projects to
26 be identified and prioritized by the commission.

1 "(2) Twenty-five percent to the county and to each
2 municipality located therein, in proportion to population,
3 with the population of the county to be determined for this
4 purpose net of the populations of the municipalities located
5 therein, to be administered by the county or municipalities,
6 respectively, for local roadway infrastructure projects to be
7 determined by the county or municipalities in their sole
8 discretion. For a municipality situated in both the county and
9 another county, only the population of the municipality
10 residing within the county shall be considered for purposes of
11 this subdivision.

12 "~~(d)~~(e) The commission may ~~bind itself by funding~~
13 ~~agreement, indenture, resolution, or other appropriate~~
14 ~~instrument to make appropriations in amounts specified by~~
15 ~~dollar amount or formula in future years, and may bind future~~
16 ~~road improvement boards by such means. However, the road~~
17 ~~improvement board is not obligated and may not obligate itself~~
18 ~~to pay more than it receives from the tax board. The recipient~~
19 ~~of any appropriations may pledge or otherwise commit or~~
20 ~~encumber such appropriations in accordance with law. apply any~~
21 ~~or all of the tax proceeds received under this act directly~~
22 ~~for the purposes of this act, including, but not limited to,~~
23 ~~either of the following:~~

24 "(1) The commission may appropriate, convey, and
25 transfer, from time to time or on a continuing basis, and
26 solely for use for the purposes of and as provided in this
27 act, any or all of the tax proceeds received by the commission

1 under this act to, or to a public corporation created by
2 authorization of, any or all of the following:

3 "a. The State of Alabama or other appropriate
4 governmental body.

5 "b. The City of Tuscaloosa.

6 "c. The county.

7 "d. The City of Northport.

8 "(2)a. The commission may anticipate the receipt of,
9 and assign and pledge, under a long-term agreement, and solely
10 for use for the purposes of and as provided in this act, any
11 or all of the tax proceeds received thereby under this act to
12 or for the benefit of, or to or for the benefit of any public
13 corporation created by authorization of, any or all of the
14 following:

15 "1. The State of Alabama or other appropriate
16 governmental body.

17 "2. The City of Tuscaloosa.

18 "3. The county.

19 "4. The City of Northport.

20 "b. Any tax proceeds assigned or pledged by the
21 commission under a long-term agreement as provided in this act
22 shall constitute a trust fund which shall be impressed with a
23 lien in favor of the assignee or pledgee thereof and the
24 owners of any obligations issued for the purposes of this act
25 by such assignee or pledgee, unless otherwise agreed to by the
26 parties.

1 "(3) The commission may use the proceeds of the
2 taxes received under this act to borrow money and issue bonds
3 in evidence thereof, and use the proceeds as necessary to
4 perform its duties under this act.

5 "c. Any assignee or pledgee of tax proceeds under a
6 long-term agreement of the commission is authorized to assign
7 and pledge in succession any or all of the tax proceeds for
8 the benefit of any obligations issued or incurred, pursuant to
9 any laws other than this act, to finance the acquisition and
10 construction of any of the projects described in subsection
11 (c) and subdivision (d) (1).

12 "(f) The taxes levied by this act shall continue in
13 full force and effect for such time and at such rates, and the
14 proceeds shall be allocated and disbursed to the commission at
15 such times and in such amounts, as shall enable the commission
16 to make all appropriations and payments of proceeds at the
17 times and in the amounts required by any agreements,
18 commitments, pledges, and obligations made by the commission
19 pursuant to this act and at any time in effect."

20 Section 2. The provisions of this act are severable.
21 If any part of this act is declared invalid or
22 unconstitutional, that declaration shall not affect the part
23 which remains.

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