

ACT #2017-415

1 SB316
2 183739-6
3 By Senator Sanford
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 15-MAR-17



1 SB316

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4 ENROLLED, An Act,

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Relating to county and municipal local taxes; to amend Section 11-3-11.3, Code of Alabama 1975, relating to the collection of county taxes by the Revenue Department and Section 11-51-208, Code of Alabama 1975, relating to the collection of municipal taxes by the Revenue Department, to provide that the interest rate on delinquent taxes would be as provided by general law; to amend Section 11-51-194, Code of Alabama 1975, relating to the issuance of delivery licenses, to delete certain provisions for increases in the rate, to provide an exemption for taxpayers making a small amount of deliveries per year in a municipality, and to provide for an issuance fee; and to amend Section 40-23-241, Code of Alabama 1975, to further provide for the interest for filing various taxes.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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Section 1. Sections 11-3-11.3, 11-51-194, 11-51-208, and 40-23-241, Code of Alabama 1975, are amended to read as follows:

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"§11-3-11.3.

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"(a) Counties may, upon request of the county commission, engage the Department of Revenue to collect any

1 county sales, use, rental, lodgings, tobacco, or other local
2 taxes for which there is a corresponding state levy. Subject
3 to subsections (d) and (e) below, the department shall collect
4 a county sales, use, rental, lodgings, tobacco, or other tax
5 for which there is a corresponding state levy on behalf of the
6 requesting county. Any county sales, use, rental, or lodgings
7 tax levy administered and collected by the Department of
8 Revenue pursuant to this section, whether the levy is imposed
9 pursuant to the authority of Section 40-12-4, or any general,
10 special, or local act of the Legislature, shall parallel the
11 corresponding state tax levy, except for the rate of tax, and
12 shall be subject to all definitions, exceptions, exemptions,
13 proceedings, requirements, provisions, rules, regulations,
14 direct pay permits and drive-out certificate procedures,
15 statutes of limitation, penalties, fines, punishments, and
16 deductions as applicable to the corresponding state tax,
17 except where otherwise provided in this section, including
18 provisions for the enforcement and collection of taxes. The
19 Department of Revenue shall make available to those counties
20 for which it collects a sales, use, rental, or lodgings tax
21 collected pursuant to this section the same services which are
22 made available to municipal governments pursuant to Division 4
23 of Article 2 of Chapter 51 and Article 3 of Chapter 51.

24 "(b) The Department of Revenue shall prepare and
25 distribute those reports, forms, and other information as may

1 be necessary to provide for its collection of any county tax
2 it collects and, on request, shall make all reports available
3 for inspection by the governing body of the county. In
4 collecting a county sales, use, rental, or lodgings tax, the
5 department shall have all the authority and duties as it has
6 in connection with the collection of the corresponding state
7 tax including, without limitation, the provisions of Chapters
8 2A, 12, 23, and 26 of Title 40.

9 "(c) (1) The Commissioner of Revenue shall deposit
10 into the State Treasury all county taxes collected and, on a
11 biweekly basis, shall certify to the state Comptroller the
12 amount of taxes collected for the approximate two-week period
13 immediately preceding the certification and the amount, less
14 the Department of Revenue's actual cost of collection, to be
15 distributed to each county and which shall be paid to the
16 treasurer or other custodian of funds of the county within
17 three days after certification thereof.

18 "(2) The department shall charge each county the
19 actual cost to the department for collecting a tax.
20 Notwithstanding the preceding sentence, however, the charge
21 shall not exceed two percent of the amount collected for each
22 county. At least once each month, the state Comptroller shall
23 issue a warrant to the Department of Revenue for the
24 collection charges due as determined by the Commissioner of
25 Revenue. Payment shall be from funds collected under this

1 section and shall be the actual cost of collection, not to
2 exceed two percent of the amount collected for each county.

3 "(3) Within 60 days after the end of each fiscal
4 year, the department, in cooperation with the office of the
5 Examiner of Public Accounts, shall recompute its actual costs
6 for collection of county taxes for the preceding fiscal year.
7 Any collection over-charge shall be redistributed to the
8 counties for which the department collects local taxes, on a
9 pro rata basis of each county's receipts. No under-charge
10 shall be recovered, either directly or indirectly, from any
11 county.

12 "(d) Except where the department is collecting on
13 July 1, 1998, any county which has a tax levy that will be
14 collected by the Department of Revenue pursuant to the
15 provisions of this section shall forward a certified copy of
16 the enabling ordinance or resolution to the department at
17 least 30 days prior to the first day of the month on which it
18 is to begin collecting the tax.

19 "(e) A new levy, or a levy changed by an amendment
20 of a heretofore adopted levy, which will be collected under
21 this section shall not be subject to collection by the
22 Department of Revenue until the first day of the month next
23 following the expiration of 30 days after receipt by the
24 department of a certified copy of the enabling ordinance or
25 resolution with any amendment thereto.

1 "(f) The Department of Revenue shall from time to
2 time issue such rules and regulations for making returns and
3 for ascertainment, assessment, collection, and administration
4 of taxes subject to the provisions of this section as it may
5 deem necessary to enforce its provisions and shall furnish any
6 municipal or county government with a copy of those rules and
7 regulations within 15 days of final adoption. Upon request,
8 the Department of Revenue shall furnish any taxpayer with a
9 copy of those rules and regulations.

10 "(g) Any self-administered county governing body, as
11 defined in Section 40-2A-3(20), may elect, by the adoption of
12 an ordinance or resolution, to assess interest on any tax
13 delinquency. Any such assessment of interest shall be
14 consistent with the provisions of Section 40-23-2.1. Any
15 self-administered county governing body may also elect, by the
16 adoption of an ordinance or resolution, to pay interest on any
17 refund of tax erroneously paid. In the event that the
18 governing body elects to assess interest on any tax
19 delinquency, the governing body must also elect to pay
20 interest, at the same rate charged by the county on tax
21 delinquencies, on any refund of tax erroneously paid. ~~Unless~~
22 ~~otherwise specified in the ordinance or resolution in which~~
23 ~~the county governing body elects to assess or pay interest~~
24 ~~determined in accordance with Section 40-1-44, the The~~
25 applicable interest rate to be charged by or due from the

1 county shall be ~~one percent per month~~ determined pursuant to
2 Section 40-1-44. References in this subsection to "erroneously
3 paid" taxes on which interest shall be due to the taxpayer
4 shall only mean and refer to taxes paid to the
5 self-administered county or its agent as a result of any
6 error, omission, or inaccurate advice by or on behalf of the
7 self-administered county, including in connection with a prior
8 examination of its books and records by the self-administered
9 county or its agent.

10 " (h) ~~Notwithstanding subsection (g), the~~ The
11 applicable interest rate to be assessed on any tax delinquency
12 or paid on any refund of erroneously paid taxes with respect
13 to all county sales, use, rental, and lodgings tax levies
14 collected by the Department of Revenue shall be determined in
15 accordance with Section 40-1-44.

16 "§11-51-194.

17 " (a) (1) Each municipality shall allow the purchase
18 of a delivery license by any business that has no other
19 physical presence within the municipality or its police
20 jurisdiction for the privilege of delivering its merchandise
21 therein. The amount of the delivery license shall not exceed
22 one hundred dollars (\$100), ~~provided that each municipality~~
23 ~~may review the propriety of the license tax every five years,~~
24 ~~and may increase or decrease the license tax under the~~
25 ~~standards prescribed by Section 11-51-90 with respect to the~~

1 ~~uniform license issuance fee~~. Nothing herein shall prohibit a
2 municipality from requiring by ordinance the purchase of a
3 decal by the taxpayer for each delivery vehicle making
4 deliveries within the municipality or its police jurisdiction.
5 The charge for such decal shall not exceed the municipality's
6 actual cost of the decal.

7 "(2) Notwithstanding any other provision of law, a
8 municipality may charge a taxpayer an issuance fee for a
9 business delivery license not to exceed ten dollars (\$10).

10 "(b) As used in this section, a delivery license
11 shall mean a fixed rate business license issued by a
12 municipality for the limited privilege of delivering and
13 requisite set-up and installation, by the taxpayer's employees
14 or agents, of the taxpayer's own merchandise in that
15 municipality, by means of delivery vehicles owned, leased, or
16 contracted by the taxpayer; provided that the gross receipts
17 derived from the sale and any requisite set-up or installation
18 of all merchandise so delivered into the municipality shall
19 not exceed seventy-five thousand dollars (\$75,000) during the
20 license year, and any set-up or installation shall relate only
21 to (1) that required by the contract between the taxpayer and
22 the customer or as may be required by state or local law, and
23 (2) the merchandise so delivered. Mere delivery of the
24 taxpayer's merchandise by common carrier shall not allow the
25 taxing jurisdiction to assess a business license tax or a

1 delivery license tax against the taxpayer, but the gross
2 receipts derived from any sale and delivery accomplished by
3 means of a common carrier shall be counted against the
4 seventy-five thousand dollar (\$75,000) limitation described in
5 the preceding sentence if the taxpayer also during the same
6 license year sells and delivers into the taxing jurisdiction
7 using a delivery vehicle other than a common carrier. Provided
8 that the dollar limitation prescribed above shall be
9 increased, but not decreased, every five years under the
10 standards prescribed by Section 11-51-90 with respect to the
11 uniform license issuance fee and may be increased by a
12 municipality at any time, up to one hundred fifty thousand
13 dollars (\$150,000), by adoption of an ordinance. A common
14 carrier, contract carrier, or similar delivery service making
15 deliveries on behalf of others shall not be entitled to
16 purchase a delivery license hereunder.

17 "(c) A taxpayer that otherwise meets the criteria
18 for the purchase of a delivery license pursuant to subsections
19 (a) and (b) is not required to purchase a delivery license or
20 a regular business license if the following criteria apply:
21 (1) The taxpayer's gross receipts that are derived from within
22 the municipality or its police jurisdiction do not exceed ten
23 thousand dollars (\$10,000) during the year; and (2) the
24 taxpayer has no other physical presence within the
25 municipality or its police jurisdiction during the year. Any

1 other taxpayer that meets the criteria for the purchase of a
2 delivery license, as provided in subsections (a) and (b), and
3 meets those criteria during the current license year as well,
4 shall purchase either a delivery license or a regular business
5 license otherwise applicable to the taxpayer, at its option.

6 "(d) Notwithstanding Section 11-51-90.2, the
7 delivery license shall be calculated in arrears, based on the
8 related gross receipts during the preceding license year.

9 "(e) The purchase of a delivery license or the
10 exemption from the purchase of a delivery license pursuant to
11 subsection (c) shall not, in and of itself, establish nexus
12 between the taxpayer and the municipality for purposes of the
13 taxes levied by or under the authority of Title 40 or other
14 provisions of this title, nor does the purchase of a delivery
15 license, in and of itself, establish that nexus does not exist
16 between the taxpayer and the municipality.

17 "(f) If at any time during the current license year
18 the taxpayer fails to meet the criteria specified in
19 subsections (a) and (b), then within ~~10~~ 45 days after any of
20 the criteria have been violated or exceeded, the taxpayer
21 shall purchase ~~all appropriate business licenses from the~~
22 ~~municipality or its designee, for the entire license year and~~
23 ~~without regard to this section~~ a business delivery license or
24 other appropriate license from the municipality and may be
25 subject to a penalty not to exceed ten dollars (\$10).

1 "§11-51-208.

2 "(a) Municipalities may, upon request of the
3 municipal governing body, engage the Department of Revenue to
4 collect their municipal sales, use, rental, and lodgings tax.
5 Subject to subsections (c) and (d), the Department of Revenue
6 shall collect the municipal sales, use, rental, and lodgings
7 tax on behalf of the requesting municipality. The Department
8 of Revenue shall prepare and distribute reports, forms, and
9 other information as may be necessary to provide for the
10 collection of any municipal tax it collects and, on request,
11 shall make all reports available for inspection by the
12 governing body of the municipality. In collecting a municipal
13 sales, use, rental, or lodgings tax, the department shall have
14 all the authority and duties as it has in connection with the
15 collection of the corresponding state tax including, without
16 limitation, the provisions of Chapters 2A, 12, 23, and 26 of
17 Title 40.

18 "(b) (1) The Commissioner of Revenue shall deposit
19 into the State Treasury all municipal taxes collected and, on
20 a biweekly basis, shall certify to the state Comptroller the
21 amount of taxes collected for the approximate two-week period
22 immediately preceding the certification and the amount, less
23 the Department of Revenue's actual cost of collection, to be
24 distributed to each municipality, which shall be paid to the

1 treasurer or other custodian of funds of the municipality
2 within three days after certification thereof.

3 "(2) The department shall charge each municipality
4 the actual cost to the department for collecting its tax.
5 Notwithstanding the preceding sentence, however, the charge
6 shall not exceed two percent of the amount collected for each
7 municipality. At least once each month, the state Comptroller
8 shall issue a warrant to the Department of Revenue for the
9 collection charges due as determined by the Commissioner of
10 Revenue. Payment shall be from funds collected under this
11 section and shall be the actual cost of collection, not to
12 exceed two percent of the amount collected for each
13 municipality.

14 "(3) Within 60 days after the end of each fiscal
15 year, the department, in cooperation with the office of the
16 Examiner of Public Accounts, shall recompute its actual costs
17 for collection of municipal taxes for the preceding fiscal
18 year. Any collection over-charge shall be redistributed to the
19 municipalities for which the department collects local taxes,
20 on a pro rata basis of each municipality's receipts. No
21 undercharge shall be recovered, either directly or indirectly,
22 from any municipality.

23 "(c) Except where the department is collecting on
24 July 1, 1998, any municipality which has a tax levy that will
25 be collected by the Department of Revenue pursuant to the

1 provisions of this section shall forward a certified copy of
2 the enabling act, ordinance, or resolution to the department
3 at least 30 days prior to the first day of the first month on
4 which the department is to begin collecting the tax.

5 "(d) A new levy, or a levy changed by an amendment
6 of a heretofore adopted levy, which will be collected under
7 this section shall not be subject to collection by the
8 Department of Revenue until the first day of the month next
9 following the expiration of 30 days after receipt by the
10 department of a certified copy of the enabling act, ordinance,
11 or resolution with any amendments thereto.

12 "(e) Subject to the provisions of this section, the
13 Department of Revenue shall from time to time issue such rules
14 and regulations for making returns and for ascertainment,
15 assessment, collection, and administration of taxes subject to
16 the provisions of this section as it may deem necessary to
17 enforce its provisions and shall furnish any county or
18 municipal governing body with a copy of those rules and
19 regulations within 15 days of final adoption. Upon request,
20 the Department of Revenue shall furnish any taxpayer with a
21 copy of those rules and regulations.

22 "(f) Any self-administered municipal governing body,
23 as defined in Section 40-2A-3(20), may elect, by the adoption
24 of an ordinance or resolution, to assess interest on any tax
25 delinquency. Any such assessment of interest shall be

1 consistent with the provisions of Section 40-23-2.1. Any
2 self-administered municipal governing body may also elect, by
3 the adoption of an ordinance or resolution, to pay interest on
4 any refund of tax erroneously paid. In the event that the
5 governing body elects to assess interest on any tax
6 delinquency, the governing body must also elect to pay
7 interest, at the same rate charged by the municipality on tax
8 delinquencies, on any refund of tax erroneously paid. ~~Unless~~
9 ~~otherwise specified in the ordinance or resolution in which~~
10 ~~the municipal governing body elects to assess and pay interest~~
11 ~~determined in accordance with Section 40-1-44, the The~~
12 applicable interest rate to be charged by or due from the
13 municipality shall be ~~one percent per month~~ determined
14 pursuant to Section 40-1-44. References in this subsection to
15 "erroneously paid" taxes on which interest shall be due to the
16 taxpayer shall only mean and refer to taxes erroneously paid
17 to the self-administered municipality or its agent as a result
18 of any error, omission, or inaccurate advice by or on behalf
19 of the self-administered municipality, including in connection
20 with a prior examination of its books and records by the
21 self-administered municipality or its agent.

22 "(g) ~~Notwithstanding subsection (f), the The~~
23 applicable interest rate to be assessed on any tax delinquency
24 or paid on any refund of erroneously paid taxes with respect
25 to all municipal sales, use, rental, and lodgings tax levies

1 collected by the Department of Revenue shall be determined in
2 accordance with Section 40-1-44.

3 "§40-23-241.

4 "(a) All Alabama taxing jurisdictions shall
5 authorize utilization of the ONE SPOT system for any taxpayer
6 required to file a state or local sales or use tax or leasing
7 or rental tax or lodgings tax return or remit the tax
8 payments; provided, however, that any taxpayer utilizing the
9 ONE SPOT system for filing an electronic tax return for a
10 local taxing jurisdiction shall be required to simultaneously
11 remit payment through the system or through another electronic
12 method of payment accepted by the local taxing jurisdiction or
13 its designee for which payment is being made. A local taxing
14 jurisdiction may not accept a tax return from a taxpayer
15 without payment through the system unless the taxpayer has
16 prior approval from the local taxing jurisdiction to utilize a
17 different approved electronic method of payment.

18 "(b) No later than June 30, 2013, each local taxing
19 jurisdiction shall provide the department with necessary
20 information to allow all sales and use tax or leasing or
21 rental tax or lodgings tax payments to be remitted directly to
22 the bank account or other account designated by the local
23 taxing jurisdiction. Each non-state administered local taxing
24 jurisdiction shall set up their accounts to allow dishonored
25 payments to be reversed. All tax payments made through the ONE

1 SPOT system for non-state administered local taxing
2 jurisdictions shall be remitted directly from the taxpayer to
3 the designated bank account or other account of the local
4 taxing jurisdiction with the ONE SPOT system serving as a
5 conduit only.

6 "(c) No taxpayer shall be required to use the ONE
7 SPOT system for tax return filing and remittance of local
8 sales and use taxes and leasing or rental taxes or lodgings
9 taxes; provided, however, that any taxpayer utilizing the
10 system shall comply with this article and any rules
11 promulgated by the department for the administration of this
12 article. Additionally, any taxpayer utilizing the system shall
13 comply with any rules of the local taxing jurisdiction
14 regarding the administration of the local sales or use tax or
15 leasing or rental tax or lodgings tax.

16 "(d) All penalties and interest shall be assessed
17 according to state law and the rules of the department, ~~except~~
18 ~~that a local taxing jurisdiction may elect to apply the~~
19 ~~interest at the rate of one percent per month, if it notifies~~
20 ~~the department of the election in a manner prescribed by the~~
21 ~~department.~~ Additionally, the state discount rate shall be
22 applied except that a local taxing jurisdiction discount rate
23 shall be applied if the local taxing jurisdiction notifies the
24 department of such election in a manner prescribed by the
25 department. A taxpayer who desires a waiver of any penalty

1 assessed in relation to a return filed for a local taxing
2 jurisdiction shall apply directly to that local taxing
3 jurisdiction for the waiver.

4 Section 2. This act shall become effective on the
5 first day of the third month following its passage and
6 approval by the Governor, or its otherwise becoming law.

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Bill Mah

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President and Presiding Officer of the Senate

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Mac McClinton

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Speaker of the House of Representatives

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SB316

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Senate 13-APR-17

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I hereby certify that the within Act originated in and passed the Senate, as amended.

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Patrick Harris,
Secretary.

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House of Representatives
Amended and passed 19-MAY-17

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Senate concurred in House amendment 19-MAY-17

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APPROVED

May 26, 2017

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24

By: Senator Sanford

TIME

2:30 pm

Kay Ivey
GOVERNOR

Alabama Secretary Of State

Act Num....: 2017-415

Bill Num....: S-316

Recv'd 05/26/17 03:37pmSLF

CO-SPONSORS

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I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 316.

years 28 nays 0 abstain 0

PATRICK HARRIS,
Secretary

I hereby certify that the notice & proof is attached to the Bill, SB as required in the General Acts of Alabama, 1975 Act No. 919.

PATRICK HARRIS,
Secretary

CONFERENCE COMMITTEE

Senate Conferees

DATE:

418

2017

RD 1 RFD

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REPORT OF STANDING COMMITTEE

This bill having been referred by the House to its standing committee on State Government and acted upon by such committee in session, and returned therefrom to the House with the recommendation that it be passed with amendments w/sub

This is the day of August, 2017
Mark M. Tuggle, Chairperson

DATE:

427

2017

RF

Disband

RD 2 CAL

DATE:

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RE-REFERRED

RE-COMMITTED

Committee

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, SB 316.

YEAS _____ NAYS _____

JEFF WOODARD,
Clerk

FURTHER HOUSE ACTION (OVER)