

1 HB276  
2 164927-1  
3 By Representative England  
4 RFD: Ways and Means General Fund  
5 First Read: 12-MAR-15

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8 SYNOPSIS: Currently, municipal utility corporations  
9 are not paying the state license tax equal to 2.2%  
10 on each \$1 of gross receipts. Revenue generated by  
11 the tax is distributed to the State General Fund  
12 and to the Special Mental Health Fund. This bill  
13 will require any public, private or municipal  
14 utility corporation to pay the license tax. This  
15 bill will distribute the additional revenue  
16 generated from removing this exemption to the State  
17 General Fund. This bill will also repeal the  
18 requirement that the Alabama Municipal Electric  
19 Authority make an in-lieu-of tax payment.  
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21 A BILL  
22 TO BE ENTITLED  
23 AN ACT  
24

25 To amend Sections 11-50A-7, 40-21-53 and 40-21-55,  
26 Code of Alabama 1975, to require any public, private or  
27 municipal utility corporation to pay the state 2.2% license

1 tax; to repeal the requirement that the Alabama Municipal  
2 Electric Authority make an in-lieu-of tax payment; and to  
3 provide further for the distribution of revenues received from  
4 the tax.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 11-50A-7, 40-21-53 and 40-21-55,  
7 Code of Alabama 1975, are amended to read as follows:

8 "§11-50A-7.

9 All bonds, bond anticipation notes, and notes issued  
10 by the authority, the interest thereon, and the income  
11 therefrom shall be forever exempt from all taxation in the  
12 state. All income of the authority, all obligations, lease  
13 agreements, and mortgages of the authority, all conveyances by  
14 or to the authority, and all lien notices or other filings  
15 with respect to the property of the authority and the transfer  
16 thereof shall be forever exempt from any and all taxation in  
17 the state. The purchase, sale, or use of property by the  
18 authority shall be exempt from all sales, use, and license  
19 taxes levied by the state and all political subdivisions of  
20 the state. All property of the authority shall be exempt from  
21 ad valorem property taxation. Nevertheless, the authority, or  
22 any agent of the authority designated for the purpose of  
23 constructing, maintaining, or operating any project of the  
24 authority, shall pay to any validly constituted taxing  
25 authority of the state, or any county or municipality or other  
26 political subdivision thereof, that levies ad valorem, sales,  
27 use, license, or severance taxes, payments in lieu of those

1 taxes equal in amount to the ad valorem, sales, use, license  
2 and severance taxes which would have been paid by private  
3 persons engaged in the same or similar business within the  
4 state with respect to real and personal property owned,  
5 leased, or otherwise used, and with respect to the purchases,  
6 sales, or use of property, within the taxing jurisdictions of  
7 those entities had the properties of the authority been owned,  
8 leased, used, or purchased by such private persons. Payment of  
9 such amounts in lieu of taxes shall be made at the time taxes  
10 of such nature would be payable by private persons and shall  
11 be received, treated, deposited, and appropriated by those  
12 taxing jurisdictions for all purposes in the same manner as if  
13 those amounts were payments of those taxes. Payments in lieu  
14 of taxes shall be enforceable by the taxing authority in civil  
15 action brought by such taxing authority. It is the intent of  
16 the Legislature that while the authority is a political  
17 subdivision of the state, the business in which it is engaged  
18 should be responsible for the payment, in lieu of taxes, of  
19 amounts which other similar businesses are required to pay, to  
20 support essential government services. In the event of the  
21 dissolution of the authority pursuant to Section 11-50A-27, if  
22 any of the then remaining reserves of the authority provided  
23 for in this chapter (except those funded with proceeds of  
24 bonds, bond anticipation notes, or notes of the authority) are  
25 distributed (other than for those purposes for which such  
26 reserves were established or as credits respecting amounts  
27 previously overbilled by the authority) to municipalities

1 contracting with the authority pursuant to Section 11-50A-17,  
2 the authority shall, with respect to those distributions, pay  
3 to the state, in lieu of income taxes levied by the state,  
4 amounts equal to the income taxes that would be payable by the  
5 authority with respect to the amounts distributed as if the  
6 authority had taxable income in the year of the distributions  
7 in the amount of such distributions and the authority were an  
8 entity subject to income taxes. Such amounts shall be payable  
9 at the time and received, treated, and appropriated by the  
10 state for all purposes in the same manner, as if those amounts  
11 were payments of state income taxes.

12 ~~The authority shall also pay a fee to the state in~~  
13 ~~the amount of 2.2 percent of the gross receipts in lieu of~~  
14 ~~taxes from all electric power sold by the authority. The~~  
15 ~~proceeds of such fee shall be deposited and paid to the~~  
16 ~~general fund.~~

17 "§40-21-53.

18 (a) Each person, firm, or corporation, including any  
19 corporations or municipalities operating an electric or  
20 hydroelectric public or private utility; or a gas public or  
21 private utility; or any privately owned and operated  
22 wastewater system as defined in Section 22-25B-1 which is  
23 required by Chapter 25B of Title 22, to be operated and  
24 maintained by a wastewater management entity certified by the  
25 Public Service Commission; or any other public, private or  
26 municipal utility, whether now paying or not paying, now  
27 paying the two and two-tenths percent shall be subject to the

1 provisions of this section and shall pay to the state a  
2 license tax equal to two and two-tenths percent on each \$1 of  
3 gross receipts of such public utility for the preceding year;  
4 except, that gross receipts from the sale of electricity for  
5 resale by such electric or hydroelectric public utilities and  
6 gross receipts from the sale of electricity to the persons  
7 identified in subsection (b) of this section shall be deducted  
8 in computing the amount of tax due hereunder. For the first  
9 year's business, where an existing electric public utility is  
10 taken over, such license tax payable to the state shall be  
11 equal to two and two-tenths percent on each \$1 of gross  
12 receipts for the preceding year of the electric utility taken  
13 over, after deduction of gross receipts derived from sales of  
14 electricity for resale and gross receipts from the sale of  
15 electricity to the persons identified in subsection (b) of  
16 this section and less whatever sum the prior operators shall  
17 have paid as such license tax on the gross receipts for that  
18 year. Where no existing electric public utility is taken over,  
19 the license tax for the first year upon such utility shall be  
20 based upon the first year's business, computed as provided  
21 hereinabove, but shall in no event be less than \$100 for the  
22 first year's business. Any person, firm, or corporation  
23 establishing a new electric public utility shall pay to the  
24 state the sum of \$100 and shall also at the same time execute  
25 a bond payable to the State of Alabama to insure payment of  
26 whatever sum in addition to such \$100 may be due when, at the  
27 end of the first year the amount of gross receipts for the

1 year is ascertainable. Such license tax shall be paid to the  
2 Department of Revenue by check made payable to the Treasurer  
3 and shall be paid quarterly, one fourth on October 1, one  
4 fourth on January 1, one fourth on April 1 and one fourth on  
5 July 1 and shall become delinquent on the fifteenth day of  
6 each of said months. Payment shall be accompanied by a  
7 statement made by the president or other officer of the public  
8 utility or by the owner thereof, giving the name of the  
9 person, firm, or corporation owning and operating such public  
10 utility and the principal place of business thereof, together  
11 with a statement under oath of the amount of gross receipts of  
12 such public utility for the preceding year. The books of every  
13 person, firm, or corporation operating such public utility  
14 shall be at all times open to the inspection of the Department  
15 of Revenue. Any person failing to make such sworn statement or  
16 willfully making a false statement of the gross receipts of  
17 such public utility shall be guilty of a misdemeanor and, upon  
18 conviction thereof, shall be fined not exceeding \$500 and  
19 shall also forfeit to the state three times the amount of the  
20 license for such public utility, but no license under this  
21 schedule shall be paid to the county or counties.

22 (b) (1) On or after October 1, 1981 any person who is  
23 62 years of age or older or totally and permanently disabled  
24 and such person is head of a household and does not share his  
25 or her residence with more than one other adult person who is  
26 less than 62 years of age and who receives electricity at such  
27 residence from a utility which is subject to the 2.2 percent

1 license tax levied in subsection (a) of this section shall be  
2 entitled to qualify, in accordance with the provisions of  
3 subdivision (2) of this subsection, for a credit on his or her  
4 monthly electric bill in the amount of the exemption from the  
5 2.2 percent license tax with respect to sales of electricity  
6 to such person provided in subsection (a) of this section;  
7 provided that the combined gross incomes of all persons who  
8 live at the residence of such person 62 years of age or older  
9 or such totally and permanently disabled person shall not  
10 exceed \$12,000 annually. Eligibility for this credit applies  
11 only to the extent and amount that it is billed to the  
12 customers as a normal requirement under its rates.

13 (2) Any person who seeks to qualify for the credit  
14 provided in subdivision (1) of this subsection shall make  
15 application to the Department of Human Resources in accordance  
16 with the rules promulgated by the Department of Human  
17 Resources for the implementation and enforcement of this  
18 section. The Department of Human Resources shall periodically  
19 notify, in writing, each electric utility in the state which  
20 is subject to payment of the 2.2 percent license tax levied in  
21 subsection (a) of this section regarding those customers who  
22 are entitled to receive the monthly credit. Within 45 days  
23 after receipt of notification for such monthly credit the  
24 electric utility shall commence providing such credit for  
25 gross receipts license tax that otherwise would be billed.

26 (3) Any person who wrongfully qualifies for such  
27 exemption by giving false information shall be guilty of a



1 misdemeanor and upon conviction may be fined not to exceed  
2 \$500.

3 "§40-21-55.

4 All revenues collected under the provisions of  
5 Section 40-21-53 shall, after deduction of the cost of  
6 collection, be distributed in the following manner:

7 (1) ~~Eighty-five~~ Sixty-four and three-tenths percent  
8 of the balance remaining after deduction of the cost of  
9 collection shall be deposited in the Special Mental Health  
10 Fund to be used for mental health purposes; and

11 (2) ~~Fifteen~~ Thirty-five and seven-tenths percent of  
12 the balance remaining after deduction of the cost of  
13 collection shall be deposited in the General Fund.

14 Section 2. The provisions of this act are severable.  
15 If any part of this act is declared invalid or  
16 unconstitutional, that declaration shall not affect the part  
17 which remains.

18 Section 3. This act shall become effective on the  
19 first day of the third month following its passage and  
20 approval by the Governor, or upon its otherwise becoming law.