

1 HB495  
2 183895-3  
3 By Representatives McMillan, Shiver, Baker, Jackson  
4 and Faust (N & P)  
5 RFD: Baldwin County Legislation  
6 First Read: 11-APR-17

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Baldwin County; to amend Sections  
14 45-2-244.071, 45-2-244.073, 45-2-244.075, 45-2-244.076, and  
15 45-2-244.077 of the Code of Alabama 1975, relating to the  
16 special county sales tax; to correct the name of Faulkner  
17 State Junior College to its current name of Coastal Alabama  
18 Community College and to provide that the funds distributed to  
19 the college from the proceeds of the tax shall only be used in  
20 Baldwin County; to further provide for the distribution of a  
21 portion of the proceeds to the county general fund, the county  
22 board of education, the county juvenile court, and the  
23 district attorney's office; to provide for the administration,  
24 collection, and enforcement of the one percent sales tax by  
25 the county commission or other person, firm, or corporation,  
26 whether public or private, with which the county commission  
27 may contract to collect the tax; to provide for the

1 application and promulgation of laws, rules, and regulations  
2 related to the administration, collection, enforcement,  
3 payment, and assessment of the one percent sales tax; to  
4 provide that if the tax is rescinded, repealed, or no longer  
5 collected under certain circumstances, the distributions to  
6 the Baldwin County Board of Education and the general fund of  
7 the county shall be modified; and to provide for the effective  
8 date of the act.

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

10 Section 1. Sections 45-2-244.071, 45-2-244.073,  
11 45-2-244.075, 45-2-244.076, and 45-2-244.077 of the Code of  
12 Alabama 1975 are amended to read as follows:

13 "§45-2-244.071.

14 "All words, terms, and phrases as defined in  
15 Sections 40-23-1, 40-23-2, 40-23-3, and 40-23-4, ~~as amended,~~  
16 providing for the levy of a state sales tax shall, wherever  
17 used in this subpart, have the same meanings respectively  
18 ascribed to them in the sections, except where the context  
19 herein clearly indicates a different meaning. In addition, the  
20 following words, terms, and phrases where used in this subpart  
21 shall have the following respective meanings except where the  
22 context clearly indicates a different meaning:

23 "~~(1) "State sales tax statutes" means Sections~~  
24 ~~40-23-1, 40-23-2, 40-23-3, and 40-23-4, as amended, which levy~~  
25 ~~a certain retail sales tax, and include all statutes,~~  
26 ~~including amendments to those sections, which expressly set~~  
27 ~~forth any exemptions from the computation of the tax levied by~~

1 ~~the sections and all other statutes which expressly apply to,~~  
2 ~~or purport to affect, the administration of the sections and~~  
3 ~~the incidence and collection of the tax imposed therein;~~

4 ~~"(2) "State sales tax" means the tax imposed by the~~  
5 ~~state sales tax statutes;~~

6 ~~"(3) "Month" means the calendar month;~~

7 ~~"(4) "County" means Baldwin County.~~

8 "(1) COUNTY. Baldwin County.

9 "(2) MONTH. The calendar month.

10 "(3) STATE SALES TAX. The tax imposed by the state  
11 sales tax statutes, including, but not limited to, Sections  
12 40-23-1, 40-23-2, 40-23-3, and 40-23-4.

13 "§45-2-244.073.

14 "The sales taxes authorized to be levied in Section  
15 45-2-244.072 shall be due and payable in monthly installments  
16 on or before the twentieth day of the month next succeeding  
17 the ~~months~~ month in which the tax accrues. All taxes levied in  
18 this subpart shall be paid to and collected by the ~~State~~  
19 ~~Department of Revenue~~ county commission at the same time and  
20 along with the collection of the state sales tax. On or prior  
21 to the due dates of the tax herein levied each person subject  
22 to such tax shall file with the ~~State Department of Revenue~~  
23 county commission a report or return in such form as may be  
24 prescribed by the ~~department~~ county commission, setting forth,  
25 with respect to all sales and business transactions that are  
26 required to be used as a measure of the tax levied, a correct  
27 statement of the gross proceeds of all such sales and gross

1 receipts of all such business transactions. Such report shall  
2 also include such other items of information pertinent to the  
3 ~~said tax and the amount thereof as the State Department of~~  
4 ~~Revenue county commission may require. Any person subject to~~  
5 ~~the tax levied may defer reporting credit sales until after~~  
6 ~~their collection, and in the event such a person so defers~~  
7 ~~reporting them, such the person shall thereafter include in~~  
8 ~~each monthly report all credit collections made during the~~  
9 ~~month preceding, and shall pay the tax due thereon at the time~~  
10 ~~of filing such report. All reports or returns filed with the~~  
11 ~~State Department of Revenue under this section shall be~~  
12 ~~available for inspection by the Baldwin County Commission, or~~  
13 ~~its designated agent, at reasonable times during business~~  
14 ~~hours.~~

15 "§45-2-244.075.

16 "The tax authorized to be imposed by this subpart  
17 shall constitute a debt due Baldwin County and may be  
18 collected as provided by law. The tax, together with interest  
19 and penalties with respect thereto, shall constitute and be  
20 secured by a lien upon the property of any person from whom  
21 the tax is due or who is required to collect the tax. All of  
22 the provisions of the revenue laws of this state which apply  
23 to the enforcement of liens for license taxes due to this  
24 state shall apply fully to the collection of the tax herein  
25 levied, and the State Department of Revenue, for the use and  
26 benefit of Baldwin County shall collect such tax and enforce  
27 this subpart and shall have and exercise for such collection

1 and enforcement all rights and remedies that this state or the  
2 department has for collection of the state sales tax. The  
3 State Department of Revenue shall have full authority to  
4 employ such special counsel as it deems necessary from time to  
5 time to enforce collection of the tax levied by this subpart,  
6 and to otherwise enforce the provisions of this subpart,  
7 including any litigation involving this subpart; and the  
8 department shall pay such special counsel such fees as it  
9 deems necessary and proper from the proceeds of the tax  
10 collected by it for Baldwin County.

11 "The tax authorized to be imposed by this subpart  
12 shall constitute a debt due Baldwin County and may be  
13 collected as provided by law. The tax, together with interest  
14 and penalties with respect thereto, shall constitute and be  
15 secured by a lien upon the property of any person from whom  
16 the tax is due or who is required to collect the tax. All of  
17 the provisions of the revenue laws of this state which apply  
18 to the enforcement of liens for license taxes due to this  
19 state shall apply fully to the collection of the tax herein  
20 levied, and the Baldwin County Commission, for the use and  
21 benefit of Baldwin County, shall collect such tax and enforce  
22 this subpart and shall have and exercise for such collection  
23 and enforcement all rights and remedies that this state or the  
24 state Department of Revenue has for collection of the state  
25 sales tax. The Baldwin County Commission shall have full  
26 authority to employ such special counsel as it deems necessary  
27 from time to time to enforce collection of the tax levied by

1 this subpart, and to otherwise enforce the provisions of this  
2 subpart, including any litigation involving this subpart; and  
3 the Baldwin County Commission shall pay such special counsel  
4 such fees as it deems necessary and proper from the proceeds  
5 of the tax collected by it pursuant to this subpart.

6 "§45-2-244.076.

7 "All provisions of the state sales tax statutes with  
8 respect to payment, assessment, and collection of the state  
9 sales tax, making of reports and keeping and preserving  
10 records with respect thereto, penalties for failure to pay the  
11 tax, the promulgation of the rules and regulations with  
12 respect to the state sales tax, and the administration and  
13 enforcement of the state sales tax statutes, which are not  
14 inconsistent with the provisions of this subpart when applied  
15 to the tax authorized to be levied in Section 45-2-244.072  
16 shall apply to the county tax levied under this subpart. The  
17 county commission ~~The State Commissioner of Revenue and the~~  
18 ~~State Department of Revenue~~ shall have and exercise the same  
19 powers, duties, and obligations with respect to the county tax  
20 levied under this subpart that are imposed on ~~such~~  
21 ~~commissioner and department, respectively, by the state tax~~  
22 ~~statutes.~~ the state Revenue Commissioner and department,  
23 respectively, by the state tax statutes. All provisions of law  
24 from time to time in effect with respect to the payment,  
25 assessment, and collection of the state sales tax, and any and  
26 all reports, records, and penalties for failure to pay such  
27 taxes, the promulgation of rules and regulations with respect

1 to such taxes, and the administration and enforcement of such  
2 taxes or such provisions of law (as the case may be), shall,  
3 to the extent not inconsistent with the act adding this  
4 amendatory language, apply to the county sales tax. All  
5 provisions of the state sales tax statutes that are made  
6 applicable by this subpart to the county tax levied under this  
7 subpart and to the administration and enforcement of this  
8 subpart are hereby incorporated herein by reference and made a  
9 part hereof as if fully set forth herein. The county sales  
10 tax, as the county commission may from time to time determine,  
11 shall be collected either by the county commission or by any  
12 person, firm, or corporation (whether public or private) with  
13 which the commission may contract to collect the county sales  
14 tax or any other tax or taxes levied by, or in, the county,  
15 all in accordance with, and subject to, applicable provisions  
16 of law as are from time to time in effect.

17 "§45-2-244.077.

18 "The county commission shall be authorized to charge  
19 an amount not less than two percent nor more than five percent  
20 of the special county tax collected in the county under this  
21 subpart for collecting the special county tax. In order to  
22 charge more than two percent of the special county tax for  
23 collecting the tax, the county commission and the Baldwin  
24 County Board of Education shall be required to agree upon such  
25 additional percentage for collection. The State Department of  
26 Revenue shall charge Baldwin County for collecting the special  
27 county tax levied under this subpart such amount or percentage

1 of total collections as may be agreed upon by the Commissioner  
2 of Revenue and the Baldwin County Commission, but such charge  
3 shall not, in any event, exceed 10 percent of the total amount  
4 of the special county tax collected in said county under this  
5 subpart. Such charge for collecting such special tax may be  
6 deducted each month from the gross revenues from such special  
7 tax before certification of the amount of the proceeds thereof  
8 due Baldwin County for that month. The Commissioner of Revenue  
9 shall pay into the State Treasury all tax collected under this  
10 subpart, as such tax is received by the Department of Revenue,  
11 and on or before the first day of each successive month  
12 (commencing with the month following the month in which the  
13 department makes the first collection hereunder) the  
14 commissioner shall certify to the State Comptroller the amount  
15 of tax collected under the provisions of this subpart and paid  
16 by him or her into the State Treasury for the benefit of  
17 Baldwin County during the month immediately preceding such  
18 certification. Provided, however, that before certifying the  
19 amount of the tax paid into the State Treasury for the benefit  
20 of Baldwin County during each month, the commissioner may  
21 deduct from the tax collected in the month the charge due the  
22 department for the collection of the tax for the county. It  
23 shall be the duty of the Comptroller to issue his or her  
24 warrant each month payable to the County Treasurer of Baldwin  
25 County in his or her official capacity in an amount equal to  
26 the amount so certified by the Commissioner of Revenue as  
27 having been collected for the use of the county. All Prior to

1 any other distribution, two percent of all net revenues herein  
2 collected shall be appropriated to the Juvenile Court for  
3 Baldwin County to be used for drug interdiction and education  
4 programs; staffing; and the leasing, building, staffing, and  
5 operation of a home for juveniles; and one percent of all  
6 revenues collected shall be appropriated to the Baldwin County  
7 District Attorney's Office to be expended for education and  
8 intervention programs, with emphasis on grades kindergarten  
9 through 12, aimed at the prevention of drug and alcohol abuse,  
10 sexual misconduct, bullying and other issues, and for other  
11 prosecution services. After the distribution to the Juvenile  
12 Court and District Attorney's Office as provided in this  
13 section, the remaining revenues arising from the taxes herein  
14 authorized to be levied shall be distributed as follows: (1)  
15 55 40 percent shall be distributed to the Baldwin County Board  
16 of Education to be utilized exclusively for capital  
17 improvement, capital construction, and maintenance purposes;  
18 (2) five percent shall be distributed to ~~Faulkner State Junior~~  
19 ~~Coastal Alabama Community~~ College in Bay Minette ~~to~~ and shall  
20 be used only in the county as other appropriations to the  
21 school are used; and (3) 40 55 percent shall be deposited in  
22 the general fund of the county to be expended as other county  
23 funds. ~~Provided, however, in the initial fiscal year that this~~  
24 ~~sales tax is levied, prior to any distribution provided~~  
25 ~~herein, a one-time disbursement of two percent of all revenues~~  
26 ~~arising from the tax shall be appropriated for the erection of~~  
27 ~~a suitable county animal pound as provided in Section 3-7-7.~~

1 ~~The one-time two percent appropriation shall be made only~~  
2 ~~during the fiscal year that the sales tax provided by this~~  
3 ~~subpart is implemented. Effective for the fiscal year~~  
4 ~~beginning October 1, 1984, and each fiscal year thereafter,~~  
5 ~~prior to any other distribution, two percent of all net~~  
6 ~~revenues herein collected shall be appropriated to the~~  
7 ~~Juvenile Court for Baldwin County to be used for the leasing~~  
8 ~~or building, staffing, and operation of a home for juveniles.~~  
9 Should the county commission rescind or repeal the one percent  
10 sales tax the county commission enacted by Resolution  
11 #2017-046 on January 3, 2017, or should the collection of the  
12 one percent sales tax be discontinued for any reason, the  
13 percentages of the sales tax distributed to the general fund  
14 of the county and the Baldwin County Board of Education shall  
15 return to 40 percent for the general fund of the county and 55  
16 percent for the Baldwin County Board of Education, unless the  
17 county commission, in its sole authority and without further  
18 condition, levies and collects a one percent sales tax,  
19 exclusively for public school purposes, as a replacement, or  
20 the Baldwin County Board of Education consents to such action  
21 by the passage of a resolution."

22           Section 2. This act shall become effective on the  
23 first day of June 2018.