

1 HB609
2 152164-6
3 By Representatives McMillan, Shiver, Faust, Baker and Davis (N
4 & P)
5 RFD: Baldwin County Legislation
6 First Read: 11-APR-13

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ENROLLED, An Act,

Relating to Baldwin County and the Baldwin County Oil and Gas Severance Tax Trust Fund created by Act 89-959; to amend Section 45-2-245.20 of the Code of Alabama 1975, to authorize Baldwin County to borrow from the Baldwin County Oil and Gas Severance Tax Trust Fund and the trustees to loan the trust fund to Baldwin County.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 45-2-245.20 of the Code of Alabama 1975, is amended to read as follows:

"§45-2-245.20.

"(a) Any laws or parts of laws to the contrary notwithstanding, any annual privilege tax levied upon persons engaging in the business of producing or severing oil or gas or other hydrocarbons from the soil or waters of Baldwin County measured by the gross value of such oil or gas or other hydrocarbons and which tax is applicable only in Baldwin County and under which collections were being made on January 1, 1987, shall be continued and collected only as herein prescribed.

"(1) All revenues collected from such local severance taxes, shall, beginning the first day of the month following May 19, 1989, be paid into the general fund of the county exclusively for transfer and deposit into the trust

1 fund hereby established until the total sum of fifteen million
2 dollars (\$15,000,000) in severance tax revenues of the type
3 described in this section, excluding any interest income on
4 amounts deposited therein from such total sum, has been
5 deposited into such trust fund. Upon the deposit into the
6 trust fund of the county general fund of a total of fifteen
7 million dollars (\$15,000,000) in such severance tax revenues,
8 any local law authorizing or levying such tax, including,
9 without limitation, Act No. 2120, H. 2450, Regular Session
10 1971 (Acts 1971, Vol. V, p. 3399), shall stand repealed and no
11 further taxes shall be levied thereunder. Any such local oil
12 and gas severance tax revenues in excess of such fifteen
13 million dollars (\$15,000,000) amount collected in Baldwin
14 County after the time the total of such tax proceeds paid into
15 such trust fund established hereby for Baldwin County shall
16 reach fifteen million dollars (\$15,000,000), shall be refunded
17 as promptly as shall be reasonably practicable to the payers
18 thereof. ~~The~~ Except as is set forth below, the county
19 commission shall not be authorized to make any expenditure
20 from any monies composing the corpus of the trust fund so long
21 as it shall remain in existence. The trust fund shall be
22 designated as the "Baldwin County Oil and Gas Severance Tax
23 Trust Fund," and is hereinafter referred to as the "trust
24 fund."

1 "(2) Commencing with the first year in which the
2 trust fund provided for in this section shall receive deposits
3 as required hereunder, and in each year thereafter, the
4 Baldwin County Commission shall take steps to ensure that the
5 trust fund shall retain the total severance tax revenues paid
6 therein plus 10 percent of any net income or interest
7 generated by the investment of such severance tax revenues,
8 which sum shall be and become a part of the corpus of the
9 trust fund. A sum, not to exceed 90 percent of the net income
10 or interest thereby generated from the investments, shall be
11 distributed quarterly, semi-annually, or annually, as
12 designated by the trustees of the trust, to the General Fund
13 of Baldwin County for which the trust fund is established
14 pursuant to this section.

15 "(3) The county commission shall constitute the
16 trustees of the trust, provided, however, that the commission
17 may in its discretion appoint one or more trustees or escrow
18 agents for the trust, which trustees or escrow agents shall be
19 trust companies or national or state banks having powers of a
20 trust company within or without the State of Alabama. The
21 trustees shall invest the corpus of the trust only in direct
22 general obligations of, or obligations the payment of the
23 principal of and interest on which are unconditionally and
24 irrevocably guaranteed by the United States of America.
25 Provided, however, that notwithstanding any legal limitation

1 that might otherwise be applicable, the trustees shall further
2 have the authority in their discretion to invest such trust
3 fund in certificates of deposit of any savings and loan
4 associations or banks, whether federally or state chartered,
5 whose principal office is located in this state, provided that
6 such funds so invested are fully secured by pledges of
7 securities of the type described in the immediately preceding
8 sentence hereof. Provided, however, that notwithstanding any
9 legal limitation that might otherwise be applicable, the
10 trustees shall further have the authority in their discretion
11 to loan, in one transaction and one transaction only, all or
12 any part of the funds on deposit in the trust fund to Baldwin
13 County, and the Baldwin County Commission shall have the
14 authority in their discretion, in one transaction and one
15 transaction only, to borrow the funds from the trust fund and
16 shall be required to expend all funds so borrowed solely for
17 the purpose of encouraging, promoting, or assisting economic
18 and industrial development in Baldwin County including, but
19 not limited to, acquisition of property or projects or
20 financing or refinancing of new or existing projects, or for
21 the construction, maintenance, or repair of roads and bridges
22 within Baldwin County directly related to specific economic
23 and industrial development projects. Any loan by the trust
24 fund shall be a general obligation of Baldwin County, the
25 repayment of which shall be made in equal semi-annual

1 installments of principal and interest over a term not to
2 exceed 15 years from the date of the loan, at a rate of
3 interest equal to one percent more than the published market
4 rate payable on 10-year term U. S. Treasury Notes prevailing
5 on the date of the loan. Repaid principal funds may not be
6 borrowed a second time pursuant to this provision.

7 "(4) Upon the deposit into a trust fund established
8 pursuant to this section of the total sum of fifteen million
9 dollars (\$15,000,000) in severance tax revenues of the type
10 described in this section, excluding any interest as income in
11 such total sum, and the consequent repeal of the local law
12 authorizing or levying such tax, the Baldwin County Commission
13 shall be thereafter prohibited from levying or collecting,
14 directly or indirectly, any local county severance tax of the
15 type described in this section that was in existence prior to
16 January 1, 1987.

17 "(b) It is specifically provided that this section
18 shall not be construed to repeal or be in any way deemed
19 amendatory of any of the provisions of Article 1 of Chapter 20
20 of Title 40, as amended."

21 Section 2. This act shall become effective
22 immediately following its passage and approval by the
23 Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 23-APR-13, as amended.

Jeff Woodard
Clerk

Senate

20-MAY-13

Amended and Passed

House

20-MAY-13

Concurred in Sen-
ate Amendment