

1 HB766  
2 141021-4  
3 By Representative Vance (Constitutional Amendment)  
4 RFD: Local Legislation  
5 First Read: 01-MAY-12

1 ENGROSSED

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3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 To propose a local constitutional amendment relating  
9 to Russell County, to amend the Constitution of Alabama of  
10 1901, as amended; to levy an additional tax on cigarettes and  
11 provide for the distribution of the proceeds from the  
12 additional tax for the Russell County Historical Association,  
13 for each certified volunteer fire department in Russell  
14 County, for a joint economic development agency serving Phenix  
15 City and Russell County, for the General Fund of Phenix City,  
16 and for the General Fund of Russell County.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. The following amendment to the  
19 Constitution of Alabama of 1901, is proposed and shall become  
20 valid as a part of the Constitution when all requirements of  
21 this act are fulfilled:

22 PROPOSED AMENDMENT

23 (a) In addition to all other taxes of every kind  
24 imposed by law, there is hereby levied on every person, firm,  
25 corporation, club, or association in Russell County, who sells  
26 or stores or receives for the purpose of distribution to any  
27 person, firm, corporation, club, or association within Russell

1 County, cigarettes or any substitute therefor, a license or  
2 privilege tax in the amount of fifty cents (\$.50) on each pack  
3 of ~~20 or less~~ cigarettes.

4 (b) (1) It shall be unlawful for any dealer, storer,  
5 or distributor engaged in or continuing in the business in  
6 Russell County for which the tax is levied to fail or refuse  
7 to add to the sales price and collect from the purchaser the  
8 amount due on account of the tax herein provided, to refund or  
9 offer to refund all or any part of the amount collected or  
10 absorb, or advertise directly or indirectly the absorption of,  
11 the tax or any portion thereof. Any person, firm, corporation,  
12 club, or association violating this section shall be subject  
13 to a civil penalty of not less than twenty-five dollars (\$25)  
14 nor more than five hundred dollars (\$500). Each act in  
15 violation of this section shall constitute a separate  
16 violation.

17 (2) The State Department of Revenue or, as otherwise  
18 provided by resolution of the county commission, the Russell  
19 County Commission shall collect all taxes levied pursuant to  
20 this subsection at the same time and in the same manner as  
21 state tobacco taxes are collected.

22 (3) The tax levied herein shall be paid by affixing  
23 stamps that are required for the payment of the tax imposed by  
24 Sections 40-25-1 to 40-25-28, inclusive, of the Code of  
25 Alabama 1975.

26 (4) The department shall have the same duties  
27 relative to the preparation and sale of stamps to evidence the

1 payment of the tax that it has relative to the preparation and  
2 sale of stamps under Sections 40-25-1 to 40-25-28, inclusive,  
3 of the Code of Alabama 1975. The department may exercise the  
4 same powers and perform the same duties in the same manner  
5 relative to the collection of the tax levied herein that it  
6 does relative to the collection of the state tax.

7 (5) In accordance with subsection (g) of Section  
8 40-25-2 of the Code of Alabama 1975, in the event the  
9 aforementioned tobacco stamps are not available for affixing  
10 to tobacco product packages and containers, or by the  
11 authority of a duly promulgated regulation eliminating the  
12 requirement of affixing county tobacco stamps, the  
13 Commissioner of the Department of Revenue or the Russell  
14 County Commission may require a monthly report in lieu of  
15 stamps to report the amount of tax due. The monthly report  
16 shall be in a form approved by the commissioner and adopted by  
17 the department under the Alabama Administrative Procedure Act,  
18 Title 41, Chapter 22, of the Code of Alabama 1975.

19 (6) The department or the Russell County Commission  
20 may promulgate and enforce rules and regulations to effectuate  
21 the purposes of this act. All rules and regulations duly  
22 promulgated shall have the same force and effect of law.

23 (c) All laws, rules, and regulations of the  
24 department relating to the manner and time of payment of the  
25 tax levied by Sections 40-25-1 to 40-25-28, inclusive, of the  
26 Code of Alabama 1975, requiring reports from dealers shall

1 apply with equal force to the tax levied by this subsection as  
2 provided for in this subsection.

3 (d) The proceeds from the tax authorized by this  
4 amendment, less the amount or percentage of the actual cost of  
5 collection as may be agreed upon by the Commissioner of the  
6 Department of Revenue and the Russell County Commission, shall  
7 be deposited to the Russell County Commission for distribution  
8 each fiscal year on an annual basis as follows:

9 (1) The first two hundred fifty thousand dollars  
10 (\$250,000) to the Russell County Historical Association for  
11 the preservation and operation of the Fort Mitchell historical  
12 site.

13 (2) Twenty-five thousand dollars (\$25,000) to each  
14 certified volunteer fire department in Russell County.

15 (3) Five hundred thousand dollars (\$500,000) shall  
16 be allocated for funding a joint economic development agency  
17 to be established and operated jointly for Phenix City and  
18 Russell County. The funds shall be held in trust in the  
19 Treasury of Russell County until the joint economic  
20 development agency is established. The City of Phenix City and  
21 the Russell County Commission may by ordinance or resolution  
22 of their respective governing bodies take steps necessary to  
23 establish and provide for the operation of the joint economic  
24 development agency provided for herein.

25 (4) The balance equally to the General Fund of  
26 Phenix City and the General Fund of Russell County.

1           Section 2. An election upon the proposed amendment  
2 shall be held in accordance with Amendment 555 to the  
3 Constitution of Alabama of 1901, now appearing as Section  
4 284.01 of the Official ReCompilation of the Constitution of  
5 Alabama of 1901, as amended, and the election laws of this  
6 state.

7           Section 3. The appropriate election official shall  
8 assign a ballot number for the proposed constitutional  
9 amendment on the election ballot and shall set forth the  
10 following description of the substance or subject matter of  
11 the proposed constitutional amendment:

12                 "Relating to Russell County, proposing an amendment  
13 to the Constitution of Alabama of 1901, to levy an additional  
14 tax of fifty cents (\$.50) per pack on cigarettes and provide  
15 for the distribution of the proceeds from the additional tax  
16 to the Russell County Historical Association, certified  
17 volunteer fire departments in Russell County, a joint economic  
18 development agency for Phenix City and Russell County, the  
19 Phenix City General Fund, and the Russell County General Fund.

20                 "Proposed by Act \_\_\_\_\_."

21                 This description shall be followed by the following  
22 language:

23                 "Yes ( ) No ( )."

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Local Legisla-  
tion..... . . . . 01-MAY-12

Read for the second time and placed  
on the calendar..... . . . . 02-MAY-12

Read for the third time and passed  
as amended..... . . . . 08-MAY-12

Yeas 65, Nays 0, Abstains 17

Greg Pappas  
Clerk