

1 HB773
2 70888-8
3 By Representatives Davis, McMillan, Albritton, White and Faust
4 (N & P)
5 RFD: Local Legislation
6 First Read: 14-APR-05

ACT No. 2005-156

RECEIVED
MAY 5 2005
GOVERNOR'S LEGISLATIVE
OFFICE

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ENROLLED, An Act,

Relating to Baldwin County; to amend Section 5 of Act 2003-425 of the 2003 Second Special Session (Acts 2003, p. 1223), to provide further for the distribution of revenues from an existing tax on certain tobacco and tobacco products.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 5 of Act 2003-425, H. 27, Second Special Session (Acts 2003, p. 1223), is amended to read as follows:

"Section 5. The proceeds from the tax authorized, less the amount or percentage of the actual cost of collection as may be agreed upon by the Commissioner of the Department of Revenue and the Baldwin County Commission, shall be distributed to the Baldwin County Commission to be allocated on an annual basis for the remainder of the fiscal year in which this amendatory act becomes effective and for each fiscal year thereafter as follows:

"(a) The first eighty thousand dollars (\$80,000) of the funds or portion thereof received pursuant to this act shall be equally divided ~~to each rescue squad, as defined in Section 32-6-170, Code of Alabama 1975, operating in Baldwin County on the effective date of this act.~~ among the following rescue squads: Lower Alabama Search and Rescue, Inc., North Baldwin Sheriff's Search and Rescue, Inc., and Daphne Search

1 and Rescue, Inc. Any additional search and rescue squad
2 authorized by the county commission after the effective date
3 of this amendatory act shall be funded out of the county
4 treasury in an amount equal to the amount that each squad
5 existing on September 26, 2003, receives from the tobacco tax.

6 Each of the recipient rescue squads shall be a Baldwin County
7 recognized quasi-public entity, as defined in Act No. 84-498,
8 1984 Regular Session, a member and in good standing with the
9 Alabama Association of Rescue Squad, Inc Squads, Inc.

10 Notwithstanding the foregoing, any rescue squad receiving ad
11 valorem tax funds pursuant to Act No. 90-449, 1990 Regular
12 Session, shall be excluded from the distribution in this
13 section regardless of the other requirements being met.

14 Provided, however, after five years from ~~the effective date of~~
15 ~~this act,~~ September 26, 2003, the county commission may
16 equally distribute funds received to any additional certified
17 rescue squad established after ~~the effective date of this act~~
18 ~~as long as the rescue squads existing on the effective date of~~
19 ~~this act receive not less than thirty thousand dollars~~
20 ~~(\$30,000) per annum~~ September 26, 2003.

21 " (b) The next forty thousand dollars (\$40,000) of
22 the funds or portion thereof received pursuant to this act
23 shall be distributed to the Baldwin Abuse Network,
24 Incorporated, a nonprofit corporation/Southwest Alabama Abuse
25 Network, or successor thereto.

1 "(c) The remainder of the funds received pursuant to
2 this act shall be distributed to the office of the District
3 Attorney of Baldwin County.

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.

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Sam Hunt

Speaker of the House of Representatives

Lucy Baxley

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 21-APR-05, as amended.

Greg Pappas
Clerk

Senate

05-MAY-05

Passed

05/13/05
TIME *8:25 a.m.*
Bob Riley
GOVERNOR

Alabama Secretary Of State

Act Num....: 2005-156
Bill Num...: H-773

HB27

ACT No. 2003-425

60966-2

By Representatives McMillan, Albritton and Faust (N & P)

RFD: Local Legislation

First Read: 15-SEP-03

*Amended
by
Act 2005-156*



ENROLLED, An Act,

Relating to Baldwin County; providing for the levy, collection, and distribution of an additional tax on certain tobacco and tobacco products.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. There is hereby imposed on every person, firm, or corporation that sells, stores, delivers, uses, or otherwise consumes tobacco or tobacco products in Baldwin County, a county privilege, license, or excise tax in the following amounts:

(1) Five cents (\$0.05) for each sack, can, package, excluding cigarette packages, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which are prepared in such manner suitable for smoking in a pipe or cigarette.

(2) Five cents (\$0.05) for each sack, plug, package, or other container of chewing tobacco, which tobacco is prepared in such manner suitable for chewing only and not suitable for smoking as described in subdivision (3).

(3) Five cents (\$0.05) for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor.

(4) Eight cents (\$0.08) for each package of tobacco paper, both gummed and ungummed.

The privilege, license, or excise tax shall be in addition to all other taxes imposed by law and shall be collected in the same manner as other taxes on tobacco, except that when the license tax required by this act has been paid by a wholesaler or seller of the products, that payment shall be sufficient. The legislative intent is that the tax shall be paid only once on each package of chewing tobacco, snuff, and smoking tobacco of every description, and for each package of tobacco paper, whether gummed or ungummed.

Section 2. Every person, firm, corporation, club, or association that sells, stores, or receives, for the purpose of selling or storing in Baldwin County, any snuff and smoking tobacco products shall add the amount of the license or privilege tax levied and assessed to the price of the snuff and smoking tobacco products. It is the purpose and intent of this section that the tax levied is, in fact, a levy on the consumer with the person, firm, corporation, club, or association, that sells or stores or receives for the purpose of distributing the snuff and smoking tobacco products, acting merely as an agent for the collection of the tax. The dealer, storer, or distributor shall state the amount of the tax separately from the price of the snuff and smoking tobacco products, on all price display signs, sales or delivery slips,

bills, and statements which advertise or indicate the price of the snuff and smoking tobacco products.

Section 3. (a) It shall be unlawful for any dealer, storer, or distributor engaged in or continuing in the business in Baldwin County for which the tax is levied to fail or refuse to add to the sales price and collect from the purchaser the amount due on account of the tax herein provided, to refund or offer to refund all or any part of the amount collected or absorb, or advertise directly or indirectly, the absorption of the tax or any portion thereof. Any person, firm, corporation, club, or association violating this section shall be subject to a civil penalty of not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500). Each act in violation of this section shall constitute a separate offense.

(b) The State Department of Revenue or, as otherwise provided by resolution of the county commission, the Baldwin County Commission shall collect all taxes levied pursuant to this act at the same time and in the same manner as state tobacco taxes are collected.

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

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

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

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

(f) The department or the Baldwin County Commission may promulgate and enforce rules and regulations to effectuate the purposes of this act. All rules and regulations duly promulgated shall have the same force and effect of law.

Section 4. All laws, rules, and regulations of the department relating to the manner and time of payment of the tax levied by Sections 40-25-1 to 40-25-28, inclusive, Code of

Alabama 1975, requiring reports from dealers and prescribing penalties for violations shall apply with equal force to the tax levied by this act as provided for in this act.

Section 5. The proceeds from the tax authorized, less the amount or percentage of the actual cost of collection as may be agreed upon by the Commissioner of the Department of Revenue and the Baldwin County Commission, shall be distributed to the Baldwin County Commission to be allocated as follows:

(a) The first eighty thousand dollars (\$80,000) of the funds or portion thereof received pursuant to this act shall be equally divided to each rescue squad, as defined in Section 32-6-170, Code of Alabama 1975, operating in Baldwin County on the effective date of this act. Each of the recipient rescue squads shall be a Baldwin County recognized quasi-public entity, as defined in Act No. 84-498, 1984 Regular Session. Notwithstanding the foregoing, any rescue squad receiving ad valorem tax funds pursuant to Act No. 90-449, 1990 Regular Session, shall be excluded from the distribution in this section regardless of the other requirements being met. Provided, however, after five years from the effective date of this act, the county commission may equally distribute funds received to any additional certified rescue squad established after the effective date of this act as long as the rescue squads existing on the effective date of

this act receive not less than thirty thousand dollars (\$30,000) per annum.

(b) The next forty thousand dollars (\$40,000) of the funds or portion thereof received pursuant to this act shall be distributed to the Baldwin Abuse Network, Incorporated, a nonprofit corporation/Southwest Alabama Abuse Network, or successor thereto.

(c) The remainder of the funds received pursuant to this act shall be distributed to the office of the District Attorney of Baldwin County.

Section 6. This act shall not be construed to apply to snuff, smoking tobacco, and like tobacco products stored by a wholesale dealer for the purpose of resale or reshipment outside of the county which are actually resold or reshipped.

Section 7. This act shall become effective on the first day of the second month following its passage and approval by the Governor, or its otherwise becoming law.

Adm. / Am. 56

Speaker of the House of Representatives

Lucy Baxley

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 22-SEP-03, as amended.

Greg Pappas
Clerk

Senate	24-SEP-03	Amended and Passed
House	24-SEP-03	Concurred in Senate Amendment

APPROVED 9-26-03
 TIME 8:10 AM
[Signature]
 GOVERNOR

Alabama Secretary Of State

Act Num....: 2003-425
Bill Num...: H-27

Section 45-2-244.130

Levy of tax.

(a) There is hereby imposed on every person, firm, or corporation that sells, stores, delivers, uses, or otherwise consumes tobacco or tobacco products in Baldwin County, a county privilege, license, or excise tax in the following amounts:

(1) Five cents (\$0.05) for each sack, can, package, excluding cigarette packages, or other container of smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and other kinds and forms of tobacco which are prepared in such manner suitable for smoking in a pipe or cigarette.

(2) Five cents (\$0.05) for each sack, plug, package, or other container of chewing tobacco, which tobacco is prepared in such manner suitable for chewing only and not suitable for smoking as described in subdivision (3).

(3) Five cents (\$0.05) for each can, bottle, glass, tumbler, package, or other container of snuff made of tobacco or any substitute therefor.

(4) Eight cents (\$0.08) for each package of tobacco paper, both gummed and ungummed.

(b) The privilege, license, or excise tax shall be in addition to all other taxes imposed by law and shall be collected in the same manner as other taxes on tobacco, except that when the license tax required by this subpart has been paid by a wholesaler or seller of the products, that payment shall be sufficient. The legislative intent is that the tax shall be paid only once on each package of chewing tobacco, snuff, and smoking tobacco of every description, and for each package of tobacco paper, whether gummed or ungummed.

(Act 2003-425, 2nd Sp. Sess., p. 1223, §1.)

Section 45-2-244.134**Disposition of funds.**

The proceeds from the tax authorized, less the amount or percentage of the actual cost of collection as may be agreed upon by the Commissioner of the Department of Revenue and the Baldwin County Commission, shall be distributed to the Baldwin County Commission to be allocated on an annual basis for the remainder of the 2005 fiscal year, and for each fiscal year thereafter, as follows:

- (1) The first eighty thousand dollars (\$80,000) of the funds or portion thereof received pursuant to this subpart shall be equally divided among the following rescue squads: Lower Alabama Search and Rescue, Inc., North Baldwin Sheriff's Search and Rescue, Inc., and Daphne Search and Rescue, Inc. Any additional search and rescue squad authorized by the county commission after May 13, 2005, shall be funded out of the county treasury in an amount equal to the amount that each squad existing on September 26, 2003, receives from the tobacco tax. Each of the recipient rescue squads shall be a Baldwin County recognized quasi-public entity, as defined in Section 45-2-140.21, and a member in good standing with the Alabama Association of Rescue Squads, Inc. Notwithstanding the foregoing, any rescue squad receiving ad valorem tax funds pursuant to Section 45-2-242, shall be excluded from the distribution in this section regardless of the other requirements being met. Provided, however, after five years from September 26, 2003, the county commission may equally distribute funds received to any additional certified rescue squad established after September 26, 2003.
- (2) The next forty thousand dollars (\$40,000) of the funds or portion thereof received pursuant to this subpart shall be distributed to the Baldwin Abuse Network, Incorporated, a nonprofit corporation/Southwest Alabama Abuse Network, or successor thereto.
- (3) The remainder of the funds received pursuant to this subpart shall be distributed to the office of the District Attorney of Baldwin County.

(Act 2003-425, 2nd Sp. Sess., p. 1223, §4; Act 2005-156, p. 277, §1.)

BCC Reg. 4/18/2006

TO ECUMENICAL MINISTRIES, INCORPORATED, SUCH FUNDING ASSISTANCE TO BE USED EXCLUSIVELY BY ECUMENICAL MINISTRIES, INCORPORATED, TOWARD THEIR PROVISION OF SOCIAL SERVICE PROGRAMS WHICH BENEFIT WEAK SOCIOECONOMIC GROUPS IN BALDWIN COUNTY, ALABAMA, WITH SAID TOTAL FUNDING APPROPRIATION CONVEYED BY AND THROUGH THE REQUIRED "AGREEMENT," BETWEEN ECUMENICAL MINISTRIES, INCORPORATED AND THE BALDWIN COUNTY COMMISSION. UNANIMOUS.

CHANGE IN TOBACCO TAX DISTRIBUTION

The following action has been taken by the Commission regarding tobacco taxes:

Jan. 21, 2003 - Adopted Resolution # 2003-28, recognizing and approving North Baldwin Sheriff's Search & Rescue, Inc. and Lower Alabama Search & Rescue, Inc. as duly organized and established rescue squads or units per local Act Number 84-498, Acts of Alabama.

Oct. 21, 2003 - Adopted Resolution # 2004-19, recognizing and approving Daphne Search & Rescue Squad, Inc. as a duly organized and established rescue squad per local Act Number 84-498, Acts of Alabama.

Oct. 21, 2003 - Adopted Resolution # 2004-12, authorizing the Baldwin County Finance/Accounting Department to administer and collect all tobacco taxes levied by local Act Number 2003-425, Acts of Alabama.

Jan. 20, 2004 - Adopted Resolution # 2004-49, recognizing and approving South Baldwin Search & Rescue, Inc. as a duly organized and established rescue unit per local Act Number 84-498, Acts of Alabama.

The most recent expression of the Legislature regarding distribution of the County tobacco tax is Act Number 2005-156, Acts of Alabama, which provides "...The first eighty thousand dollars (\$80,000) of the funds or portion thereof received pursuant to this act shall be equally divided among...Lower Alabama Search and Rescue, Inc., North Baldwin Sheriff's Search and Rescue, Inc., and **Daphne Search and Rescue, Inc...**" and "...Each of the recipient rescue squads shall be a Baldwin County recognized quasi-public entity, as defined in Act No. 84-498, 1984 Regular Session, **a member and in good standing with the Alabama Association of Rescue Squads, Inc...**" (Emphasis added). Correspondence dated February 21, 2006, from the Alabama Association of Rescue Squads, Inc. states "...At this time Daphne Search & Rescue is no longer a member of the Alabama Association of Rescue Squads." The distribution of County tobacco tax to Daphne Search & Rescue Squad, Inc., should be discontinued for the period of time they are not a member and in good standing with the Alabama Association of Rescue Squads, Inc. LOCAL ACT NUMBER 84-498. Local Act Number 84-498, Acts of Alabama, (photocopy attached) authorizes the Baldwin County Commission to appropriate county money or equipment to duly organized and established search and rescue squads or units which are approved by the county commission. By action taken in regular sessions assembled January 21, 2003, October 21, 2003 and January 20, 2004, as noted above under Previous Commission Action, the Commission has recognized and approved four search and rescue squads or units in Baldwin County in accordance with Act Number 84-498, Acts; they are:

North Baldwin Sheriff's Search & Rescue, Inc.
Lower Alabama Search & Rescue, Inc.
Daphne Search & Rescue Squad, Inc.
South Baldwin Search & Rescue, Inc.

LOCAL ACT NUMBER 2003-425. Passage of local Act Number 2003-425, Acts of Alabama, (photocopy attached) provides a tobacco tax in Baldwin County as a funding

source for search and rescue squads that are: 1) operating in Baldwin County on the effective date of this act, [i.e., September 26, 2003], 2) a member of the Alabama Association of Rescue Squads, Inc., 3) recognized by the Baldwin County Commission in accordance with local Act Number 84-498, Acts, and 4) not receiving county ad valorem fire department tax funds pursuant to Act Number 90-449, Acts of Alabama.

When the Commission adopted the relevant resolution (Resolution 2004-12; photocopy attached) in regular session October 21, 2003 to self-collect the tobacco tax, only North Baldwin Sheriff's Search & Rescue, Inc. and Lower Alabama Search & Rescue, Inc. qualified to receive such tobacco tax funds. (Daphne was not a member of the Alabama Association of Rescue Squads, Inc. South Baldwin was not a member of the Alabama Association of Rescue Squads, Inc. and had not been recognized by the Baldwin County Commission in accordance with local Act Number 84-498, Acts).

Local Act Number 2003-425, Acts, provides a distribution of the tobacco tax funds as follows: 1) the first \$80,000 or portion thereof received in tobacco tax funds is to be equally divided to each qualifying rescue squad, 2) the next \$40,000 or portion thereof received is to be distributed to the Baldwin Abuse Network or successor, and 3) the remainder if any is to be distributed to the District Attorney of Baldwin County.

Legislators intended for the tobacco tax distribution provided in local Act Number 2003-425, Acts, to be on an annual basis, however the Act was flawed in that it did not provide for such annual distribution. Thus, as originally passed by the Legislature: 1) once rescue squads received distribution of the first \$80,000 in tobacco taxes, they would never receive such funds again, 2) the next \$40,000 in tobacco taxes would go to the Baldwin Abuse Network or successor, and once such \$40,000 was received by the Baldwin Abuse Network or successor, they would never receive such funds again, and 3) all tobacco taxes received over \$120,000 would be distributed indefinitely to the District Attorney of Baldwin County.

Distribution by the County under Act Number 2003-425, Acts, was:
 North Baldwin Sheriff's Search & Rescue, Inc. - \$40,000.00
 Lower Alabama Search & Rescue, Inc. - \$40,000.00
 Baldwin Abuse Network/Southwest Alabama Abuse Network - \$39,282.69

Legislators took corrective action to provide for annual distribution of County tobacco tax by passing local Act Number 2005-156, Acts of Alabama, which amended the original tobacco tax measure.

LOCAL ACT NUMBER 2005-126. Amendatory local Act Number 2005-156, Acts, (photocopy attached) provides for distribution of the county tobacco tax on an annual basis each fiscal year, and provides similar dollar distribution of the tax, but with a little bit different criteria, as follows: 1) the first \$80,000 of tobacco tax funds "...shall be equally divided among...Lower Alabama Search and Rescue, Inc., North Baldwin Sheriff's Search and Rescue, Inc., and Daphne Search and Rescue, Inc..." and further states "...Each of the recipient rescue squads shall be a Baldwin County recognized quasi-public entity, as defined in Act No. 84-498, 1984 Regular Session, a member and in good standing with the Alabama Association of Rescue Squads, Inc...", 2) the next \$40,000 of tobacco tax funds "...shall be distributed to the Baldwin Abuse Network, Incorporated, a nonprofit corporation/Southwest Alabama Abuse Network, or successor thereto...", and 3) the remainder of tobacco tax funds "...shall be distributed to the office of the District Attorney of Baldwin County..."

FY05 Distribution by the County under Act Number 2005-156, Acts, was:
 North Baldwin Sheriff's Search & Rescue, Inc. - \$15,113.99
 Lower Alabama Search & Rescue, Inc. - \$15,113.99
 Daphne Search & Rescue Squad, Inc. - \$15,113.99

FY06 Distribution to date by the County under Act Number 2005-156, Acts, has been:
 North Baldwin Sheriff's Search & Rescue, Inc. - \$11,850.25
 Lower Alabama Search & Rescue, Inc. - \$11,850.26
 Daphne Search & Rescue Squad, Inc. - \$11,850.25

Correspondence dated February 21, 2006, has been received from the Alabama Association of Rescue Squads, Inc. which states that Daphne Search & Rescue is no longer a member of the Alabama Association of Rescue Squads. Apparently, Daphne did not file periodic paperwork with the Association in a timely manner. Since Daphne is presently not a member of the Association as required by Act Number 2005-156, Acts, the distribution of County tobacco tax to Daphne Search & Rescue Squad, Inc., should be discontinued for the period of time they are not a member and in good standing with the Alabama Association of Rescue Squads, Inc. In a telephone conversation with the County Auditor, a representative of the Alabama Association of Rescue Squads said the minimum period of time that Daphne may not be a member of the Association will be February 1, 2006 through May 21, 2006.

MOTION BY COMMISSIONER BURT, SECONDED BY COMMISSIONER GRUENLOH, IN ACCORDANCE WITH ACT NUMBER 2003-425, ACTS OF ALABAMA, AS AMENDED BY ACT NUMBER 2005-156, ACTS, DISCONTINUE DISTRIBUTION OF COUNTY TOBACCO TAX TO THE DAPHNE SEARCH & RESCUE SQUAD, INC. FOR THE PERIOD THEY ARE NOT A MEMBER AND IN GOOD STANDING WITH THE ALABAMA ASSOCIATION OF RESCUE SQUADS, INC. UNANIMOUS.

DAPHNE SEARCH AND RESCUE UNIT, INC.

The prior Commission Recommendation (i.e. agenda item) references the discontinuance of tobacco tax funds authorized at Act No. 2003-425, as amended by Act No. 2005-156, to the Daphne Search & Rescue Unit, Inc. as a consequence of respecting the parameters set forth by said Baldwin County Local Acts.

During the April 11, 2006, Work Session, the Commission discussed the foregoing matter and was desirous toward assisting the Daphne Search & Rescue Unit with the loss of tobacco tax funds during the period of February-May, 2006, with said lost funds, instead, being provided by the Commission from another funding source and only for the above mentioned finite period. The Commission chose to make this funding appropriation from their respective Commission Contingency Funds to support the lifesaving pursuits of the Daphne Search & Rescue Unit.

For the period of February-May, 2006, the Clerk / Treasurer calculated the amount of lost tobacco funds for the Daphne Search & Rescue Unit to be approximately \$9,500; to make up for this loss, the Commissioners will, each, provide \$2,375 from their respective Commission Contingency Funds to make up for the loss of tobacco tax funding.

No "Agreement" is required for this total appropriation as the Daphne Search & Rescue Unit, as with all Baldwin County search & rescue units, is declared a quasi-public entity by a Baldwin County Local Act (i.e. Act No. 84-498) to be appropriated county money or equipment as authorized pursuant to *Resolution #2004-19 of the Baldwin County Commission* (adopted October 21, 2003 regular meeting).

MOTION BY COMMISSIONER BISHOP, SECONDED BY COMMISSIONER GRUENLOH THAT IN AN EFFORT TO ASSIST THE DAPHNE SEARCH & RESCUE UNIT, INC. WITH THE LOSS OF FUNDS PROVIDED FOR BY ACT NO. 2003-425, AS AMENDED BY ACT NO. 2005-156 APPLICABLE TO THE PERIOD OF FEBRUARY - MAY, 2006, AUTHORIZE THE FOLLOWING APPROPRIATIONS:

10/21/2003
BCC Reg. Mtg.

321

programs. Over the same period of time Youth Services has granted to the Commission \$100,000.00 per fiscal year towards its boot camp expenditures. Youth Services is granting \$100,000.00 to the Commission again this fiscal year.

MOTION BY COMMISSIONER BROWDY, SECONDED BY COMMISSIONER BISHOP TO AUTHORIZE THE CHAIRMAN TO EXECUTE THE CAMP GRANT AWARD AGREEMENT WITH THE STATE OF ALABAMA DEPARTMENT OF YOUTH SERVICES, WHICH PROVIDES \$100,000.00 TO THE COMMISSION THIS FISCAL YEAR FOR BALDWIN JUVENILES ORDERED INTO A BOOT CAMP PROGRAM BY THE JUVENILE JUDGE. FURTHER, AUTHORIZE THE CHAIRMAN TO EXECUTE THE GRANT-RELATED DISCLOSURE STATEMENT. UNANIMOUS.

RESOLUTION #2004-12

During the 2003 Second Special Session of the Legislature of Alabama, the Alabama Legislature adopted Act No. 2003-425 which provides for a legislative tax levy on certain tobacco products sold in Baldwin County, Alabama. The Commissioner was provided with a copy of Act No. 2003-425 in their agenda action form. Act No. 2003-425 becomes effective and, thus, should begin being collected on November 1, 2003.

In short, Act No. 2003-425 imposes a tax, in Baldwin County, on individual receptacles which hold smoking tobacco (i.e. such as pipe or cigarette tobacco) at \$.05 each, chewing tobacco at \$.05 each, snuff at \$.05 each and each package of tobacco paper at \$.08 each.

The funds generated by the tax are to be allocated, by the Baldwin County Commission, as set forth in the Act to Baldwin County search & rescue squads, the Baldwin Abuse Network and the Office of District Attorney of Baldwin County, in the order as just provided.

Further, Act No. 2003-425 provides that such tax can be collected by, either, the Alabama Department of Revenue or the Baldwin County Commission. If the Baldwin County Commission desires to collect this tax this county governing body must adopt a resolution in order to be properly authorized to accomplish said task. Further, should the Baldwin County Commission authorize such tax collection, Act No. 2003-425 provides that the Baldwin County Commission may use only the actual portion of the tax required for administration of the tax to, in essence, reimburse the Baldwin County Commission for only the actual costs associated with such administration and may promulgate and enforce rules to effect the purposes of the Act.

Pursuant to the direction of the Commission, staff has provided the proposed resolution to authorize the Baldwin County Commission to collect the taxes levied by Act No. 2003-425; furthermore, the actions taken today by the Commission will include informing the Alabama Department of Revenue of the adoption of such resolution, and authorizing the Finance/Accounting Department to take necessary administrative actions in required (i.e. purchase of more stamps, etc.).

Initially, Act No. 2003-425 provides for the distribution of taxes derived to search & rescue squads 1) as defined by Section 32-6-170, Code of Alabama 1975, 2) operating in Baldwin County of the effective day of this act [i.e. November 1, 2003], 3) remaining a quasi-public entity as defined in Act No. 84-498 and 4) who are not receiving ad valorem tax funds pursuant to Act No. 90-449.

As of the writing of this Commission Recommendation, there are only two (2) search & rescue squads in Baldwin County which meet the requirements of the Act: the North Baldwin Sheriff's Search and Rescue, Inc., & Lower Alabama Search and Rescue, Inc.

FURTHER, BE IT RESOLVED, that this Resolution in no way impugns or diminishes any authority, granted pursuant to Act No. 2003-425, of the Baldwin County Commission to promulgate and enforce rules or regulations to effectuate the purposes of Act No. 2003-425.

FURTHER, BE IT RESOLVED, that, as a courtesy, a copy of this resolution, duly executed, be forwarded to the Alabama Department of Revenue.

DONE, under the Seal of Baldwin County, Alabama, at the County Seat, in Bay Minette, Alabama, on this the 21st day of October, 2003.

s/s
Chairman Jonathan H. Armstrong
Baldwin County Commission

ATTEST:

s/s
Locke W. Williams, Clerk/Treasurer
Baldwin County Commission

2) INFORM THE ALABAMA DEPARTMENT OF REVENUE OF THE SAME.

3) AUTHORIZE THE BALDWIN COUNTY FINANCE/ACCOUNTING DEPARTMENT TO PROCURE THE NECESSARY ITEMS AND TAKE THE NECESSARY STEPS TO ADMINSTRATE COLLECTION OF ALL TAXES LEVIED BY ACT NO. 2003-425.

4) AUTHORIZE THE CHAIRMAN TO SIGN THE REQUIRED CORRESPONDENCE.

UNANIMOUS.

COOPER LAND DEVELOPMENT

On March 18, 2003, the Baldwin County Commission authorized the Chairman to sign a comment letter to the District Engineer, U.S. Corps of Engineers, Mobile District, regarding Public Notice No. A103-00285-H (i.e. Cooper Land Development Inc.).

On September 29, 2003, the Chairman received a letter from Ronald A. Krizman, Chief Regulatory Branch of the U.S. Army Corps of Engineers. This letter invited the Baldwin County Commission to participate in the preparation of the DEIS. Staff prepared a letter offering to participate in this process.

MOTION BY COMMISSIONER BROWDY, SECONDED BY COMMISSIONER PRICE TO AUTHORIZE THE CHAIRMAN'S SIGNATURE ON A LETTER TO THE U.S. ARMY CORPS OF ENGINEERS OFFERING TO PARTICIPATE AS A COOPERATING AGENCY FOR THE PREPARATION OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) TO ADDRESS THE POTENTIAL IMPACTS ASSOCIATED WITH CONSTRUCTION OF THE COOPER LAND DEVELOPMENT PROJECT LOCATED NEAR STOCKTON. UNANIMOUS.

CITY OF BAY MINETTE UTILITIES BOARD

A letter of request has been received from Mr. Harry Still, Jr. requesting the County's assistance in acquiring the hardware necessary for the upgrade of the utility billing software and hardware consistent and uniform for maintenance to be continued by the Baldwin County CIS Department.