

# OFFICE OF THE ATTORNEY GENERAL

83-00168



CHARLES A. GRADDICK  
ATTORNEY GENERAL  
STATE OF ALABAMA

FEB 1 1983

ADMINISTRATIVE BUILDING  
64 NORTH UNION STREET  
MONTGOMERY, ALABAMA 36130

(205) 832-5640  
HERBERT I. BURSON, JR.  
B. FRANK LOEB  
RON BOWDEN  
JOHN J. BRECKENRIDGE  
WILLIAM L. THOMPSON  
ASSISTANT ATTORNEYS GENERAL  
REVENUE DEPARTMENT

JAMES R. SOLOMON, JR.  
DEPUTY ATTORNEY GENERAL  
WILLIAM M. BEKURS, JR.  
EXECUTIVE ASSISTANT  
WALTER S. TURNER  
CHIEF ASSISTANT ATTORNEY GENERAL  
JANIE NOBLES  
ADMINISTRATIVE ASSISTANT

Honorable Bob Kirby  
Judge of Probate, Randolph County  
P. O. Box 249  
Wedowee, AL 36278

Sales Tax -- Counties -- Jails -- Courthouses

Neither § 11-14-10, nor § 11-14-14, nor § 11-14-11 of the Code of Alabama 1975 authorize a County Commission to levy a sales tax by simple resolution in order to construct and/or repair the jail or courthouse in that county, since all three sections refer to the levy of an ad valorem tax rather than a sales tax.

Dear Judge Kirby:

Reference is made to your letter of November 8, 1982, in which you ask the opinion of this office as to the following questions:

1. Does § 11-14-10 of the Code of Alabama give the County Commission authority to levy a sales tax by only a simple resolution in order to construct a jail or courthouse in that county?
2. Does § 11-14-14 of the Code of Alabama give the County Commission the authority to levy a sales tax by only a simple resolution in order to construct or repair the jail in that county?
3. Does § 11-14-11 of the Code of Alabama give the County Commission the authority to levy a sales tax by only a simple resolution in order to construct or repair the jail or courthouse in that county?

It is clear that § 11-14-11, Code of Alabama 1975, refers to ad valorem taxes to be levied by the County Commission. The use of the term "one-fourth of one percent per annum" contained in that section, and the reference to "special taxes authorized by Section 215 of the Constitution" make this conclusion unavoidable. "One-fourth of one percent per annum" is a term used to describe ad valorem taxes rather than sales taxes. Section 215 of the Constitution of Alabama of 1901 is a section dealing solely with ad valorem taxes. Therefore, § 11-14-11 of the Code of Alabama 1975 does not give the County Commission the authority to levy a sales tax, since it refers only to ad valorem taxes.

Sections 11-14-10 and 11-14-14 are not as clear as § 11-14-11 in specifying which tax they refer to. These sections, however, were both enacted in 1852. See Code of Alabama 1852, §§ 768 and 770. Since the sales tax was not enacted until 1939, see 1939 Ala. Acts, No. 18, P.16, §§ 11-14-10 and -14 could not have referred to the sales tax at the time they were passed. It is my opinion that these two sections also dealt with the ad valorem tax rather than another form of taxation, since the ad valorem tax was the usual method of generating revenue in the state at the time the sections were passed. At any rate, neither section could authorize the levy of a sales tax, since the sales tax did not exist at the time they were passed, and the intention of the Legislature could therefore not have been to authorize the levy of a non-existent tax.

I trust that the above is sufficient to answer your questions.

Sincerely,

CHARLES A. GRADDICK, Attorney General  
State of Alabama  
By-



MELISSA C. BOWEN  
Assistant Attorney General

MCB:jt