



Date: April 2, 2025

To: Representative Jennifer Fidler
State of Alabama
House of Representatives
District 94

From: Kevin S. Corcoran
President
Gulf Shores City BOE

Representative Fidler,

Thank you for taking time from your very busy schedule to respond to Baldwin County citizens that have expressed concern over the unfair distribution of the sales tax designated to Baldwin County Board of Education (BCBE). As president of the GSCS BOE, I am writing to provide clarification and perspective for many of the areas of concern that you expressed in your response to these citizens. I will do my best to address them in the order they were raised in your response.

First, you indicated the item that "...bothers me most" is the expenditure of time effort and funds spent in defense of the lawsuit filed in an attempt to correct this injustice of the unfair distribution of this tax. I would certainly think that any funds expended have been paid 20-fold over with the approximate \$10,000,000 that Baldwin County Board of Education has received as a result of this unfair tax.

Second, you are correct the Gulf Shores City Schools separated in 2019. However, no part of the written separation agreement addresses this disputed tax. In fact, litigation was the suggestion of the BCBE attorney, Scotty Lewis, in his letter dated January 7, 2019 to the State Superintendent, Dr. Erick Mackey. We exhausted non-litigious means to address this, and they were not fruitful. We are losing millions every year due to this injustice. Here is the relevant portion of that letter.

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4. Allocation of Taxes.

The BCBE recognizes that the proposed October 1, 2019 split date for countywide ad valorem is in accordance with applicable law. However, the State Superintendent does not have authority to divide countywide sales and use taxes on a date other than October 1. State Department guidance provided to all systems throughout Alabama sets the split of all local revenue as of October 1. The October 1 date coincides with the annual SDE notifications on percentage distributions of countywide taxes.

The two categories of taxes involved in this analysis are: (1) the "half-cent" sales tax levied pursuant to Section 45-2-244.077; and (2) all other countywide sales and use taxes.

In connection with the half-cent sales tax, the parties have been in agreement from the beginning of the split process that litigation would be required to address the claim of the GSBE that it is entitled to receive any portion of the half-cent sales tax. In the absence of a judicial determination to the contrary, the half-cent sales tax must continue to be paid to the "Baldwin County Board of Education" as dictated by the Alabama Legislature and as ruled on by the Alabama Attorney General (Opinion No. 2007-34), and used in accordance with the requirements contained in the law (to be used by the Baldwin County Board of Education "exclusively for capital improvements, capital construction, and maintenance purposes"). Should the State Superintendent attempt to unilaterally change the meaning and operation of the plain language of Section 45-2-244.077, such action would be in contravention of Alabama law and of no force or effect.

Third, you state that the Alabama Supreme Court "...upheld the apportionment of the taxes and funding". In my opinion, this is not entirely accurate. The ALSC ruled that it is not for the judicial branch to determine the proper apportionment of the tax revenue and that is a matter for the legislation. That's where we are today. Here is an excerpt from the 64-page ruling:

4 and § 16-13-31(b). As the circuit court acknowledged, it is not within the province of the courts to rewrite the local-tax act in order to

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redistribute to the Gulf Shores Board those tax proceeds collected pursuant to the local-tax act and earmarked for the Baldwin County Board. "In Alabama, legislation cannot originate with the judiciary." Ex parte Christopher, 145 So. 3d 60, 69 (Ala. 2013); see also Echols v. State, 24 Ala. App. 352, 353, 135 So. 410, 411 (1931) ("[C]ourts are without authority to add to or take from the written statutory law as passed by the Legislature and approved."). "[T]he judicial branch may not exercise the legislative ... power." Art. III, § 42(c), Ala. Const. 1901 (Off. Recomp.).

Fourth, in response to the cities' decisions to separate from the county system, once a city reaches a population of 5,000, it is a presumption as outlined by state law in AL Code 16-13-199. See below:

Section 16-13-199

Municipality may remain under county board of education; disposition of tax when city assumes control of schools.

When a municipality under the jurisdiction of a county board of education attains a population of 5,000 or more, according to the last decennial or any subsequent federal census, the schools of the municipality may remain under control of the county board by agreement between that board and the city council of the municipality, which agreement shall be expressed in resolutions adopted by and spread upon the minutes of the two authorities. If the municipality does not enter into such an

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agreement, the control of the school or schools of the territory within the municipality shall be vested in a city board of education, and thereafter the district school tax collected in the city shall be paid over to the custodian of city school funds, and the district school tax collected in the contiguous territory shall be paid over to the custodian of county school funds;

Fifth, I would like to address your concerns about the rural areas of the county and their students. While I admire your concern, let me share a few facts. Pursuant to AL Code 16-13-199As independently verified, BCBE receives 10's of millions of additional funds in State foundation funding as a direct result of the two cities forming city schools. More funding for fewer students is a win-win for BCBE. This disputed amount is approximately \$3,000,000 of the BCBE total annual budget of over \$762,000,000 (3/4 of a Billion \$'s).

The myth that County School Systems are harmed both financially and performance wise is simply not true. In the most recent state report card report, 17 of the top 20 (85%) county school districts are counties in which there are city schools within their county. BCBE is included in those top 20. So, county school systems actually perform at a higher level when they have city schools in the area. They have additional funds for fewer students and can concentrate their efforts on the performance of the students they do educate.

One additional point, While Senator Elliott is keeping his promise to revisit this tax after the five-year debt service obligation of BCBE, please note that 5-year period is in no way related to this disputed tax. The 5-year debt service payment was mandated by the State Superintendent due to the dilapidated condition of the Gulf Shores school campuses. Here is an excerpt from the separation agreement:

E. CAPITAL IMPROVEMENTS AT GULF SHORES SCHOOLS.

After review of the budgets and maintenance history of the Gulf Shores Schools, the COUNTY BOARD is providing to the CITY BOARD an amount equal to the cost of certain improvements the COUNTY BOARD had previously contemplated replacing or improving including but not limited to the roof of the High School Facilities, portable units, enclosed walk ways, HVAC and building expansions. In lieu of these improvements, the CITY BOARD has agreed to accept a discount to the payment of bond indebtedness for the first five years from the date of separation as specified in Section N.

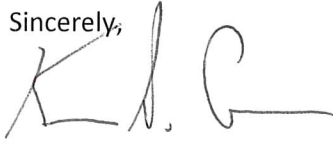
Ms. Fidler, in closing I would like to point out that this is a countywide tax that is collected in every square mile of Baldwin County, INCLUDING Gulf Shores and Orange Beach and it benefits every Baldwin County publicly educated student in Baldwin County EXCEPT for Gulf Shores and Orange Beach students. Gulf Shores and Orange Beach are in Baldwin County, and sales tax collected in the two municipalities account for approximately 20% of the countywide sales tax dollar. Even if Senator Elliott and Representative Holk-Jones proposed legislation were to pass, one out of every two sales tax dollars raised by this tax would still benefit BCBE. Nowhere else in the entire state of Alabama does an area within a county pay a sales tax to benefit public education and **not** receive their pro-rata share. Your letter mentions "...a fair solution for all students...". This is the fair and right thing to do.

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Please know that I am available for any further clarification or discussion at your earliest convenience.
Thank you for your service and dedication to the citizens of the great state of Alabama.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. S. Corcoran', written in a cursive style.

Kevin S. Corcoran

President

Gulf Shores City BOE

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