

1 SB488
2 110887-3
3 By Senators Coleman, Waggoner, Smitherman, and French (N & P)
4 RFD: Local Legislation No. 2
5 First Read: 10-MAR-09

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4 With Notice and Proof

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6 ENGROSSED

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9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to Jefferson County; to reenact Act 406 of
14 the 1967 Regular Session (Acts 1967, p. 1032), to authorize an
15 occupational tax in Jefferson County; to provide for the
16 distribution of the revenues received from the Jefferson
17 County occupational tax; and to expressly repeal Act 99-669,
18 1999 Second Special Session.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. This act shall apply only to Jefferson
21 County.

22 Section 2. As used in this act, the following words
23 and terms shall have the meanings ascribed to them:

24 (1) BUSINESS. Business, vocation, occupation,
25 calling, or profession.

26 (2) COUNTY. Jefferson County.

1 (3) COUNTY OCCUPATIONAL TAXES. The taxes generally
2 known as the Jefferson County Occupational Taxes levied
3 pursuant to the authority contained in Act No. 406 enacted at
4 the 1967 Regular Session of the Legislature (Acts 1967, p.
5 1032).

6 (4) GOVERNING BODY. The Jefferson County Commission.

7 Section 3. (a) The Legislature declares that the
8 purpose of this act is to authorize the county to continue to
9 levy and impose the county occupational taxes.

10 (b) The Legislature finds and determines the
11 following:

12 (1) Jefferson County has for over 20 years
13 continuously levied and collected the county occupational
14 taxes pursuant to Act No. 67-406.

15 (2) Act 99-669, enacted at the 1999 Special Session
16 of the Legislature (Acts 1999, p. 168) purported to repeal Act
17 No. 67-406, effective as of April 1, 2000.

18 (3) The repeal, however, never became effective
19 because Act 99-669 was held unconstitutional prior to April 1,
20 2000, in a final decision of the Circuit Court of Jefferson
21 County that was never appealed.

22 (4) Act 99-406, enacted at the 1999 Regular Session
23 of the Legislature (Acts 1999, p. 691), provided for the
24 superseding of the county occupational taxes in certain
25 events, but was held unconstitutional in a final decision of
26 the Circuit Court of Jefferson County that was also never
27 appealed.

1 (5) Act 2000-215, enacted at the 2000 Regular
2 Session of the Legislature (Acts 2000, p. 301), contained a
3 provision repealing Act No. 67-406, but it was declared
4 unconstitutional by the Supreme Court of Alabama.

5 (6) The result has been that the authorization for
6 the levy of the county occupational taxes pursuant to Act No.
7 67-406 has remained continuously in full force and effect
8 since its enactment and it remains and has been continuously
9 fully effective since its enactment, any provisions of Act
10 99-669, Act 99-406, and Act 2000-215 to the contrary
11 notwithstanding.

12 (c) The Legislature further finds and determines
13 that the continuing validity of Act No. 67-406 is presently
14 being challenged in court, which challenge has resulted in
15 significant uncertainty respecting, and disruption to, the
16 collection and use for the benefit of the public of the county
17 occupational taxes, all to the detriment of the county and its
18 citizens.

19 Section 4. (a) The governing body of the county is
20 authorized to levy a license or privilege tax pursuant to the
21 provisions of Act No. 67-406 upon any person for engaging in
22 any business in the county for which the person is not
23 otherwise required by law to pay any license or privilege tax
24 to the State of Alabama or the county by any of the following:
25 Chapter 12 of Title 40 and Sections 40-21-50, 40-21-51,
26 40-21-53, 40-21-54, 40-21-55, 40-21-58, 40-21-60, and 40-16-6,
27 of the Code of Alabama 1975, as amended. The tax shall

1 continue to be levied in the manner, at the rates and has
2 heretofore been determined by the governing body. All actions
3 of the governing body in continuously levying, collecting, and
4 enforcing the levy of the county occupational taxes pursuant
5 to Act No. 67-406, since the time of the initial levy thereof,
6 particularly from and after the enactment of Act 99-669, are
7 hereby ratified, validated, and confirmed.

8 Section 5. The tax hereby authorized to be levied
9 shall be paid to that officer or employee of the county
10 chargeable with the duty of collecting license or privilege
11 taxes payable to the county. All actions of the governing body
12 in continuously levying, collecting, and enforcing the levy of
13 the county occupational taxes pursuant to Act No. 67-406,
14 since the time of the initial levy thereof, particularly from
15 and after the enactment of Act 99-669, are hereby ratified,
16 validated, and confirmed.

17 Section 6. The authority of the governing body of
18 Jefferson County to levy or collect an occupational license
19 fee, or any similar fee or tax, on or from individuals is
20 limited as follows:

21 (1) No such fee or tax shall exceed one-half of one
22 percent of the amount of income, wage, or salary.

23 (2) No such fee or tax shall be increased without
24 the approval of the Legislature.

25 (3) No authorization to levy or collect any
26 occupational license fee, or similar tax or fee, is hereby

1 conferred. This act may not create an additional licensing or
2 taxing authority.

3 Section 7. The purpose of this act is to reenact Act
4 No. 67-406 and to clarify the validity of that act. So as to
5 avoid any confusion as to the uninterrupted validity of the
6 county occupational taxes and the continuous and continued
7 efficacy of Act No. 67-406, Act 99-406, Act 99-669, and Act
8 2000-215 are hereby expressly repealed, retroactive to their
9 respective dates of enactment. The Legislature further hereby
10 declares and provides that the repeal of the acts is intended
11 to be declarative of existing law owing to the
12 unconstitutionality of those acts, but without affecting any
13 accrued vested rights.

14 Section 8. This act is retroactive and curative to
15 November 29, 1999.

16 Section 9. The governing body shall distribute the
17 proceeds of the county occupational taxes authorized hereby
18 and pursuant to Act No. 67-406 to the county general fund.

19 Section 10. All laws or parts of laws which conflict
20 with this act are repealed, and Act 99-406, Act 99-669, and
21 Act 2000-215 are expressly repealed.

22 Section 11. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Local Legislation No. 2 10-MAR-09

Read for the second time and placed on the calen-
dar with 1 substitute and 16-APR-09

Read for the third time and passed as amended ... 21-APR-09

Yeas 13
Nays 5
Abstaining 6

McDowell Lee
Secretary