

HOUSE JOINT RESOLUTION 3

By Kelsey

A RESOLUTION to amend Article II, Section 28 of the Constitution of Tennessee relative to taxation of personal income or employer payroll.

WHEREAS, Article II, Section 28, of the Constitution of Tennessee currently prohibits the levying of a tax on any class of income other than income derived from stocks and bonds; and

WHEREAS, in 1932, in the case of Evans v. McCabe, 52 S.W.2d 159; once again in 1960, in the case of Jack Cole Co. v. MacFarland, 337 S.W.2d 453; and still again in 1964, in the case of Gallagher v. Butler, 378 S.W.2d 161; the Tennessee supreme court unanimously ruled that the general assembly lacks constitutional authority to levy a state tax on any class of income other than income derived from stocks and bonds; and

WHEREAS, the aforementioned decisions of the Tennessee supreme court have never been overruled; and

WHEREAS, clearly, the general assembly can neither exercise nor delegate authority it lacks; and

WHEREAS, any tax measured by an individual's earned income, an employee's salary, or an employer's payroll would be harmful to Tennesseans and is contrary to the longstanding public policy of this state and its political subdivisions; and

WHEREAS, by this resolution, the general assembly seeks to clarify the language by which the Constitution of Tennessee prohibits the levying of a tax on any class of income other than income derived from stocks and bonds; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED SIXTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that a majority of all the members of each house concurring, as shown by the yeas and nays entered on their journals, that it is proposed that Article II, Section 28 of the Constitution of the State of Tennessee be amended by deleting the following sentence:

The Legislature shall have power to levy a tax upon incomes derived from stocks and bonds that are not taxed ad valorem.

and by substituting instead the following:

Neither the state nor any of the counties, municipalities or political subdivisions shall levy any tax upon personal income or any tax measured by personal income, except that the Legislature may levy a tax upon incomes derived from stocks and bonds that are not taxed ad valorem. Neither the state nor any of the counties, municipalities or political subdivisions shall levy any tax upon payroll or any tax measured by payroll.

BE IT FURTHER RESOLVED, that the foregoing amendment be referred to the One Hundred Seventh General Assembly and that this resolution proposing such amendment be published in compliance with Article XI, Section 3 of the Constitution of Tennessee by means of posting this resolution on the official web site of the secretary of state and on the official web site of the general assembly.

BE IT FURTHER RESOLVED, that the clerk of the house of representatives is directed to deliver copies of this resolution to the secretary of state and to the director of the office of legislative information services.