

1 HB418  
2 147598-1  
3 By Representatives Collins and Hammon  
4 RFD: County and Municipal Government  
5 First Read: 07-MAR-13

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8 SYNOPSIS: Under existing law, a municipality has the  
9 power to issue annual business licenses, including  
10 the time for which they are to run, not exceeding  
11 one license year. "License year" is defined as a  
12 calendar year.

13 This bill would authorize a municipality to  
14 issue licenses for a period of 12 consecutive  
15 months on a basis other than a calendar year, if  
16 authorized by a local law enacted by the  
17 Legislature.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT

22  
23 To amend Section 11-51-90.1, Code of Alabama 1975,  
24 relating to the issuance of municipal business licenses, to  
25 authorize a municipality to issue licenses for a period of 12  
26 consecutive months on a basis other than a calendar year  
27 pursuant a local law is enacted by the Legislature.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. Section 11-51-90.1, Code of Alabama 1975,  
3 is amended to read as follows:

4 "§11-51-90.1.

5 "As used in this article, the following terms shall  
6 have the following meanings:

7 "(1) BUSINESS. Any commercial or industrial activity  
8 or any enterprise, trade, profession, occupation, or  
9 livelihood, including the lease or rental of residential or  
10 nonresidential real estate, whether or not carried on for gain  
11 or profit, and whether or not engaged in as a principal or as  
12 an independent contractor, which is engaged in, or caused to  
13 be engaged in, within a municipality.

14 "(2) BUSINESS LICENSE. An annual license issued by a  
15 taxing jurisdiction for the privilege of doing any kind of  
16 business, trade, profession, or any other activity in that  
17 jurisdiction, by whatever name called, which document is  
18 required to be conspicuously posted or displayed except to the  
19 extent the taxpayer's business license tax or other financial  
20 information is listed thereon or unless the municipality  
21 affirmatively elects not to so require. However, municipal  
22 occupational licenses, municipal gasoline taxes, municipal  
23 tobacco taxes, or gross receipts taxes in the nature of a  
24 sales tax, or any other municipal tax now in existence or that  
25 may hereafter be adopted by a municipality pursuant to Section  
26 11-51-90, or any other provision of state law other than an  
27 annual license, shall not be considered "business licenses."

1           "(3) BUSINESS LICENSE REMITTANCE FORM. Any business  
2 license return, renewal reminder notice, or other writing on  
3 which a taxpayer calculates its business license tax liability  
4 for all or part of the license year and remits the amount so  
5 calculated with the form.

6           "(4) DEPARTMENT or DEPARTMENT OF REVENUE. The  
7 Alabama Department of Revenue, as created under Section  
8 40-2-1, et seq.

9           "(5) DESIGNEE. An agent of a taxing jurisdiction  
10 authorized to administer or collect, or both, the  
11 jurisdiction's business license taxes, which may include  
12 another taxing jurisdiction, the Department of Revenue, or a  
13 "private auditing or collecting firm" as defined in Section  
14 40-2A-3.

15           "(6) GROSS RECEIPTS. A measure of any and all  
16 receipts of a business from whatever source derived, to the  
17 maximum extent permitted by applicable laws and constitutional  
18 provisions, to be used in calculating the amount due for a  
19 business license. Provided, however, that:

20           a. Gross receipts shall not include any of the  
21 following taxes collected by the business on behalf of any  
22 taxing jurisdiction or the federal government: All taxes which  
23 are imposed on the ultimate consumer, collected by the  
24 taxpayer, and remitted by or on behalf of the taxpayer to the  
25 taxing authority, whether state, local, or federal, including  
26 utility gross receipts taxes levied pursuant to Article 3,  
27 Chapter 21, Title 40; license taxes levied pursuant to Article

1 2, Chapter 21, Title 40; or reimbursements to professional  
2 employer organizations of federal, state, or local payroll  
3 taxes or unemployment insurance contributions; but no other  
4 deductions or exclusions from gross receipts shall be allowed  
5 except as provided in this article.

6 "b. A different basis for calculating the business  
7 license may be used by a municipality with respect to certain  
8 categories of taxpayers as prescribed in Section 11-51-90.2.

9 "c. For a utility or other entity described in  
10 Section 11-51-129, gross receipts shall be limited to the  
11 gross receipts derived from the retail furnishing of utility  
12 services within a municipality during the preceding year that  
13 are taxed under Article 3 of Chapter 21 of Title 40, except  
14 that nothing herein shall affect any existing contract or  
15 agreement between a municipality and a utility or other  
16 entity. The gross receipts derived from the furnishing of  
17 utility services shall not be subject to further business  
18 license taxation by a municipality.

19 "d. Gross receipts shall not include dividends or  
20 other distributions received by a corporation, or proceeds  
21 from borrowings, the sale of a capital asset, the repayment of  
22 the principal portion of a loan, the issuance of stock or  
23 other equity investments, or capital contributions, or the  
24 undistributed earnings of subsidiary entities.

25 "(7) LICENSE FORM. Any business license application  
26 form, renewal reminder notice, business license remittance  
27 form, or business license return by whatever name called.

1           "(8) LICENSE OFFICER or MUNICIPAL LICENSE OFFICER.  
2           The municipal employee charged by the governing body of the  
3           municipality with the primary responsibility of administering  
4           the municipality's license tax and related matters.

5           "(9) LICENSE YEAR. The A period of 12 consecutive  
6           months. Except as provided otherwise by local law, the term  
7           means a calendar year.

8           "(10) MUNICIPALITY. Any town or city in this state  
9           that levies a business license tax from time to time. The term  
10          shall also include the town's or city's police jurisdiction,  
11          where the business license tax is levied in the police  
12          jurisdiction.

13          "(11) PERSON. Any individual, association, estate,  
14          trust, partnership, limited liability company, corporation, or  
15          other entity of any kind, except for any nonprofit corporation  
16          formed under the laws of Alabama which is operated to enable  
17          municipalities that become members of such nonprofit  
18          corporation to finance or refinance capital projects and  
19          related undertakings, on a cooperative basis, and whose board  
20          of directors or other governing body consists primarily of  
21          elected officials of municipalities.

22          "(12) TAXING JURISDICTION. Any municipality that  
23          levies a business license tax, whether or not a business  
24          license tax is levied within its police jurisdiction, or the  
25          Department of Revenue acting as agent on behalf of a  
26          municipality pursuant to Section 11-51-180, et seq., as the  
27          context requires.

1           "(13) TAXPAYER. Any person subject to or liable  
2 under this chapter for any business license tax; any person  
3 required to file a return with respect to, or pay or remit the  
4 business license tax levied under this chapter or to report  
5 any information or value to the taxing jurisdiction; or any  
6 person required to obtain, or who holds any interest in, any  
7 business license issued by the taxing jurisdiction; or any  
8 person that may be affected by any act or refusal to act by  
9 the taxing jurisdiction under this chapter, or to keep any  
10 records required by this chapter.

11           "(14) U.S.C. The applicable title and section of the  
12 United States Code, as amended from time to time.

13           "(15) OTHER TERMS. Other capitalized or specialized  
14 terms used in Act 2006-586, and not defined above, shall have  
15 the same meanings ascribed to them in Section 40-2A-3 unless  
16 the context otherwise requires."

17           Section 2. This act shall become effective on the  
18 first day of the third month following its passage and  
19 approval by the Governor, or its otherwise becoming law.