

HOUSE JOINT RESOLUTION 35

By Casada

A RESOLUTION to amend Article II, Section 28 of the Constitution of Tennessee, to prohibit taxation upon payroll or earned personal income.

WHEREAS, this resolution shall be known as the "No State Income Tax" Amendment;
and

WHEREAS, not having a state income tax has brought jobs to Tennessee, and clarifying this prohibition will help Tennessee become the number one state in the southeast for high quality jobs; and

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 currently prohibits the levying of a tax on any class of income other than income derived from stocks and bonds; and

WHEREAS, Senate Joint Resolution No. 221 of the One Hundred Seventh General Assembly was considered and agreed to by a majority of all the members elected to each of the two houses, as shown by the yeas and nays entered on their journals; and

WHEREAS, on Sunday, May 6, 2012, Senate Joint Resolution No. 221 was published in compliance with Article XI, Section 3 of the Constitution of Tennessee; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE ONE HUNDRED EIGHTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that a two-thirds 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 Tennessee be amended by adding the following sentence at the end of the final substantive paragraph within the section:

Notwithstanding the authority to tax privileges or any other authority set forth in this Constitution, the Legislature shall not levy, authorize or otherwise permit any state or local tax upon payroll or earned personal income or any state or local tax measured by payroll or earned personal income; however, nothing contained herein shall be construed as prohibiting any tax in effect on January 1, 2011, or adjustment of the rate of such tax.

BE IT FURTHER RESOLVED, that the foregoing amendment shall be submitted to the people at the next general election in which a Governor is to be chosen, the same being the 2014 November general election, and the Secretary of State is directed to place such amendment on the ballot for that election.

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.