

AN ACT relating to county finance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 67.083 is amended to read as follows:

- (1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the General Assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.
- (2) The fiscal court of any county is hereby authorized to levy all taxes not in conflict with the Constitution and statutes of this state now or hereafter enacted. **Except that no license fee shall be imposed upon or collected from any:**
 - (a) Commercial entity engaged in surface mining operations as defined in KRS 350.010(1) or strip mining as defined in KRS 350.010(2);**
 - (b) Commercial entity that is a commercial mine as defined by KRS 351.010(1)(e);**
 - (c) Commercial entity that is a manufacturer of Mining and Machinery and Equipment Manufacturing as identified by North American Industry Classification Code of 333131; or**
 - (d) Commercial entity that can demonstrate that fifty percent (50%) of its retail or wholesale sales are to commercial entities described in paragraphs (a) to (c) of this subsection.**
- (3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky Constitution, the fiscal court of any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds, and employ personnel in performance of the following public functions:

- (a) Control of animals, and abatement of public nuisances;
- (b) Regulation of public gatherings;
- (c) Public sanitation and vector control;
- (d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;
- (e) Provision of corrections facilities and services, and programs for the confinement, care, and rehabilitation of juvenile law offenders;
- (f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums, and other recreational and cultural facilities and programs;
- (g) Provision of cemeteries and memorials;
- (h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation, and wildlife;
- (i) Control of floods;
- (j) Facilitating the construction and purchase of new and existing housing; causing the repair or demolition of structures which present a hazard to public health, safety, or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial, and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;
- (k) Planning, zoning, and subdivision control according to the provisions of KRS Chapter 100;
- (l) Adoption, by reference or in full, of technical codes governing new construction, renovation, or maintenance of structures intended for human occupancy;
- (m) Regulation of commerce for the protection and convenience of the public;
- (n) Regulation of the sale of alcoholic beverages according to the provisions of

- KRS Chapters 241 to 244;
- (o) Exclusive management of solid wastes by ordinance or contract or by both and disposition of abandoned vehicles;
 - (p) Provision of public buildings, including armories, necessary for the effective delivery of public services;
 - (q) Cooperation with other units of government and private agencies for the provision of public services, including, but not limited to, training, educational services, and cooperative extension service programs;
 - (r) Provision of water and sewage and garbage disposal service but not gas or electricity; including management of onsite sewage disposal systems;
 - (s) Licensing or franchising of cable television;
 - (t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, and enforcement of traffic and parking regulations;
 - (u) Provision of police and fire protection;
 - (v) Regulation of taxis, buses, and other passenger vehicles for hire;
 - (w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;
 - (x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions;
 - (y) Preservation of historic structures; and
 - (z) Regulation of establishments or commercial enterprises offering adult entertainment and adult entertainment activities.
- (4) The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to this section.
- (5) A county acting under authority of this section may assume, own, possess and

control assets, rights, and liabilities related to the functions and services of the county.

- (6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation:
 - (a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation;
 - (b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard;
 - (c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.
- (7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:
 - (a) Otherwise provided by statute; or
 - (b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance. The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor of each city in the county.
- (8) (a) The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. These powers, other than the power to tax, may be exercised cooperatively by two (2) or more counties, or by a county and a city, or by a county and a special district, or by a county and the state through, but not limited to, joint contracts, joint

ownership of property, or the exchange of services, including personnel and equipment. When counties cooperate in the provision of public services, contracts shall be drawn to document the benefits and relative cost for each of the participating governments. One (1) government may pay one hundred percent (100%), or a lesser percentage, of all or any part of the cost of the joint undertaking, based upon the written contract required by this subsection.

- (b) A permissive procedure authorized by this section shall not be deemed to be exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative or supplement thereto.
- (9) Any agency of county government exercising authority pursuant to subsection (3)(y) of this section shall, prior to exercising such authority, obtain the voluntary written consent of the owner of the structure. Consent may be obtained only after advising the owner in writing of any advantages and disadvantages to the owner which are likely to result from the exercise of such authority.

➔Section 2. KRS 68.180 is amended to read as follows:

- (1) The fiscal court of each county having a population of three hundred thousand (300,000) or more may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate not to exceed one and one-fourth percent (1.25%) of:
 - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county; and
 - (b) The net profits of businesses, trades, professions, or occupations from activities conducted in the county.

- (3) (a) No public service company that pays an ad valorem tax shall be required to pay a license tax.
- (b) 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to January 1, 2006.
2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services.
- (c) No license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, any savings and loan association, whether state or federally chartered.
- (d) No license tax shall be imposed upon income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training.
- (e) No license tax shall be imposed upon income received by precinct workers for

election training or work at election booths in state, county, and local primary, regular, or special elections.

- (f) No license tax shall be imposed upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor, or in other cases where the county is prohibited by law from imposing a license tax.

(g) No license fee shall be imposed upon or collected from any:

- 1. Commercial entity engaged in surface mining operations as defined in KRS 350.010(1) or strip mining as defined in KRS 350.010(2);**
- 2. Commercial entity that is a commercial mine as defined by KRS 351.010(1)(e);**
- 3. Commercial entity that is a manufacturer of Mining and Machinery and Equipment Manufacturing as identified by North American Industry Classification Code of 333131; or**
- 4. Commercial entity that can demonstrate that fifty percent (50%) of its retail or wholesale sales are to commercial entities described in subparagraphs 1. to 3. of this paragraph.**

- (4) The provisions and limitations of subsection (2) of this section shall not apply to license fees imposed for regulatory purposes as to form and amount, or to the license fees authorized by KRS 160.482 to 160.488.

- (5) Pursuant to this section, no fiscal court shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the county on salaries, wages, commissions, and other compensation earned for work done and services performed

or rendered.

➔Section 3. KRS 68.197 is amended to read as follows:

- (1) The fiscal court of each county having a population of thirty thousand (30,000) or more may by ordinance impose license fees on franchises, provide for licensing any business, trade, occupation, or profession, and the using, holding, or exhibiting of any animal, article, or other thing.
- (2) License fees on business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:
 - (a) Salaries, wages, commissions, and other compensation earned by persons within the county for work done and services performed or rendered in the county;
 - (b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses, or activities conducted in the county; and
 - (c) The net profits of corporations resulting from trades, professions, occupations, businesses, or activities conducted in the county.
- (3) In order to reduce administrative costs and minimize paperwork for employers, employees, and businesses, the fiscal court may provide:
 - (a) For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions, and other compensation earned within the county for work done and services performed or rendered in the county; and
 - (b) For an annual fixed amount license fee which an individual, partnership, professional association, joint venture, or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions, or occupations from activities

conducted in the county.

- (4) (a) Licenses imposed for regulatory purposes are not subject to limitations as to form and amount.
- (b) No public service company that pays an ad valorem tax is required to pay a license tax.
- (c) 1. It is the intent of the General Assembly to continue the exemption from local license fees and occupational taxes that existed on January 1, 2006, for providers of multichannel video programming services or communications services as defined in KRS 136.602 that were taxed under KRS 136.120 prior to the effective date of this section.
2. To further this intent, no company providing multichannel video programming services or communications services as defined in KRS 136.602 shall be required to pay a license tax. If only a portion of an entity's business is providing multichannel video programming services including products or services that are related to and provided in support of the multichannel video programming services or communications services, this exclusion applies only to that portion of the business that provides multichannel video programming services or communications services, including products or services that are related to and provided in support of the multichannel video programming services or communications services.
- (d) No license tax shall be imposed upon or collected from any insurance company except as provided in KRS 91A.080, bank, trust company, combined bank and trust company, combined trust, banking, and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license fee.

- (5) No license fee shall be imposed or collected on income received by members of the Kentucky National Guard for active duty training, unit training assemblies, and annual field training, or on income received by precinct workers for election training or work at election booths in state, county, and local primary, regular, or special elections, or upon any profits, earnings, or distributions of an investment fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any profits, earnings, or distributions would not be taxable to an individual investor.
- (6) **No license fee shall be imposed upon or collected from any:**
- (a) Commercial entity engaged in surface mining operations as defined in KRS 350.010(1) or strip mining as defined in KRS 350.010(2);**
- (b) Commercial entity that is a commercial mine as defined by KRS 351.010(1)(e);**
- (c) Commercial entity that is a manufacturer of Mining and Machinery and Equipment Manufacturing as identified by North American Industry Classification Code of 333131; or**
- (d) Commercial entity that can demonstrate that fifty percent (50%) of its retail or wholesale sales are to commercial entities described in paragraphs (a) to (c) of this subsection.**
- (7) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may, upon agreement between the county and the city, credit their city license fee against their county license fee. As used in this subsection, "city contained in the county" shall include a city that is in more than one (1) county.
- ~~(8)~~~~(7)~~ The provisions of subsection ~~(7)~~~~(6)~~ of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against

their county license fee. As used in this subsection, "city contained in the county" shall include a city that is in more than one (1) county.

~~(9)~~~~(8)~~ Notwithstanding any statute to the contrary, the provisions of subsection ~~(8)~~~~(7)~~ of this section shall apply as follows from March 14, 2012, through July 15, 2014:

- (a) Any set-off or credit of city license fees against county license fees that exists between a city and county as of March 15, 2012, shall remain in effect as it is on March 15, 2012; and
- (b) The provisions of subsection ~~(8)~~~~(7)~~ of this section shall not apply to a city and county unless both the city and the county have both levied and are collecting license fees on March 15, 2012.

~~(10)~~~~(9)~~ A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

~~(11)~~~~(10)~~ Notwithstanding any statute to the contrary:

- (a) In those counties where a license fee has been authorized by a public question approved by the voters, there shall be no credit of a city license fee against a county license fee except by agreement between the county and the city in accordance with subsection ~~(7)~~~~(6)~~ of this section;
- (b) Notwithstanding any provision of the KRS to the contrary, no taxpayer shall be refunded or credited for any overpayment of a license tax paid to any county to the extent the overpayment is attributable to or derives from this section as it existed at any time subsequent to July 15, 1986, and the taxpayer seeks a credit for a license tax paid to a city located within such county, if such refund claim or amended tax return claim was filed or perfected after November 18, 2004, except by agreement between the city and county in accordance with subsection ~~(7)~~~~(6)~~ of this section;

- (c) In those counties where a license fee has been authorized by a public question approved by the voters, the percentage rate of the license fee in effect on January 1, 2005, and any maximum salary limit upon which the license fee is calculated shall remain unchanged for subsequent fiscal years. A percentage rate higher than the percentage rate in effect on January 1, 2005, or any change in the maximum salary limit upon which a license fee is calculated shall be prohibited unless approved by the voters at a public referendum. The percentage rate of a license fee in such counties shall at no time exceed one percent (1%). Any question to be placed before the voters as a result of this paragraph shall be placed on the ballot at a regular election or nominating primary.
- (d) This subsection shall have retroactive application; and
- (e) If any provision of this subsection or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or application of this section that can be given effect without the invalid provision or application, and to this end the provisions of this subsection are severable.

~~(12)~~~~(11)~~ Pursuant to this section, no fiscal court shall regulate any aspect of the manner in which any duly ordained, commissioned, or denominationally licensed minister of religion may perform his or her duties and activities as a minister of religion. Duly ordained, commissioned, or denominationally licensed ministers of religion shall be subject to the same license fees imposed on others in the county on salaries, wages, commissions, and other compensation earned for work done and services performed or rendered.

➔Section 4. KRS 68.199 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 68.197~~(8)~~~~(7)~~, a county that enacts an occupational license fee under the authority of KRS 67.083 prior to attaining a

population of thirty thousand (30,000) shall not be required to allow a credit against the county occupational license fee for an occupational license fee paid to a city within the county when it is determined that the population of the county exceeds thirty thousand (30,000).

- (2) If prior to July 15, 2002, a county voluntarily granted a credit against the county occupational license fee under the terms of an ordinance, interlocal agreement, or other agreement with a city, the county shall not eliminate the credit after it is determined that the population of the county exceeds thirty thousand (30,000).
- (3) After July 15, 2002, a county that enacts a new county occupational license fee or increases a county occupational license fee, after it is determined that the county population exceeds thirty thousand (30,000), shall be required to allow the credit against the city fee required by KRS 68.197(8)~~[(7)]~~ to the extent of the increase or new fee.
- (4) For purposes of this section, the county population shall be determined based only on the official decennial census by the United States Bureau of the Census.

➔Section 5. Whereas coal mining is critical to the economy of the Commonwealth and the health of the national economy an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.