

## EXECUTIVE ORDER NUMBER 31

**WHEREAS**, it is critical to small businesses as well as multi-state companies doing business in Alabama that ways be found to reduce the number of licenses that must be purchased both initially and annually, to reduce red-tape and paperwork burdens, and to create greater uniformity in the business license codes of the municipalities and in the business license statutes of the state, and

**WHEREAS**, there must be a cooperative effort between the business community and the various taxing authorities regarding the feasibility of creating a procedure by which a business need file only one sales, use, rental and lodgings tax return each month or each quarter, together with one check payable either to the Department of Revenue or an independent financial institution as authorized agent, together with expedited distribution of the tax funds to all municipalities and counties levying these taxes.

**NOW, THEREFORE**, I, Fob James, Jr., Governor of the State of Alabama, by the authority vested in me by the Constitution and laws of the state, for these reasons and for other good and valid consideration, do hereby direct that:

(1) There is created a special commission to be known as the "Alabama Business License Study Commission" (hereinafter called the "Commission"), to have the powers and duties set forth below. Except as provided in Section (2) below, the Commission shall consist of twelve members, to be selected as follows:

a. Three members shall be appointed by the Governor, one of whom shall be a member of the Alabama business community.

b. One member shall be appointed by the Lieutenant Governor, who shall be a member of the Alabama business community.

c. One member shall be appointed by the Speaker of the House of Representatives, who shall be a member of the Alabama business community.

d. One member shall be appointed by the Commissioner of the Department of Revenue.

e. One member shall be appointed by the Alabama State Bar Association, who shall be a member of the Tax Section of that Association.

f. One member shall be appointed by the Alabama League of Municipalities.

g. One member shall be appointed by the Association of County Commissions of Alabama.

h. One member shall be appointed by the Alabama Municipal Revenue Officers Association, who shall be a member of that Association.

i. One member shall be appointed by the Alabama Society of Certified Public Accountants, who shall be a member of the State Taxation Committee of the Society.

j. One member shall be appointed by the County Revenue Officers Association of Alabama, who shall be a member of that Association.

(2) These appointments shall be made by the individual or entity entitled to make each appointment by designating the appointee(s) to the Commissioner of the Department of Revenue (hereinafter called the "Commissioner of Revenue") on or before May 30, 1997. A copy of all appointments shall be filed with the Governor's Office of Business Advocacy (hereinafter called "this office"). If an individual or entity entitled to make one or more appointments fails to do so within the time prescribed, that individual or entity shall forfeit the right to appoint such member(s). Thereafter, the Commission shall continue in existence, but with fewer members. Each appointee shall file written notice of his or her acceptance with the Commissioner of

Revenue, with a copy of such notice to this office. If a member of the Commission dies, resigns or otherwise is unable to serve at any time, or is removed by the Chairman of the Commission, the individual or entity who originally appointed that member shall be entitled to appoint a successor, which appointment shall be made by a writing designating the successor appointee to the Chairman of the Commission, with a copy of such designation to this office. Such appointment shall be effective upon receipt by the Chairman of the Commission of the written acceptance of the successor appointee. A copy of the written acceptance of the substitute member shall be filed by such member with this office. A member of the Commission shall not be subject to removal except for failure to attend three consecutive meetings of the Commission.

(3) The Commission shall hold its initial organizational meeting on a date no earlier than 21 days following the date of issuance of this Order but on or before July 1, 1997, and at such place in the City of Montgomery, as shall be designated by the Commissioner of Revenue through written notice of each member of the Commission who has then been designated.

(4) The Commission shall be empowered to select a chairman, vice chairman, and such other officers as it shall deem appropriate from time to time from its membership, and shall appoint a secretary who may, but need not be, a member of the Commission. The Commission shall adopt such rules, regulations and procedures for the conduct of its hearings, its committee meetings and other business of the Commission, as the Commission shall best determine. In adopting reports, making recommendations, determining the holding of public hearings, and in all other matters requiring Commission approval, the Commission shall act only by a majority vote

of its members present at a meeting thereof at which a quorum is present. For this purpose, a quorum shall consist of a majority of the members of the Commission then serving.

(5) The Commission is directed to study and evaluate the following issues, laws, proposals, and policies of the Department of Revenue and municipal and county governments:

- a. The entire state, county and municipal business license tax structure, including the classification of various businesses;
- b. Differing classifications of the same business from city to city or from state to city;
- c. The use of a gross receipts-based business license with respect to companies that merely deliver goods into a taxing jurisdiction;
- d. The double taxation of gross receipts;
- e. Conforming the statute of limitations for assessments and for refunds, and providing for a variable rate of interest, tied to the Department of Revenue interest rate, on assessments and refunds;
- f. Whether certain businesses are subject to the municipal business license;
- g. Conforming business license assessment and appeal procedures to those applicable to sales and use tax assessments and appeal procedures, whenever practicable;
- h. Creating a consolidated return procedure for the reporting and remittance of all municipal and county sales, use, rental and lodgings taxes on one return, to one entity, and the expedited distribution of the collected funds to the appropriate municipalities and counties by electronic means; and
- i. Determining what should be a retailer's local sales or use tax filing obligations in the case of sales of products across municipal or county lines involving either the retailer's own delivery vehicle or a common carrier, and methods to simplify those obligations while increasing taxpayer compliance; and
- j. The appropriate rates imposed for the issuance of various county licenses.

**BE IT FURTHER ORDERED** that the Commission, as it deems necessary, shall conduct such research as it deems necessary to compare and evaluate Alabama's business license structure with that of other states, including recent changes in the comparable systems of Virginia and Georgia. The Commission shall seek the assistance of the Public Affairs Research Council of Alabama in performing its research and in formulating its recommendations. The Commission shall make such recommendations, as it deems appropriate, for a business license tax policy structure and sales, use, rental and lodgings tax reporting procedures for the State of Alabama and all counties and municipalities that shall be equitable, shall provide adequate funding for necessary functions of state and local governments, shall impose a minimum burden on taxpayers, and shall be designed to make the business environment in the State of Alabama competitive with other states in the region. The Commission shall produce written comparisons, analyses, recommendations and, if it deems appropriate, proposed legislation. Those comparisons, analyses, recommendations, and proposed legislation shall be distributed by U.S. mail or hand delivery to this office and to each member of the Legislature at least 14 days prior to the first day of the Regular Session of the 1998 Legislature. Such comparisons, analyses, recommendations, and proposed legislation shall also be disseminated to the news media on the same date.

**BE IT FURTHER ORDERED** that the Commission may create and appoint such special committees as it may deem necessary or appropriate to perform the duties required to be performed by it under the provisions of this Act. The chairman of each such special committee shall be selected by the Commission. Each special committee shall be composed of members of the Commission and shall be subject to the jurisdiction and control of, and shall report

directly to, the Commission. Both the Commission and any special committee created and appointed hereunder shall be authorized to conduct public hearings at such times and at such places as the Commission or such committee shall determine to be necessary or appropriate. In the Commission's discretion, transcripts of any such hearing shall be maintained and copies made available to the public upon payment of such reasonable fees as the Commission may prescribe. Public hearings of the Commission shall be attended by no less than five members of the Commission. Public hearings of any special committee shall be attended by no less than two members of the special committee.

**BE IT FURTHER ORDERED** that all departments and agencies of state government, including the Department of Revenue, shall provide the Commission, without charge, with such technical assistance, information, services, and such other support as the Commission shall request.

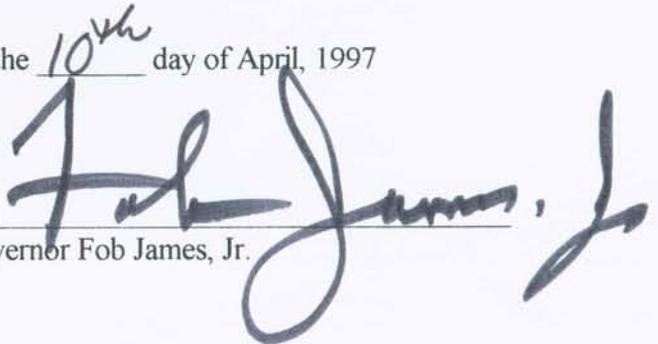
**BE IT FURTHER ORDERED** that the Department of Revenue and each county and municipal government is hereby authorized and requested to furnish to the Commission such information and data as to enable the Commission to perform its tasks hereunder; provided, however, that in no event shall this Executive Order be construed to authorize or request the Department of Revenue to disclose any information with respect to any specific taxpayer that it would otherwise be precluded from disclosing.

**BE IT FURTHER ORDERED** that the Commission shall continue in existence until the last day of the 1998 Regular Session of the Alabama Legislature to offer such advice and

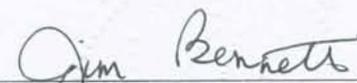
services as may be appropriate for implementation of any legislation recommended by the Commission.

**BE IT FURTHER ORDERED** that members of the Commission shall serve without compensation.

**DONE AND ORDERED** on this the 10<sup>th</sup> day of April, 1997

  
Governor Fob James, Jr.

ATTEST:

  
  
Secretary of State  
Jim Bennett