

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Regulated Industries Committee

BILL: CS/SB 1022

SPONSOR: Community Affairs Committee and Senator Rich

SUBJECT: Local Occupational License Taxes

DATE: April 17, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Herrin</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Favorable</u>
3.	_____	_____	<u>GE</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The committee substitute (CS) provides a window for municipalities that adopted an occupational license tax ordinance between October 1, 1995, and October 1, 2006, to reclassify businesses, professions, and occupations and to establish new rate structures if certain conditions are met. Also, a local government is authorized to decrease or eliminate an occupational license tax.

This CS substantially amends section 205.0535, Florida Statutes.

II. Present Situation:

Currently, the method for adopting an occupational license tax ordinance, revising the rate structure of such a tax, or reclassifying occupations within the tax structure are dependent on both the date of the adoption of the tax and the statute it was adopted under.

Currently, municipalities wishing to revise their rate structure and classification must do so under s. 205.043, F.S., or adopt a new ordinance under s. 205.0315, F.S.

Section 205.043, F.S., includes no provisions for altering classifications other than requiring that they be “reasonable” and “uniform throughout any class”. Rate structure revisions have been permitted under this section since October 1, 1980, however the increases are limited by the following percentages:

- For taxes under \$100, a 100% increase is permitted,
- For taxes between \$101 and \$300, a 50% increase is permitted,
- For taxes over \$300, a 25% increase is permitted, and

- Since October 1, 1982, for taxes levied a graduated or per unit rates, the increase may not exceed 25%.

Section 205.0315, F.S., requires that new ordinances must be based on the ordinances of adjacent local governments which adopted their ordinances under s. 205.0535, F.S. If no such government exists then the ordinance may be based on the ordinance of a jurisdiction of comparable population which adopted its ordinance under s. 205.0535, F.S.

Current law does not explicitly grant counties and municipalities the authority to decrease or eliminate occupational license taxes. The Attorney General's Office has advised a number of jurisdictions that in the absence of such authority, no decrease or elimination is possible. In a recent opinion, the Attorney General writes:

On several occasions, this office has addressed the authority of a municipality to alter its occupational license tax ordinance, through the exemption of certain categories of occupations or businesses or by decreasing the rates for a particular classification. In the absence of legislative authorization, this office has determined that no such alteration may be made. Given the number of instances where local governments have sought to make such alterations, it may be advisable to seek legislative changes to provide the necessary authority.¹

III. Effect of Proposed Changes:

Section 1 amends s. 205.0535, F.S., to allow a municipality that adopted an occupational license tax ordinance between October 1, 1995, and October 1, 2006, to reclassify businesses, professions, and occupations and to establish new rate structures if certain conditions are met. The CS also provides specific statutory authority for a local government to decrease or eliminate an occupational license tax.

Section 2 provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ Attorney General Opinion 2002-81.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This CS allows local governments that adopted an occupational license tax ordinance during a specified period to reclassify entities subject to the tax and to restructure the rates if certain conditions are met. This could result in an increase in an occupational license tax. However, such an increase is subject to the limitations in s. 205.0535 (3) and (4), F.S.

It also grants local governments the authority to decrease or eliminate local occupational license taxes.

C. Government Sector Impact:

This CS gives certain local governments flexibility to revise the classifications and rate structure of a local occupational license tax. It also provides the authority to reduce or eliminate those taxes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
