

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 373 CS

Local Occupational License Taxes

SPONSOR(S): Goldstein

TIED BILLS:

IDEN./SIM. BILLS: SB 1022

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	8 Y, 0 N, w/CS	Monroe	Diez-Arguelles
2) Local Government Council			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

The committee substitute allows a municipality which adopted its local occupational license tax ordinance after October 1, 1995, to revise its current rate structure or classification in accordance with the provisions on s. 205.0535, F.S., before October 1, 2006. This revision method allows a municipality more flexibility to revise its local occupational license tax rate structure and classifications than is possible under current law. In addition, this committee substitute would allow newly formed municipalities an opportunity to adopt a local occupational license tax ordinance under the provisions of s. 205.0535, F.S.

Finally, this committee substitute provides specific authority for counties and municipalities to decrease or eliminate local occupational license taxes.

The bill has an effective date of upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – This bill provides authority for municipalities and counties to lower or eliminate local occupational license taxes. As such, this bill should result in lower occupational license taxes for some taxpayers.

B. EFFECT OF PROPOSED CHANGES:

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.

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Under section 205.0535, F.S., the municipality or county may adopt revisions to classification and rate structure, after forming an equity study commission to make recommendations on the changes, providing that no increase in either the cost of an individual license nor the revenue from the tax as a whole exceed the limitation described in that section. Thereafter taxes may be increased by up to 5% per year upon the vote of a majority plus one of the governing body.

Finally, the committee substitute grants counties and municipalities the authority to decrease or eliminate occupational license taxes. Currently, the statute does not explicitly grant that authority and 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 AGO 2002-81, 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.

C. SECTION DIRECTORY:

Section 1: Amends section 205.0535, F.S., to allow municipalities which have adopted an occupational license tax ordinance since 1995 to reclassify businesses, professions, and occupations, and establish new rate structure under the provision of that section.

Section 2: Provides that the bill shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill will give municipalities and counties more flexibility to adopt or revise local occupational license taxes, including the ability to reduce or eliminate those taxes.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill will grant municipalities and counties the authority to eliminate or reduce local occupational license taxes. As such, some taxpayers may see a reduction in or elimination of these taxes.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2005, the Committee on Finance and Tax adopted as strike everything amendment to the bill, which substantially limited the scope of the bill. The strike everything was then adopted as a committee substitute. The committee substitute:

- Allows a municipality which adopted its ordinance after October 1, 1995, to revise its current rate structure or classification in accordance with the provisions on s. 205.0535, F.S., before October 1, 2006, and
- Grants counties and municipalities the authority to decrease or eliminate occupational license taxes.

As originally drafted, the bill would have:

- Allowed counties and municipalities wishing to adopt a license tax ordinance to choose to base their ordinances on the ordinances of any adjacent local governments or governments that have a comparable population. Currently, s. 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.,
- Eliminated the restrictions on rate revisions which apply to municipalities that adopted an occupational license tax under a statute other than s. 205.0535, F.S., or s. 205.0315, F.S.,
- Moved language regarding local exchange telephone services to promote clarity,
- Allowed any county or municipality to revise their current rate structure or classification in accordance with the provisions on s. 205.0535, F.S., and
- Granted counties and municipalities the authority to decrease or eliminate occupational license taxes.