

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: SB 1592

INTRODUCER: Senators Rich and Garcia

SUBJECT: Local Occupational License Taxes

DATE: March 16, 2006

REVISED: _____

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

I. Summary:

The bill provides a window for municipalities that adopted an occupational license tax ordinance between October 1, 1995, and October 1, 2007, 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 bill amends section 205.0535 of the 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:¹

- For taxes under \$100, a 100-percent increase is permitted,

¹ Section 205.043(1)(b), F.S. The limitations are based on the amount of the increase above the license tax rate levied on October 1, 1971.

- For taxes between \$101 and \$300, a 50-percent increase is permitted,
- For taxes over \$300, a 25-percent increase is permitted, and
- Since October 1, 1982, for taxes levied at graduated or per unit rates, the increase may not exceed 25 percent.

Section 205.0315, F.S., requires that ordinances adopted after October, 1, 1995 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 or the local government finds that the rate structure or classifications of the adjacent jurisdiction are unreasonable, then the local government may base its ordinance on that of a jurisdiction of comparable population which adopted an ordinance under s. 205.0535, F.S.

Section 205.0535, F.S., allowed local governments that had adopted an occupational license tax ordinance to reclassify businesses, professions, and occupations and to establish new rate structures before October 1, 1995. The procedures for revising the classifications and rate structure included requiring a local government to establish an equity study commission (commission) before adopting a reclassification or revision ordinance. Members of the commission represented the business community and the commission recommended a classification system and rate structure for local occupational license taxes to the appropriate local government.² After consideration of the commission's recommendations, the local government had the authority to adopt, by majority vote, a new occupational license tax ordinance. There were, however, statutory limitations on the amount of the increase.³ If a local government established the commission and adopted a rate structure consistent with s. 205.0535(2) and (3), F.S., the local government has the authority to increase the rates of local occupational license taxes by up to 5 percent every other year by ordinance if approved by a majority plus one of the governing body.⁴

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 alterations 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.⁵

² Section 205.0535(2), F.S.

³ Section 205.0535(3), F.S.

⁴ Section 205.0535(4), F.S.

⁵ 81 Op. Att'y Gen. 3-4 (2002).

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, 2007, to reclassify businesses, professions, and occupations and to establish new rate structures if certain conditions are met. These conditions include the establishment of an equity commission to recommend a classification system and rate structure, and the adoption of a new occupational license tax ordinance, by majority vote, which complies with statutory rate increase limitations.

This bill also provides specific statutory authority for a local government to decrease or eliminate an occupational license tax.

Section 2 provides 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.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill 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 bill 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.

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

VIII. Summary of Amendments:

None.

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