

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 891 Local Occupational License Taxes
SPONSOR(S): Goldstein and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1822

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council		Camechis	Hamby
2) Finance & Tax Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

This bill allows a municipality that adopted a local occupational license tax ordinance after October 1, 1995, to revise its current tax rate or classification structure before October 1, 2006 under an alternative revision method. If a municipality wishes to revise its local occupational license tax ordinance as authorized by this bill, the municipality must first appoint an equity study commission to make recommendations to the municipality's governing body regarding rate and classification structure revisions. Members of the study commission must be representatives of the business community within the city's jurisdiction. A reclassification may not increase an occupational license tax by more than the following:

- For licenses costing \$150 or less, 200 percent;
- For licenses costing more than \$150 but not more than \$500, 100 percent;
- For licenses costing more than \$500 but not more than \$2,500, 75 percent;
- For licenses costing more than \$2,500 but not more than \$10,000, 50 percent; and
- For licenses costing more than \$10,000, 10 percent.

However, a municipal occupational license tax may not be increased by more than \$5,000, nor may revenues generated by the new rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. If a municipality revises its occupational license tax ordinance prior to October 1, 2006, license taxes may be increased by up to 5 percent each subsequent year if approved by a majority plus one of the municipal governing body.

The bill also clarifies that counties and municipalities may decrease or repeal occupational license taxes.

This bill does not appear to have a fiscal impact on state government, and will have a fiscal impact on those counties or cities that choose to revise their occupational license tax rates or classifications.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provides for Lower Taxes – This bill provides authority for municipalities to revise current occupational license tax ordinances that were adopted after October 1, 1995. The bill also permits municipalities and counties to lower or eliminate local occupational license taxes. Therefore, this bill may result in lower or higher occupational license taxes for some taxpayers depending on the actions of the local governments.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 205.0535, F.S., authorized counties and municipalities to revise occupational license tax ordinances prior to October 1, 1995. In order for a county or municipality to reclassify businesses, professions, or occupations and establish new rate structures under this section, the municipality or county had to first establish an equity study commission composed of representatives of the business community within the local government's jurisdiction. The equity study commission was required to recommend a classification system and rate structure for local occupational license taxes. The local government was authorized to adopt by majority vote a new occupational license tax ordinance after considering the equity study commission recommendation. A reclassification could not increase the occupational license tax by more than the following:

- For licenses costing \$150 or less, 200 percent;
- For licenses costing more than \$150 but not more than \$500, 100 percent;
- For licenses costing more than \$500 but not more than \$2,500, 75 percent;
- For licenses costing more than \$2,500 but not more than \$10,000, 50 percent; and
- For licenses costing more than \$10,000, 10 percent.

However, in no case could a license tax be increased by more than \$5,000 nor could the revenues generated by the new tax rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. The revenue base is the sum of the occupational license tax revenue generated by licenses issued for the most recently completed local fiscal year or the amount of revenue that would have been generated from the authorized increases under s. 205.043(1)(b), F.S., whichever is greater, plus any revenue received from the county under s. 205.033(4), F.S.

If a municipality or county revised its occupational license tax ordinance prior to October 1, 1995, license taxes may be increased each subsequent year by up to 5 percent if approved by a majority plus one of the municipal governing body.

Unless a municipality revised its rate or classification structure in accordance with s. 205.0535, F.S., prior to October 1, 1995, or adopted a new occupational license tax ordinance under s. 205.0315, F.S., an occupational license tax levied under s. 205.043, F.S., may not exceed the rate in effect for the year beginning October 1, 1971. Section 205.043, F.S., requires revisions to existing classifications to be "reasonable" and "uniform throughout any class". In addition, the amount of the increase above the license tax rate levied on October 1, 1971, is limited as follows:

- 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
- For taxes levied at a graduated or per unit rates, a 25% increase is permitted.

Beginning October 1, 1995, a county or municipality that has not adopted an occupational license tax ordinance or resolution may do so under s. 205.0315, F.S. The occupational license tax rate structure and classifications in the adopted ordinance must be reasonable and based upon the rate structure and classifications prescribed in ordinances adopted by adjacent local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S. If no adjacent local government has done so, or if the governing body of the county or municipality finds that the rate structures or classifications of adjacent local governments are unreasonable, the rate structure or classifications prescribed in its ordinance may be based upon those prescribed in ordinances adopted by local governments that adopted an ordinance prior to October 1, 1995 under s. 205.0535, F.S., in counties or municipalities that have a comparable population.

Effect of Proposed Changes

This bill amends s. 205.0535, F.S., to allow a municipality that adopted a local occupational license tax ordinance after October 1, 1995 to revise its current tax rate or classification structure before October 1, 2006 under an alternative revision method. If a municipality wishes to revise its local occupational license tax ordinance as authorized by this bill, the municipality must follow the same procedures that applied to revisions of rate and classification structures made prior to October 1, 1995 under s. 205.0535, F.S. Under those procedures, a municipality must first appoint an equity study commission to make recommendations to the municipality's governing body regarding rate and classification structure revisions. Members of the study commission must be representatives of the business community within the local government's jurisdiction. A reclassification adopted by a municipality pursuant to this bill may not increase an occupational license tax by more than the following:

- For licenses costing \$150 or less, 200 percent;
- For licenses costing more than \$150 but not more than \$500, 100 percent;
- For licenses costing more than \$500 but not more than \$2,500, 75 percent;
- For licenses costing more than \$2,500 but not more than \$10,000, 50 percent; and
- For licenses costing more than \$10,000, 10 percent.

However, a municipal occupational license tax may not increase by more than \$5,000, nor may revenues generated by the new rate structure exceed the sum of the revenue base plus 10 percent of that revenue base. If a municipality revises its occupational license tax ordinance prior to October 1, 2006, license taxes may be increased by up to 5 percent each subsequent year if approved by a majority plus one of the municipal governing body.

The bill also grants counties and municipalities authority to decrease taxes. Currently, the statute does not explicitly grant such 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.

Lastly, the bill specifies that nothing in ch. 205, F.S., may be construed to prohibit a municipality or county from decreasing or repealing any license tax authorized under that chapter.

C. SECTION DIRECTORY:

Section 1. Amends section 205.0535, F.S., to allow municipalities that adopted an occupational license tax ordinance after October 1, 1995 to reclassify businesses, professions, and occupations,

and establish new rate structure under the provision of that section prior to October 1, 2006; allows municipalities and counties to decrease or repeal license tax rates.

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 more flexibility to revise local occupational license taxes, including the ability to increase, reduce, or eliminate those taxes.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: This bill grants 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. The bill also allows municipalities to revise their current license tax or classification structure in a manner that may result in an increase of license taxes for some taxpayers.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY: This bill does not amend or grant rule making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

Not applicable.