

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure 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:

Present Situation

Section 205.0535, F.S., authorized municipalities and counties to revise occupational license tax ordinances prior to October 1, 1995. In order for a municipality or county 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 about the license tax rate levied on October 1, 1971, is limited as follows:

- For taxes under \$100, a 100 percent increase is permitted;
- For taxes between \$101 and \$300, a 50 percent increase is permitted;
- For taxes over \$300, a 25 percent increase is permitted; and
- For taxes levied at a graduated per unit rate, a 25 percent increase is permitted.

Beginning October 1, 1995, a municipality or county 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 municipality or county finds that the rate structure or classifications of adjacent 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, 2007 under an alternative revision method. If a municipality must follow the same procedures that applied to revisions of rate and classification structures made prior to October 1, 1995 under s. 295.0535, 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, 2007, 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.

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 s. 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 a new rate structure prior to October 1, 2007; allows counties and municipalities to decrease or repeal occupational license tax rates.

Section 2. Provides that this 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 reduce or eliminate local occupational license taxes. As such, some taxpayers may see a reduction in or elimination of these taxes. The bill also allows some 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 cities or counties to spend funds or take 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 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.

D. STATEMENT OF THE SPONSOR

At the present time there are around 30 municipalities in the State of Florida that are unable to revise their occupational license tax rate or the classification structure due to the year of the city being incorporated. Florida Statute Section 205.0535 authorized counties and municipalities to revise their occupational license tax rate or classification structure by ordinance or resolution, if such revision was done prior to October 1, 1995. If a county or city had not adopted an ordinance or resolution by said date the tax structure and classifications must be based on an adjacent municipality that had done so prior to 10/1/95. House Bill 135 remedies this injustice by allowing these municipalities to revise their current tax rate or classification structure if they choose to do so by October 1, 2007. Besides curing this injustice that these municipalities and their businesses faced the bill will provide the municipalities with the ability to lower or eliminate local occupational license taxes. The end result very possibly could and should be lower taxes for the businesses within that municipality. The staff analysis states that the bill does not appear to have a fiscal impact on state government, and will have a fiscal impact on those cities or counties that choose to revise their occupational license tax rates or classifications.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES