

1 A bill to be entitled
2 An act relating to local business taxes; amending s.
3 11.40, F.S.; conforming provisions to changes made by
4 the act; amending s. 11.45, F.S.; requiring the
5 Auditor General to contact certain local governments;
6 requiring such local government provide specified
7 evidence within a certain time period; requiring
8 notification to the Legislative Auditing Committee in
9 specified circumstances; amending s. 205.0315, F.S.;
10 authorizing specified entities to continue to levy a
11 certain tax; prohibiting the repeal or modification of
12 certain ordinances beginning a date certain; providing
13 an exception; amending ss. 205.033 and 205.043, F.S.;
14 revising the conditions imposed on taxing authorities
15 governing the levy of a specified tax; amending s.
16 205.0535, F.S.; providing definitions; prohibiting
17 reclassification of businesses subject to a specified
18 tax rate; prohibiting the revenue generated from a
19 certain tax from exceeding a specified value;
20 requiring specified actions be taken in event of a
21 violation of such prohibition; providing
22 applicability; amending s. 205.0536, F.S.; conforming
23 provisions to changes made by the act; amending s.
24 205.046, F.S.; requiring a specified document be filed
25 with a certain audit; providing requirements for such

26 | document; amending ss. 215.97, 218.32, and 489.537,
 27 | F.S.; conforming a cross-reference; providing an
 28 | effective date.

30 | Be It Enacted by the Legislature of the State of Florida:

32 | Section 1. Subsection (2) of section 11.40, Florida
 33 | Statutes, is amended to read:

34 | 11.40 Legislative Auditing Committee.—

35 | (2) Following notification by the Auditor General, the
 36 | Department of Financial Services, the Division of Bond Finance
 37 | of the State Board of Administration, the Governor or his or her
 38 | designee, or the Commissioner of Education or his or her
 39 | designee of the failure of a local governmental entity, district
 40 | school board, charter school, or charter technical career center
 41 | to comply with the applicable provisions within s. 11.45(5)-(7),
 42 | s. 205.0535, s. 218.32(1), s. 218.38, or s. 218.503(3), the
 43 | Legislative Auditing Committee may schedule a hearing to
 44 | determine if the entity should be subject to further state
 45 | action. If the committee determines that the entity should be
 46 | subject to further state action, the committee shall:

47 | (a) In the case of a local governmental entity or district
 48 | school board, direct the Department of Revenue and the
 49 | Department of Financial Services to withhold any funds not
 50 | pledged for bond debt service satisfaction which are payable to

51 such entity until the entity complies with the law. The
52 committee shall specify the date that such action must begin,
53 and the directive must be received by the Department of Revenue
54 and the Department of Financial Services 30 days before the date
55 of the distribution mandated by law. The Department of Revenue
56 and the Department of Financial Services may implement this
57 paragraph.

58 (b) In the case of a special district created by:

59 1. A special act, notify the President of the Senate, the
60 Speaker of the House of Representatives, the standing committees
61 of the Senate and the House of Representatives charged with
62 special district oversight as determined by the presiding
63 officers of each respective chamber, the legislators who
64 represent a portion of the geographical jurisdiction of the
65 special district, and the Department of Economic Opportunity
66 that the special district has failed to comply with the law.
67 Upon receipt of notification, the Department of Economic
68 Opportunity shall proceed pursuant to s. 189.062 or s. 189.067.
69 If the special district remains in noncompliance after the
70 process set forth in s. 189.0651, or if a public hearing is not
71 held, the Legislative Auditing Committee may request the
72 department to proceed pursuant to s. 189.067(3).

73 2. A local ordinance, notify the chair or equivalent of
74 the local general-purpose government pursuant to s. 189.0652 and
75 the Department of Economic Opportunity that the special district

76 | has failed to comply with the law. Upon receipt of notification,
 77 | the department shall proceed pursuant to s. 189.062 or s.
 78 | 189.067. If the special district remains in noncompliance after
 79 | the process set forth in s. 189.0652, or if a public hearing is
 80 | not held, the Legislative Auditing Committee may request the
 81 | department to proceed pursuant to s. 189.067(3).

82 | 3. Any manner other than a special act or local ordinance,
 83 | notify the Department of Economic Opportunity that the special
 84 | district has failed to comply with the law. Upon receipt of
 85 | notification, the department shall proceed pursuant to s.
 86 | 189.062 or s. 189.067(3).

87 | (c) In the case of a charter school or charter technical
 88 | career center, notify the appropriate sponsoring entity, which
 89 | may terminate the charter pursuant to ss. 1002.33 and 1002.34.

90 | Section 2. Paragraphs (d) through (j) of subsection (7) of
 91 | section 11.45, Florida Statutes, are redesignated as paragraphs
 92 | (e) through (k), respectively, and a new paragraph (d) is added
 93 | to that subsection, to read:

94 | 11.45 Definitions; duties; authorities; reports; rules.—

95 | (7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

96 | (d) During the Auditor General's review of audit reports,
 97 | he or she shall contact each local government which is not in
 98 | compliance with s. 205.0535, and request evidence of corrective
 99 | action. The local government shall provide the Auditor General
 100 | with evidence of the initiation of corrective action within 45

101 days after the date the corrective action is requested by the
 102 Auditor General and evidence of completion of corrective action
 103 within 180 days after the date the corrective action is
 104 requested by the Auditor General. If the local government fails
 105 to comply with the Auditor General's request or is unable to
 106 take corrective action within the required timeframe, the
 107 Auditor General shall notify the Legislative Auditing Committee.

108 Section 3. Section 205.0315, Florida Statutes, is amended
 109 to read:

110 205.0315 Ordinance adopted before ~~adoption after~~ October
 111 1, 2024 ~~1995~~.—Beginning October 1, 2024 ~~1995~~, a county or
 112 municipality that has ~~not~~ adopted a business tax ordinance or
 113 resolution under this chapter before July 1, 2024, may not
 114 increase or otherwise modify the tax rate structure or
 115 classification in such ~~adopt a~~ business tax ordinance, except as
 116 provided in s. 205.0535. However, ~~the~~ business tax rate
 117 structure and classifications in the adopted ordinance may be
 118 repealed ~~must be reasonable and based upon the rate structure~~
 119 ~~and classifications prescribed in ordinances adopted by adjacent~~
 120 ~~local governments that have implemented s. 205.0535. If no~~
 121 ~~adjacent local government has implemented s. 205.0535, or if the~~
 122 ~~governing body of the county or municipality finds that the rate~~
 123 ~~structures or classifications of adjacent local governments are~~
 124 ~~unreasonable, the rate structure or classifications prescribed~~
 125 ~~in its ordinance may be based upon those prescribed in~~

126 ~~ordinances adopted by local governments that have implemented s.~~
 127 ~~205.0535 in counties or municipalities that have a comparable~~
 128 ~~population.~~

129 Section 4. Paragraph (b) of subsection (1), subsections
 130 (4) and (5), and paragraph (a) of subsection (6) of section
 131 205.033, Florida Statutes, are amended to read:

132 205.033 Conditions for levy; counties.—

133 (1) The following conditions are imposed on the authority
 134 of a county governing body to levy a business tax:

135 (b) ~~Unless the county implements s. 205.0535 or adopts a~~
 136 ~~new business tax ordinance under s. 205.0315,~~ A business tax
 137 levied under this subsection may not exceed the rate ~~provided by~~
 138 ~~this chapter~~ in effect for the year beginning October 1, 2023
 139 ~~1971~~; however, beginning October 1, 2024 ~~1980~~, the county
 140 governing body must decrease ~~may increase~~ business taxes
 141 authorized by this chapter as provided in s. 205.0535. ~~The~~
 142 ~~amount of the increase above the tax rate levied on October 1,~~
 143 ~~1971, for taxes levied at a flat rate may be up to 100 percent~~
 144 ~~for business taxes that are \$100 or less; 50 percent for~~
 145 ~~business taxes that are between \$101 and \$300; and 25 percent~~
 146 ~~for business taxes that are more than \$300. Beginning October 1,~~
 147 ~~1982, the increase may not exceed 25 percent for taxes levied at~~
 148 ~~graduated or per unit rates. Authority to increase business~~
 149 ~~taxes does not apply to licenses or receipts granted to any~~
 150 ~~utility franchised by the county for which a franchise fee is~~

151 ~~paid.~~

152 (4) The revenues derived from the business tax, exclusive
 153 of the costs of collection and any credit given for municipal
 154 business taxes, shall be apportioned between the unincorporated
 155 area of the county and the incorporated municipalities located
 156 therein by a ratio derived by dividing their respective
 157 populations by the population of the county. This subsection
 158 does not apply to counties that ~~have~~ established a new rate
 159 structure under s. 205.0535 before October 1, 2024.

160 (5) The revenues so apportioned shall be sent to the
 161 governing authority of each municipality, according to its
 162 ratio, and to the governing authority of the county, according
 163 to the ratio of the unincorporated area, within 15 days
 164 following the month of receipt. This subsection does not apply
 165 to counties that ~~have~~ established a new rate structure under s.
 166 205.0535 before October 1, 2024.

167 (6)(a) Each county, as defined in s. 125.011(1), or any
 168 county adjacent thereto may levy and collect, by an ordinance
 169 enacted by the governing body of the county, an additional
 170 business tax up to 50 percent of the appropriate business tax
 171 imposed under subsection (1); however, beginning October 1,
 172 2024, such business tax must be decreased as provided in s.
 173 205.0535.

174 Section 5. Paragraph (b) of subsection (1) of section
 175 205.043, Florida Statutes, is amended to read:

176 205.043 Conditions for levy; municipalities.-

177 (1) The following conditions are imposed on the authority
178 of a municipal governing body to levy a business tax:

179 (b) ~~Unless the municipality implements s. 205.0535 or~~
180 ~~adopts a new business tax ordinance under s. 205.0315, A~~
181 business tax levied under this subsection may not exceed the
182 rate in effect in the municipality for the year beginning
183 October 1, 2023. ~~1971; however, Beginning October 1, 2024~~ ~~1980,~~
184 the municipal governing body must decrease ~~may increase~~ business
185 taxes authorized by this chapter as provided in s. 205.0535. ~~The~~
186 ~~amount of the increase above the tax rate levied on October 1,~~
187 ~~1971, for taxes levied at a flat rate may be up to 100 percent~~
188 ~~for business taxes that are \$100 or less; 50 percent for~~
189 ~~business taxes that are between \$101 and \$300; and 25 percent~~
190 ~~for business taxes that are more than \$300. Beginning October 1,~~
191 ~~1982, an increase may not exceed 25 percent for taxes levied at~~
192 ~~graduated or per unit rates. Authority to increase business~~
193 ~~taxes does not apply to receipts or licenses granted to any~~
194 ~~utility franchised by the municipality for which a franchise fee~~
195 ~~is paid.~~

196 Section 6. Section 205.0535, Florida Statutes, is amended
197 to read:

198 205.0535 Reclassification and rate structure revisions.-

199 (1) As used in this section, the term:

200 (a) "Recalculated tax rate" means the tax rate that, if it

201 had been applied in the immediate prior fiscal year, would
 202 result in the maximum total revenue that does not exceed the
 203 revenue base.

204 (b) "Revenue base" means the total revenue for the fiscal
 205 year ending September 30, 2023, or for the fiscal year ending
 206 September 30, 2024, whichever is greater

207 (c) "Total revenue" means:

208 1. For a county, the total annual revenue generated by
 209 receipts issued in the fiscal year, less any revenue distributed
 210 to municipalities under s. 205.033(4) in such year, and less any
 211 revenue refunded to businesses pursuant to sub-
 212 paragraph(4) (a)3.b. in such year.

213 2. For a municipality, the total annual revenue generated
 214 by receipts issued in the fiscal year plus any revenue received
 215 from the county under s. 205.033(4) in such fiscal year, and
 216 less any revenue refunded to businesses pursuant to sub-
 217 paragraph(4) (a)3.b. in such year.

218 (2)-(1) Beginning by October 1, 2024 ~~2008~~, any municipality
 219 that has adopted by ordinance a local business tax ~~after October~~
 220 ~~1, 1995~~, may not ~~by ordinance~~ reclassify businesses,
 221 professions, and occupations or ~~and may~~ establish new rate
 222 structures, ~~if the conditions specified in subsections (2) and~~
 223 ~~(3) are met~~. A person who is engaged in the business of
 224 providing local exchange telephone service or a pay telephone
 225 service in a municipality or in the unincorporated area of a

226 county and who pays the business tax under the category
227 designated for telephone companies or a pay telephone service
228 provider certified pursuant to s. 364.3375 is deemed to have but
229 one place of business or business location in each municipality
230 or unincorporated area of a county. Pay telephone service
231 providers may not be assessed a business tax on a per-instrument
232 basis.

233 (3) Beginning October 1, 2024, the total revenue generated
234 by the business tax each fiscal year may not exceed the revenue
235 base.

236 (4) (a) Beginning October 1, 2025, if the total revenue
237 received by a local government from the local business tax in
238 the immediate prior fiscal year exceeds the revenue base:

239 1. The governing authority must adopt an ordinance to
240 proportionally adjust the rates of the local business taxes
241 levied under this chapter for the current fiscal year to the
242 recalculated tax rate.

243 2. The rate adjustment ordinance must be adopted as soon
244 as practicable, but no later than January 1 of the current
245 fiscal year.

246 3. By February 1, the county or municipality must issue a
247 refund to each business that paid the local business tax:

248 a. In the prior fiscal year. Such refund shall be the
249 difference between the amount paid and the amount that would
250 have been paid if the recalculated tax rate had been used.

251 b. At the unreduced rate in the current fiscal year. Such
 252 refund shall be the difference in the amount paid and the amount
 253 due if the recalculated tax rate had been used.

254 (b) A refund issued under subparagraph (a)3. may be
 255 granted as a credit against tax due in the next fiscal year.

256 (c) If the county or municipality is unable to grant a
 257 refund pursuant to subparagraph (a)3. because a business no
 258 longer exists, or the county or municipality is unable to locate
 259 the business or deliver such refund after making reasonable
 260 efforts to do so, then such refund shall be treated by the
 261 county or municipality as unclaimed property under chapter 717.

262 ~~(2) Before adopting a reclassification and revision~~
 263 ~~ordinance, the municipality or county must establish an equity~~
 264 ~~study commission and appoint its members. Each member of the~~
 265 ~~study commission must be a representative of the business~~
 266 ~~community within the local government's jurisdiction. Each~~
 267 ~~equity study commission shall recommend to the appropriate local~~
 268 ~~government a classification system and rate structure for~~
 269 ~~business taxes.~~

270 ~~(3)(a) After the reclassification and rate structure~~
 271 ~~revisions have been transmitted to and considered by the~~
 272 ~~appropriate local governing body, it may adopt by majority vote~~
 273 ~~a new business tax ordinance. Except that a minimum tax of up to~~
 274 ~~\$25 is permitted, the reclassification may not increase the tax~~
 275 ~~by more than the following: for receipts costing \$150 or less,~~

276 ~~200 percent; for receipts costing more than \$150 but not more~~
277 ~~than \$500, 100 percent; for receipts costing more than \$500 but~~
278 ~~not more than \$2,500, 75 percent; for receipts costing more than~~
279 ~~\$2,500 but not more than \$10,000, 50 percent; and for receipts~~
280 ~~costing more than \$10,000, 10 percent; however, in no case may~~
281 ~~the tax on any receipt be increased more than \$5,000.~~

282 ~~(b) The total annual revenue generated by the new rate~~
283 ~~structure for the fiscal year following the fiscal year during~~
284 ~~which the rate structure is adopted may not exceed:~~

285 ~~1. For municipalities, the sum of the revenue base and 10~~
286 ~~percent of that revenue base. The revenue base is the sum of the~~
287 ~~business tax revenue generated by receipts issued for the most~~
288 ~~recently completed local fiscal year or the amount of revenue~~
289 ~~that would have been generated from the authorized increases~~
290 ~~under s. 205.043(1)(b), whichever is greater, plus any revenue~~
291 ~~received from the county under s. 205.033(4).~~

292 ~~2. For counties, the sum of the revenue base, 10 percent~~
293 ~~of that revenue base, and the amount of revenue distributed by~~
294 ~~the county to the municipalities under s. 205.033(4) during the~~
295 ~~most recently completed local fiscal year. The revenue base is~~
296 ~~the business tax revenue generated by receipts issued for the~~
297 ~~most recently completed local fiscal year or the amount of~~
298 ~~revenue that would have been generated from the authorized~~
299 ~~increases under s. 205.033(1)(b), whichever is greater, but may~~
300 ~~not include any revenues distributed to municipalities under s.~~

301 ~~205.033(4).~~

302 ~~(c) In addition to the revenue increases authorized by~~
 303 ~~paragraph (b), revenue increases attributed to the increases in~~
 304 ~~the number of receipts issued are authorized.~~

305 ~~(4) After the conditions specified in subsections (2) and~~
 306 ~~(3) are met, municipalities and counties may, every other year~~
 307 ~~thereafter, increase or decrease by ordinance the rates of~~
 308 ~~business taxes by up to 5 percent. However, an increase must be~~
 309 ~~enacted by at least a majority plus one vote of the governing~~
 310 ~~body.~~

311 (5) This chapter does not prohibit a municipality or
 312 county from decreasing or repealing any business tax authorized
 313 under this chapter. By majority vote, the governing body of a
 314 county or municipality may adopt an ordinance repealing a local
 315 business tax or establishing new rates that decrease local
 316 business taxes, provided that the new rates do not produce
 317 revenues in excess of the revenue base ~~and do not result in an~~
 318 ~~increase in local business taxes for a taxpayer. Such ordinances~~
 319 ~~are not subject to subsections (2) and (3).~~

320 (6) A receipt may not be issued unless the federal
 321 employer identification number or social security number is
 322 obtained from the person to be taxed.

323 (7) This section does not apply to:

324 (a) A municipality that imposes a business tax on
 325 merchants which is measured by gross receipts from the sale of

326 | merchandise or services, or both, as described in s. 205.044.

327 | (b) A fiscally constrained county as defined in s.
 328 | 218.67(1).

329 | (c) A municipality located in a fiscally constrained
 330 | county as defined in s. 218.67(1).

331 | Section 7. Section 205.0536, Florida Statutes, is amended
 332 | to read:

333 | 205.0536 Distribution of county revenues.—A county that
 334 | established ~~establishes~~ a new rate structure under s. 205.0535,
 335 | before October 1, 2024, shall retain all business tax revenues
 336 | collected from businesses, professions, or occupations whose
 337 | places of business are located within the unincorporated
 338 | portions of the county. Any business tax revenues collected by a
 339 | county that established ~~establishes~~ a new rate structure under
 340 | s. 205.0535, before October 1, 2024, from businesses,
 341 | professions, or occupations whose places of business are located
 342 | within a municipality, exclusive of the costs of collection,
 343 | must be apportioned between the unincorporated area of the
 344 | county and the incorporated municipalities located therein by a
 345 | ratio derived by dividing their respective populations by the
 346 | population of the county. As used in this section, the term
 347 | "population" means the latest official state estimate of
 348 | population certified under s. 186.901. The revenues so
 349 | apportioned shall be sent to the governing authority of each
 350 | municipality, according to its ratio, and to the governing

351 authority of the county, according to the ratio of the
 352 unincorporated area, within 15 days after the month of receipt.

353 Section 8. Section 205.046, Florida Statutes, is created
 354 to read:

355 205.046 Audits.—An audit of financial statements of a
 356 local government which is performed by a certified public
 357 accountant pursuant to s. 218.39 and submitted to the Auditor
 358 General must be accompanied by an affidavit executed by the
 359 chair of the governing board of the local government, as a
 360 separate document, stating that the local government has
 361 complied with the provisions of s. 205.0535 and must be filed
 362 with the Auditor General or, in the event the local government
 363 has not complied with s. 205.0535, the affidavit shall instead
 364 include a description of the noncompliance and corrective action
 365 taken by the local government to correct the noncompliance and
 366 to prevent such noncompliance in the future.

367 Section 9. Paragraph (a) of subsection (2) of section
 368 215.97, Florida Statutes, is amended to read:

369 215.97 Florida Single Audit Act.—

370 (2) As used in this section, the term:

371 (a) "Audit threshold" means the threshold amount used to
 372 determine when a state single audit or project-specific audit of
 373 a nonstate entity shall be conducted in accordance with this
 374 section. Each nonstate entity that expends a total amount of
 375 state financial assistance equal to or in excess of \$750,000 in

376 any fiscal year of such nonstate entity shall be required to
 377 have a state single audit or a project-specific audit for such
 378 fiscal year in accordance with the requirements of this section.
 379 After consulting with the Executive Office of the Governor, the
 380 Department of Financial Services, and all state awarding
 381 agencies, the Auditor General shall periodically review the
 382 threshold amount for requiring audits under this section and may
 383 recommend any appropriate statutory change to revise the
 384 threshold amount in the annual report submitted to the
 385 Legislature pursuant to s. 11.45(7)(i) ~~s. 11.45(7)(h)~~.

386 Section 10. Paragraph (e) of subsection (1) of section
 387 218.32, Florida Statutes, is amended to read:

388 218.32 Annual financial reports; local governmental
 389 entities.—

390 (1)

391 (e)1. Each local governmental entity that is not required
 392 to provide for an audit under s. 218.39 must submit the annual
 393 financial report to the department no later than 9 months after
 394 the end of the fiscal year. The department shall consult with
 395 the Auditor General in the development of the format of annual
 396 financial reports submitted pursuant to this paragraph. The
 397 format must include balance sheet information used by the
 398 Auditor General pursuant to s. 11.45(7)(g) ~~s. 11.45(7)(f)~~. The
 399 department must forward the financial information contained
 400 within the annual financial reports to the Auditor General in

401 | electronic form. This paragraph does not apply to housing
402 | authorities created under chapter 421.

403 | 2. The annual financial report filed by a dependent
404 | special district or an independent special district shall
405 | specify separately:

406 | a. The total number of district employees compensated in
407 | the last pay period of the district's fiscal year being
408 | reported.

409 | b. The total number of independent contractors to whom
410 | nonemployee compensation was paid in the last month of the
411 | district's fiscal year being reported.

412 | c. All compensation earned by or awarded to employees,
413 | whether paid or accrued, regardless of contingency.

414 | d. All compensation earned by or awarded to nonemployee
415 | independent contractors, whether paid or accrued, regardless of
416 | contingency.

417 | e. Each construction project with a total cost of at least
418 | \$65,000 approved by the district that is scheduled to begin on
419 | or after October 1 of the fiscal year being reported, together
420 | with the total expenditures for such project.

421 | 3. The annual financial report of a dependent special
422 | district or an independent special district amending a final
423 | adopted budget under s. 189.016(6) must include a budget
424 | variance report based on the budget adopted under s. 189.016(4)
425 | before the beginning of the fiscal year being reported.

426 4. The annual financial report of an independent special
 427 district that imposes ad valorem taxes shall include the millage
 428 rate or rates imposed by the district, the total amount of ad
 429 valorem taxes collected by or on behalf of the district, and the
 430 total amount of outstanding bonds issued by the district and the
 431 terms of such bonds.

432 5. The annual financial report of an independent special
 433 district that imposes non-ad valorem special assessments shall
 434 include the rate or rates of such assessments imposed by the
 435 district, the total amount of special assessments collected by
 436 or on behalf of the district, and the total amount of
 437 outstanding bonds issued by the district and the terms of such
 438 bonds.

439 Section 11. Subsection (8) of section 489.537, Florida
 440 Statutes, is amended to read:

441 489.537 Application of this part.—

442 (8) Persons licensed under this part are subject to ss.
 443 205.0535(2) ~~205.0535(1)~~ and 205.065, as applicable.

444 Section 12. This act shall take effect July 1, 2024.