

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Community Affairs Committee

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BILL: CS/SB 656

INTRODUCER: Community Affairs Committee and Senator Rich

SUBJECT: Local Business Taxes

DATE: March 8, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Herrin	Yeatman	CA	Fav/CS
2.			CM	
3.			FT	
4.				
5.				
6.				

**I. Summary:**

The committee substitute (CS) provides a window for municipalities that adopted a local business tax ordinance on or after October 1, 1995, to reclassify businesses, professions, and occupations and to establish new rate structures before October 1, 2008, if certain conditions are met. It limits both the reclassification increases and the total amount of annual revenue that will be generated by the new rate structure. It also specifically authorizes municipalities and counties to decrease or eliminate a local business tax.

This CS amends section 205.0535 of the Florida Statutes.

**II. Present Situation:**

**Reclassification and Rate Structure Revisions**

Local business taxes were previously known as local occupational license taxes. Beginning January 1, 2007, the “Local Occupational License Tax Act” became the “Local Business Tax Act” and conforming changes were made throughout ch. 205, F.S.<sup>1</sup> As part of these changes, a person who pays a local business tax will receive a “receipt” for payment rather than a “certificate.”

Currently, the method for adopting a local business tax ordinance, revising the rate structure of such a tax, or reclassifying occupations within the tax structure is dependent on both the date of the adoption of the tax and the statute under which it was adopted. Municipalities wishing to

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<sup>1</sup> Chapter 2006-152, Laws of Florida.

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., requires local business taxes to be “based upon reasonable classifications” and “uniform throughout any class.” Rate structure revisions have been permitted under this section since October 1, 1980, subject to limitations on increases above the tax rate levied on October 1, 1971.

Section 205.0315, F.S., requires a local business tax ordinance adopted after October 1, 1995, to 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 a local business 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 to recommend a revised classification system and new rate structure.<sup>2</sup> After consideration of the commission’s recommendations, the local government had the authority to adopt, by majority vote, a new local business tax ordinance, subject to statutory limitations on the amount of the increase.<sup>3</sup> A local government which followed these procedures and adopted a new rate structure before the October 1, 1995, deadline is authorized to increase their local business taxes by up to 5 percent every other year by ordinance if approved by a majority plus one of the governing body.<sup>4</sup>

### **Decrease or Elimination of a Local Business Tax**

Current law does not explicitly grant counties and municipalities the authority to decrease or eliminate a local business tax. 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.<sup>5</sup>

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<sup>2</sup> Section 205.0535(2), F.S.

<sup>3</sup> Section 205.0535(3), F.S.

<sup>4</sup> Section 205.0535(4), F.S.

<sup>5</sup> See Op. Att’y Gen. 2002-81 (2002).

### III. Effect of Proposed Changes:

The CS amends s. 205.0535, F.S., to allow a municipality that adopted a local business tax ordinance on or after October 1, 1995, to reclassify businesses, professions, and occupations and to establish new rate structures before October 1, 2008, if certain conditions are met. These conditions include the establishment of an equity study commission to recommend a classification system and rate structure, and the adoption of a new business tax ordinance, by majority vote, which complies with the following statutory rate increase limitations:

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

A minimum business tax of up to \$25 is permitted and no receipt may be increased more than \$5,000. The total annual revenue generated by the new rate structure for the fiscal year following the fiscal year during which the rate structure is adopted may not exceed the sum of the revenue base and 10 percent of that revenue base.<sup>6</sup>

This CS also provides specific statutory authority for a local government to decrease or eliminate a local business tax.

The CS takes 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.

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<sup>6</sup> Section 205.0535(3)(b)1., F.S., calculates “revenue base” for municipalities as the sum of the business tax revenue generated by the number of business tax receipts sold in the most recently completed fiscal year or the amount of revenue that would have been generated from authorized increases under s. 205.043(1)(b), F.S., whichever is greater, plus revenue received from the county under s. 205.033(4), F.S.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

Statewide, in FY 2005-06, total county levies of occupational license taxes were \$43,500,000 (including collections reported as special district levies); municipal levies were \$127,900,000.<sup>7</sup> The estimates for fiscal year 2006-07 are \$44,700,000 for county levies and \$131,400,000 for municipal levies.<sup>8</sup> Although the exact number of municipalities that are affected by this CS is unknown, it has been estimated that approximately 30 municipalities are eligible under this CS to revise their local business tax structure.

To the extent that local governments choose to comply with the requirements set forth for changing local business tax rates, this CS could result in increased local revenue. The CS also authorizes local governments to decrease or eliminate a local business tax, thereby reducing local revenue.

**B. Private Sector Impact:**

This CS allows municipalities which adopted a local business tax ordinance during a specified period to reclassify entities subject to the tax and to restructure the rates if certain conditions are met. The CS also grants local governments specific authority to decrease or eliminate local business taxes.

**C. Government Sector Impact:**

This CS gives certain municipalities the flexibility to revise the classifications and rate structure of local business taxes. It also authorizes local governments to reduce or eliminate those taxes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>7</sup> See 2006 Florida Tax Handbook, p. 149.

<sup>8</sup> See 2006 Florida Tax Handbook, p. 149.

## **VIII. Summary of Amendments:**

None.

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