

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/HB 603	FINAL HOUSE FLOOR ACTION:		
SUBJECT/SHORT TITLE	Taxes and Fees for Veterans and Low Income Persons	117	Y's 0	N's
SPONSOR(S):	Ways & Means Committee; Gonzalez and others	GOVERNOR'S ACTION:		Approved
COMPANION BILLS:	SB 100			

SUMMARY ANALYSIS

CS/HB 603 passed the House on March 7, 2018, as SB 100 as amended. The Senate concurred in the House amendment to the Senate bill and subsequently passed the bill as amended on March 9, 2018. Part of the bill also passed the House and Senate in CS/HB 7087 on March 11, 2018.

The bill creates an exemption from local business taxes for honorably discharged veterans and their spouses, unremarried surviving spouses of such veterans, spouses of certain active duty military servicemembers, and low-income persons who engage in or manage a business, profession, or occupation. For low-income persons, the individual claiming the exemption must receive public assistance or have a household income less than 130 percent of the federal poverty level. A business with fewer than 100 people may be exempt from the business tax if an individual to whom an exemption would apply owns a majority interest in the business. The bill also specifies the procedure required to receive such exemption. The bill also allows any municipality that imposes a business tax on merchants measured by gross receipts from the sale of merchandise, services, or both, to continue imposing such tax.

Additionally, the bill removes the \$1 or \$2 fee a veteran must pay to have the word "Veteran" displayed on an identification card or driver license issued by the Department of Highway Safety and Motor Vehicles (DHSMV). The bill also provides the following two additional forms of identification a veteran may present to the DHSMV as proof of veteran status for the purpose of receiving the "Veteran" designation on an identification card or driver license:

- Veteran health identification card, issued by the United States Department of Veterans Affairs; or a
- Veteran identification card, issued by the U.S. Department of Veterans Affairs pursuant to the Veterans Identification Card Act of 2015.

Lastly, the bill prohibits county tax collectors from charging a veteran the \$6.25 service fee for driver license services upon presentation of specified documentation proving an individual is a veteran.

The Revenue Estimating Conference (REC) estimates that eliminating the \$1 and \$2 fee for the "Veteran" designation on identification cards and driver licenses will have an insignificant negative impact on General Revenue collections and will reduce the Highway Safety Operating Trust Fund by \$100,000 annually beginning in fiscal year (FY) 2018-2019. The REC estimates the elimination of the \$6.25 service charge for veterans will have a recurring negative revenue impact on local governments of \$400,000 beginning in FY 2018-2019. The REC also estimates the exemption from local business taxes for certain individuals will have a recurring negative \$19.1 million impact on local government revenues for FY 2018-2019, growing to a negative \$21.2 million impact for FY 2021-2022.

The bill was approved by the Governor on March 23, 2018, ch. 2018-80, L.O.F., and will become effective on July 1, 2018.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: March 26, 2018

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Local Business Taxes

Present Situation

Background

In 1972, the Florida Legislature elected to stop administering occupational license taxes at the state level and gave the authority to local governments. Local governments were then authorized to levy occupational license taxes according to the provisions of the “Local Occupational License Act.”¹

In 2006, 368 of the then-incorporated 404 municipalities and 52 of the 67 counties in Florida had some sort of local occupational license tax in place. Although the local occupational license tax was designed to be purely revenue producing in nature, it had become, unintentionally, a measure of profession and business qualifications to engage in a specific activity. Chapter 2006-152, L.O.F., renamed the act as the “Local Business Tax Act” to reflect that the business or individual has merely paid a tax and it alone does not authenticate the qualifications of a business or individual. The legislation removed the term “occupational license” and added the terms “local business tax” and “local business tax receipt.”

Administrative Procedures

Under current law, a county or municipality, by appropriate resolution or ordinance, may impose a local business tax for the privilege of engaging in or managing a business, profession, or occupation within its jurisdiction.² This differs from fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection. Unless otherwise provided by law, these fees or licenses are deemed to be regulatory and in addition to, but not in lieu of, any local business tax imposed under the provisions of ch. 205, F.S.³ “Business,” “profession,” and “occupation” do not include the customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions in this state.⁴

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.⁵ 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.

Local business taxes must 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, 1971.⁶

A local business tax ordinance adopted after October 1, 1995, must be based on the ordinances of adjacent local governments that 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

¹ Ch. 72-306, Laws of Fla. *See also* ch. 205, F.S.

² Sections 205.032 and 205.042, F.S.

³ Section 205.022(5), F.S.

⁴ Section 205.022(1), F.S.

⁵ Section 205.0315, F.S.

⁶ Section 205.043, F.S.

jurisdiction are unreasonable, then the local government may base its ordinance on that of a jurisdiction of comparable population that adopted an ordinance under s. 205.0535, F.S.⁷

Local governments that adopted a local business tax ordinance after October 1, 1995, were allowed to reclassify businesses, professions, and occupations and to establish new rate structures by October 1, 2008.⁸ 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.⁹ 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 the following statutory limitations on the amount of the increase:¹⁰

- 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 \$5,000.¹¹ 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.¹²

A local government that followed these procedures and adopted a new rate structure before the October 1, 2008, deadline is authorized to increase its local business taxes by up to 5 percent every other year by ordinance, if approved by a majority plus one of the governing body.¹³

Counties operating under a home-rule charter¹⁴ or any adjacent county are authorized to levy and collect an additional business tax up to 50 percent, if the business tax being imposed was adopted by ordinance prior to January 1, 1995.¹⁵

Sections 205.033 and 205.043, F.S., stipulate the conditions under which counties and municipalities are authorized to levy a local business tax. When levying a new business tax, the county or municipality must first give at least 14 days public notice of the resolution or ordinance by publishing a notice in a newspaper of general circulation within its jurisdiction. The public notice must contain the proposed classifications and rates applicable to the business tax.¹⁶

A municipality's governing body that levies the tax may request that the county in which the municipality is located issue the municipal receipt and collect the tax. A county's governing body that levies the tax may request that municipalities within the county issue the county receipt and collect the tax. However, before a local government issues any business receipts on behalf of another local government, appropriate agreements must be entered into by the affected local governments.¹⁷ All business tax receipts are sold by the appropriate tax collector beginning July 1st of each year. The taxes are due

⁷ Section 205.0315, F.S.

⁸ Section 205.0535(1), F.S.

⁹ Section 205.0535(2), F.S.

¹⁰ Section 205.0535(3)(a), F.S.

¹¹ *Id.*

¹² Section 205.0535(3)(b), F.S.

¹³ Section 205.0535(4), F.S.

¹⁴ Section 125.011(1), F.S.

¹⁵ Section 205.033(6), F.S. This applies to business taxes imposed under s. 205.033(1), F.S.

¹⁶ Sections 205.032 and 205.042, F.S.

¹⁷ Section 205.045, F.S.

and payable on or before September 30th of each year, and the receipts expire on September 30th of the succeeding year. Under certain circumstances, administrative penalties are also imposed.¹⁸

Exemptions

Local governments may exempt certain individuals from all or some portion of local business taxes as well as regulate the issuance of tax receipts to certain individuals or businesses. Such exemptions include the following:

- An exemption of 50 percent of the business tax levied when the permanent business location or branch office is located in an enterprise zone.¹⁹
- Vehicles used for the sale and delivery of tangible personal property at wholesale or retail from the place of business on which a business tax is paid.²⁰
- An individual who engages in or manages a business, profession, or occupation as an employee of another person, excluding individuals acting in the capacity as an independent contractor.²¹
- An individual licensed and operating as a real estate broker associate or sales associate under chapter 475, F.S.²²
- All disabled persons physically incapable of manual labor, widows with minor dependents, and persons 65 years or older, with not more than one employee or helper, and who use their own capital only, not in excess of \$1,000.²³
- An exemption of \$50 toward the local business tax for all honorably discharged members of the United States Armed Forces who served during certain specified periods, who are also disabled from performing manual labor and who are permanent residents and electors of the state. The unremarried spouse of a deceased disabled veteran who qualified for the exemption is also entitled to this exemption.²⁴
- Charitable and religious organizations.²⁵
- A licensed mobile home dealer or mobile home manufacturer, or an employee of a dealer or manufacturer, who performs setup operations.²⁶

Tax Collections

Statewide, in local fiscal year 2014-2015,²⁷ total county levies of local business taxes were \$36.2 million²⁸ and total municipal levies of local business taxes were \$128.3 million.²⁹ Preliminary data for local fiscal year 2015-2016 indicate \$35.7 million³⁰ for county levies and \$128.8 million³¹ for municipal levies.

¹⁸ Section 205.053, F.S.

¹⁹ Section 205.054, F.S.

²⁰ Section 205.063, F.S.

²¹ Section 205.066, F.S.

²² Section 205.067, F.S.

²³ Section 205.162, F.S.

²⁴ Section 205.171, F.S.

²⁵ Sections 205.191 and 205.192, F.S.

²⁶ Section 205.193, F.S.

²⁷ Local fiscal year 2015 is the most current final data available. Local fiscal year 2016 data are preliminary since reporting by all municipalities has not yet been finalized.

²⁸ Office of Economic and Demographic Research, *County Revenues: LFY 1993-2015*, available at <http://edr.state.fl.us/content/local-government/data/data-a-to-z/g-l.cfm> (accessed 12/6/2017).

²⁹ Office of Economic and Demographic Research, *Municipal Revenues: LFY 1993-2015*, available at <http://edr.state.fl.us/Content/local-government/data/data-a-to-z/localbiztxmu.xls> (accessed 12/6/2017).

³⁰ Office of Economic and Demographic Research, *HB 603 Review*, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2018/_pdf/Impact1201.pdf (accessed 12/6/2017).

³¹ *Id.*

Distribution of Tax Proceeds

The revenues derived from the business tax imposed by county governments, exclusive of the costs of collection and credit given for municipal business taxes, are apportioned between the county's unincorporated area and the incorporated municipalities located within the county by a ratio derived by dividing their respective populations by the county's total population.³² Within 15 days following the month of receipt, the apportioned revenues are sent to each governing authority.³³

Authorized Uses

Local business tax proceeds are considered general revenue for the local government. The proceeds of a county-imposed local business tax may be used for overseeing and implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.³⁴ The proceeds of the additional county business tax imposed pursuant to s. 205.033(6), F.S., are distributed by the county's governing body to a designated organization or agency for the purpose of implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.

Local Business Tax on the Gross Sales of Retail and Wholesale Merchants

The Cities of Panama City and Panama City Beach levy separate business taxes on the gross sale of all retail and wholesale merchants within the municipal jurisdiction. These municipalities are the only known local governments in Florida that levy a local business tax on the gross receipts of retail and wholesale merchants.³⁵

For retail merchants, the City of Panama City imposes a tax of \$10 for each \$1,000 (i.e. 1 percent) of gross sales with a minimum tax of \$1.50 per month. The tax imposed on wholesale merchants is \$0.50 for each \$1,000 of gross sales, or major fraction thereof (i.e. 0.05 percent) with a minimum tax of \$1.50 per month. The tax only applies to the first \$5,000 collected by a merchant for any single item of merchandise.³⁶

The City of Panama City Beach imposes a tax of \$10 for each \$1,000 (i.e. 1 percent) of gross sales with a minimum tax of \$50 per year for retail merchants. The tax imposed on wholesale merchants is \$1.50 for each \$1,000 of gross sales, or major fraction thereof (i.e. 0.15 percent) with a minimum tax of \$50 per year.³⁷

Effect of the Bill

The bill authorizes an exemption to the local business tax for honorably discharged veterans and their spouses, unremarried surviving spouses of honorably discharged veterans, active duty military servicemembers' spouses, and low-income persons receiving public assistance, as defined in s. 403.2554, F.S., or having a household income less than 130 percent of the federal poverty level. The

³² Section 205.033, F.S.

³³ Section 205.033(5), F.S.

³⁴ Section 205.033(7), F.S.

³⁵ Office of Economic and Demographic Research, *2016 Local Government Financial Information Handbook* at 148, available at <http://edr.state.fl.us/Content/local-government/reports/lgfih16.pdf> (accessed 11/17/2017).

³⁶ Panama City Code of Ordinances, ch. 14, sec. 14-29 (April 21, 2017).

³⁷ *Supra* note 35. The Fiscal Year 2016-2017 City of Panama City Beach budget identifies \$10.3 million of projected revenue from local business tax levies (the single largest revenue source) and no levy of ad valorem taxes. Panama City Beach Administration, *Budgets & Financial Statements, Amended 2016/Adopted 2017 Budget*, at 7, available at <http://www.pcbgov.com/home/showdocument?id=6254> (last accessed 11/17/2017).

exemption for the spouses of active duty military servicemembers requires a receipt of permanent change of station orders to the county or municipality.

The bill requires an individual to complete and sign, under penalty of perjury, a Request for Fee Exemption to be furnished by the local governing authority and to provide written documentation supporting the request. Additionally, the bill provides an exemption for businesses with fewer than 100 people, if an individual to whom an exemption may apply owns a majority interest in the business. Such an individual owner must also complete and sign, under penalty of perjury, a Request for Fee Exemption for the business to be furnished by the local governing authority and to provide written documentation supporting the request.

The bill allows any municipality that imposes a business tax on the gross sales of all retail and wholesale merchants within the municipal jurisdiction to continue to impose such tax. The municipality may change, by ordinance, the definition of a merchant, but not the rate of the tax.

The bill repeals s. 205.171, F.S., which provides an exemption of \$50 toward the local business tax for all honorably discharged members of the United States Armed Forces who served during certain specified periods, who are also disabled from performing manual labor and who are permanent residents and electors of the state, as well as the unremarried spouse of a deceased disabled veteran who qualified for the exemption.

Driver Licenses and Identification Cards

Present Situation

Currently, veterans may receive a “Veteran” designation³⁸ on their identification cards³⁹ or driver licenses⁴⁰ by presenting a copy of their DD Form 214⁴¹ or another acceptable form of verification specified by the Florida Department of Veterans’ Affairs. The veteran must pay a \$1 fee for an initial or renewal identification card or driver license, or a \$2 fee for a replacement, and surrenders the current identification card or driver license. If the veteran is receiving a replacement identification card or driver license solely for the purpose of receiving the “Veteran” designation, the required \$25 replacement fee is waived.⁴² Revenue generated from the \$1 and \$2 fees is deposited into the Highway Safety Operating Trust Fund.

Chapter 2010-163, Laws of Florida required all state driver license issuance services be transferred to tax collectors⁴³ As part of that transfer, tax collectors retain portions of specified fees when processing

³⁸ Chapter 2015-85, Laws of Fla., required the word “Veteran” to be displayed on identification cards and driver licenses instead of the “V” designation. The Department of Highway Safety and Motor Vehicles expects the implementation of the new design to be completed by December 2017. *See* Department of Highway Safety and Motor Vehicles Agency analysis for SB 100, on file with Local, Federal & Veterans Affairs Subcommittee staff.

³⁹ Section 322.051(8)(b), F.S.

⁴⁰ Section 322.14(1)(d), F.S.

⁴¹ Each veteran is issued a Department of Defense DD Form 214 upon separation from active duty service. This form contains information normally needed to verify military service of benefits, retirement, employment, and membership in veterans’ organizations. The form contains the veteran’s dates of service, last duty assignment, pay grade and rank, awards received, and condition of discharge. *See* <http://www.dd214.us/> (accessed 11/20/ 2017).

⁴² *See* sections 322.21(1)(e) and 322.21(1)(f)3.

⁴³ Tax collectors are constitutional officers pursuant to FLA. CONST. art. VIII, s. 1(d). Volusia, Broward, and Miami-Dade counties do not have a tax collector who is a constitutional officer. Additionally, the tax collectors of Glades, Franklin, and Gilchrist counties have opted out of providing driver license services, in part because they are small counties as defined in s. 120.52(a)(19), F.S., and have instead entered into interlocal agreements with neighboring tax collectors in adjacent counties to provide driver license services.

certain driver license services.⁴⁴ Tax collectors are required to charge a \$6.25 service fee;⁴⁵ however, the fee may not be charged:

- More than once per customer;
- For a reexamination requested by the Medical Advisory Board or Department of Highway Safety and Motor Vehicles;
- For a voter registration transaction; or
- In violation of any federal or state law.⁴⁶

On July 20, 2015, Congress enacted the “Veterans Identification Card Act 2015.”⁴⁷ The Act directs the United States Department of Veterans Affairs (VA) to issue a veteran’s identification card to a requesting veteran who is neither entitled to military retired pay nor enrolled in the VA system for patient enrollment. The card is required to display the veteran’s name and photograph and serve as proof that the veteran has a DD Form 214⁴⁸ or other official document in his or her military personnel file that describes the veteran’s military service.⁴⁹ The identification card cannot be used as proof of eligibility for any federal benefits and does not grant access to military installations.

Certain veterans may be eligible for other methods of identification that may prove veteran status including, but not limited to, the following:

- **Veteran Health Identification Card**⁵⁰ – This card is issued to veterans enrolled in the VA health care system and is used for identification and check-in at VA appointments.
- **DD Form 2 (Retired) U.S. Uniformed Services ID**⁵¹ – This card is issued to retired Uniform Service⁵² members entitled to pay, members on the temporary disability retired list, and members on the permanent disability retired list.
- **DD Form 1173 U.S. Uniformed Services ID and Privilege Card**⁵³ – This card is issued to Medal of Honor recipients, former members in receipt of retired pay, 100 percent disabled veterans, and other benefits-eligible categories as described in DoD policy.
- **DD Form 2765 Department of Defense/Uniformed Services ID and Privilege Card**⁵⁴ – This card is issued to Medal of Honor recipients, 100 percent disabled veterans, former members in receipt of retired pay, other benefits-eligible categories as described in the Department of Defense (DoD) policy.
- **100-percent Disabled Veterans State Identification Card** – This card is issued by the Florida Department of Veterans’ Affairs to any Florida veteran who has a 100-percent total and permanent service-connected disability rating from the USDVA or the DoD.⁵⁵
- **“Veteran” Designation on Florida Identification Card or Driver License Card.**⁵⁶

⁴⁴ Driver license services provided under ch. 322, F.S., include the issuance of driver license and identification cards, examinations for driver licenses, educational programs, and administrative functions associated with such activities.

⁴⁵ Section 322.135(1)(c), F.S.

⁴⁶ *Id.*

⁴⁷ Veterans Identification Card Act 2015, Pub. L. No. 114-31, H.R. 91, 114th Cong. (July 20, 2015).

⁴⁸ Each veteran is issued a Department of Defense DD Form 214. This form contains information normally needed to verify military service of benefits, retirement, employment, membership in veterans’ organizations, and the veteran’s condition of discharge. *See* <http://www.dd214.us/> (accessed 11/22/2017).

⁴⁹ Congress.gov, *H.R. 91-Veterans Identification Card Act 2015*, available at: <https://www.congress.gov/bill/114th-congress/house-bill/91> (accessed 11/22/2017).

⁵⁰ U.S. Department of Veterans Affairs site on *Veteran Identification Cards*, available at: https://iris.custhelp.com/app/answers/detail/a_id/911 (accessed 11/22/2017).

⁵¹ Department of Defense Common Access Card site on *Uniformed Services ID Card*, available at: www.cac.mil/uniformed-services-id-card/ (accessed 11/22/2017).

⁵² 10 U.S.C. §101(a)(5) defines “uniformed services” as consisting of the Army, Marines, Navy, Air Force, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ See s. 295.17, F.S.

Effect of the Bill

The bill removes the \$1 fee for adding the “Veteran” designation on an identification card or driver license. The bill also removes the \$2 fee for adding the “Veteran” designation on a replacement identification card or driver license when the veteran surrenders his or her current identification card or driver license.

The bill adds two additional forms of identification a veteran may present to the Department of Highway Safety and Motor Vehicles (DHSMV) to prove veteran status for the purpose of receiving the “Veteran” designation on an identification card or driver license. Specifically, under the bill a veteran may present:

- A Veteran health identification card, issued by the U.S. Department of Veterans Affairs; or
- A Veteran identification card, issued by the U.S. Department of Veterans Affairs pursuant to the Veterans Identification Card Act of 2015.

Lastly, the bill prohibits county tax collectors from charging a veteran the \$6.25 service fee for identification card and driver license services upon presentation of the veteran’s:

- DD Form 214, issued by the U.S. Department of State;
- Veteran health identification card, issued by the U.S. Department of Veterans Affairs;
- Veteran identification card issued by the U.S. Department of Veterans Affairs pursuant to the Veterans Identification Card Act of 2015; or
- Other acceptable form specified by the Florida Department of Veterans’ Affairs.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference (REC) estimates that the elimination of the \$1 and \$2 fee for the “Veteran” designation on an identification card or a driver license will have a negative insignificant impact on General Revenue collections and will reduce the Highway Safety Operating Trust Fund by \$100,000 annually beginning in fiscal year 2018-19.

2. Expenditures:

DHSMV states that the programming required to update the Florida Driver License Information System to waive the \$1 fee for a veterans’ driver license or identification card and the \$2 fee for a veteran’s replacement driver license or identification card with the word “Veteran” displayed on it would cost approximately \$10,275 in FTE and contracted resources.⁵⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The REC estimates the elimination of the \$6.25 service fee tax collectors charge veterans for services rendered will have a recurring negative revenue impact on local governments of \$400,000 beginning in fiscal year 2018-19.

⁵⁶ See ss. 322.14(1)(d) and 322.051(8)(b), F.S.

⁵⁷ DHSMV HB 603 agency analysis (On file with Local, Federal & Veterans Affairs Subcommittee).

The REC also estimates the exemption from local business taxes for certain individuals will have a recurring negative \$19.1 million impact on local government revenues for fiscal year 2018-19, growing to a negative \$21.2 million impact for fiscal year 2021-22.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides additional exemptions to local business taxes for low-income persons and servicemembers and their families. By doing so, the bill appears to promote business and industry in the state. Additionally, veterans requesting the "Veteran" designation on an identification card or driver license will no longer pay a \$1 or \$2 fee for the designation when a driver license or identification card is being issued, renewed, or replaced. The veteran will also be exempt from paying the \$6.25 service fee for services rendered by a tax collector.

D. FISCAL COMMENTS:

None.