

# ***Business License Standardization Bills H3650 and H3651***



For two years, the Municipal Association has been working with business interests to discuss business licensing.

On February 9, the Executive Subcommittee of the House Labor, Commerce and Industry Committee heard testimony on two bills related to business licensing, H3650 and H3651. The next day, both bills passed the full committee. Taken together, the bills adopt the standardization measures discussed by business stakeholders and the cities, through their Association. However, the bills would also

1. grant exemptions to certain business types forcing city officials to choose between increasing business license rates for all other businesses or reducing city services,
2. strip the authority of cities and towns to manage business licensing, and
3. move the insurance and telecommunication collection programs from the Municipal Association, governed by city officials, to a state agency.

Miriam Hair, executive director of the Municipal Association, and two business license professionals testified before the subcommittee. Miriam gave many examples of how the bill picks winners and losers by extending tax exemptions to some businesses thereby creating inequities among all businesses. She also gave specific city examples of the significant rate increases required to pay for the tax exemptions.

During both the subcommittee and committee debate, House LCI Committee Chairman Rep. Bill Sandifer (R – Seneca) stated that these bills are revenue neutral to cities because city officials can just raise rates to make up for the shortfall.

Also, Article 8, Section 13 of the S.C. Constitution affirms cities' authority to work together to perform government functions. Despite this stated authority in the Constitution, Chairman Sandifer questioned the constitutionality of cities working through the Municipal Association to collect and disburse business license taxes.

Bottom line...both of these bills are bad for cities and bad for the majority of small businesses.

## **H3650, the S.C. Business License Tax Standardization Act**

- Exempts 25 percent of a business' income that is collected outside of the municipality where the business maintains its principle place of business.
  - Imagine Walmart with its headquarters in Arkansas paying a business license tax on only 75 percent of its income when the small business owner struggling to compete with the industry giant is paying on 100 percent.
  - Imagine a restaurant with locations in three cities. The owner pays the tax to City A on 100 percent of his income earned from the restaurant in City A. However, he exempts 25 percent of the income earned on the two restaurants located in City B when calculating the tax owed to City B. At the same time, his competitor pays the municipal business license tax on 100 percent of his income earned because all three of his restaurants are located in the same city.
- Exempts from municipal business license taxes 100 percent of life, accident and health insurance premiums.

## *Business License Standardization Bills: H3650 and H3651*

- Bars cities from charging a business that is not physically located in the city a higher tax rate than a business physically located in a city.
- Exempts from municipal business license taxes 100 percent of fire insurance premiums collected inside a city unless the risk is located in the city.
- Exempts from municipal business license taxes 25 percent of a business' income collected from the South Carolina Child Development Program or the South Carolina Department of Social Services SC Voucher Program. At the same time, other day care providers pay on 100 percent of their income.
- Allows manufacturers to pay the municipal business license tax on the LESSER of income collected from business done at the location OR the amount of income allocated to that location according to its state income tax return OR the expenses attributable to the location as a cost center of the business.
- Restricts cities from charging more than a \$100 filing fee for a new business license at the point of issuance. When the business license is renewed, a tax is paid on the business' income from the preceding calendar year or 12-month fiscal year. This means a new business will not pay a business license tax on a full 12 months of income until the third license year.
- Validates "any special ordinance or formal or informal agreement" between a municipality and business entered into before January 1, 2019, regarding rate classes or the calculation of the municipal business license tax. These agreements are deemed to be valid with the approval of the business, not the local government. "Circumstantial evidence" may be used by the business to prove the existence of an agreement.

### **Secretary of State will have the following responsibilities:**

- Promulgates regulations related to the Standardized Business License Class Schedule, the Business License Tax Portal and the Business License Class Schedule Board.
- Determines the information included on the standardized business license application that cities must accept.
- Updates the Standardized Business License Class Schedule every other year in consultation with a nine-member Business License Class Schedule board that includes only one member representing cities. Authority remains with city councils to set rates based on the Standardized Business License Class Schedule. Councils may grant, by a positive majority vote of the council, special rates to certain business subclassifications for economic stimulus or disproportionate demands placed on municipal services or infrastructure.
- Develops and manages a portal for businesses to calculate, report and pay business license taxes online. Only the municipality may audit income or tax reported through the portal. This data may not be used by the Secretary of State, the Municipal Association or any other party for "statewide analytics." Neither the Secretary of State nor the Municipal Association may audit a business using information available through the portal. Businesses may also pay the city by telephone, mail or in person.

## **H3651**

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- Prevents the Municipal Association or any other non-governmental entity from collecting insurance premiums or telecommunications taxes on the cities' behalf.
- Prevents the Municipal Association or any other non-governmental entity from distributing to cities the municipal portion of the brokers premium tax collected by the Department of Insurance which will distribute the tax to the cities.
- Exempts from municipal business license taxes 100 percent of life, accident and health insurance premiums.
- Exempts from municipal business license taxes 100 percent of fire insurance premiums collected inside of a city unless the risk is located in the city.