



HOUSE BILL 1050: Part XII – Privilege License Tax

2013-2014 General Assembly

Committee:	Senate Finance	Date:	May 23, 2014
Introduced by:	Reps. Howard, W. Brawley, Lewis, Setzer	Prepared by:	Trina Griffin
Analysis of:	PCS to Third Edition H1050-CSRbx-49		Committee Counsel

SUMMARY: *Part XII would maintain the local privilege tax authority for one more year with two modifications: a city may not increase the tax on any business during that year, and it may not tax a business physically located outside the city's limits. Beginning July 1, 2015, both the city and county authority to levy a privilege license tax would be repealed. This would include their authority to levy a privilege tax on low-level radioactive and hazardous waste facilities.*

CURRENT LAW: Under current law, a city has the authority to levy a privilege tax on all trades, occupations, professions, businesses, and franchises carried on within the city, subject to certain limitations. These limitations range from outright prohibitions on certain businesses and professions to a cap on the amount of tax for other types of businesses. For example, cities are currently prohibited from levying a privilege license tax on certain professionals who are taxed at the State level, such as attorneys, physicians, engineers, real estate brokers, and home inspectors. Cities are also prohibited from taxing banks, private protective services, burglar alarm dealers, household appliance dealers, and office equipment dealers. Approximately 64 types of businesses are subject to a cap on the amount of tax that a city may impose. Examples of businesses whose rate is capped include: amusements, \$25; collection agencies, \$50; peddlers of farm products, \$25; contractors, \$10; restaurants, \$42.50; barbershops & beauty parlors, \$2.50 per person employed; firearms dealers, \$50; auto dealers, \$25.

Other than these specifically named prohibitions and caps, there is no statutory restriction on the amount of tax that may be charged. It may be in the form of a flat tax or a tax measured by gross receipts. Over 300 cities levy a privilege tax generating \$62.2 million. It produces significant revenue for about seven cities: Charlotte, Raleigh, Greensboro, Durham, High Point, Lumberton, and Hickory.

Cities and counties may tax businesses that do not have a permanent physical location in the taxing jurisdiction as long as the business has a legally significant economic nexus with the city. Most businesses that fall into this category are service providers that provide services on a customer's property. This would include businesses like landscapers, plumbers, electricians, home inspectors, and appraisers. To the extent a business sends employees into a taxing jurisdiction to perform service or repair work, to deliver goods on a regular basis, to take orders for goods, or to receive payments, it is conducting business in that city and may be subject to the city's privilege tax.

Cities and counties also have authority under a separate statute to impose a privilege license tax on hazardous waste facilities or low-level radioactive waste facilities that are located within their limits. The rate is based on the additional costs incurred by the city or county from having such a facility in its jurisdiction to the extent compensation for the costs is not otherwise provided. These costs may include the loss of property tax revenues from the property on which the facility is located, the cost of providing additional emergency services, and the cost of monitoring air, surface water, groundwater, and other environmental media. There are approximately 42 of these facilities located inside city limits.

BILL ANALYSIS: Part XII of the Senate PCS for House Bill 1050 does three things:

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- It reenacts G.S. 160A-211(a), the subsection that authorizes cities to levy a privilege license tax, which was inadvertently repealed by virtue of a drafting error in Section 58(b) of S.L. 2013-414. The reenactment is effective when it becomes law.
- It modifies the current authority in the following two ways:
 - For purposes of the 2014-2015 fiscal year, it limits a city's authority to tax only those businesses that are physically located within the city's limits. A business is not physically located within a city if its only presence in that city is through the performance of services or through the dispatch of employees to perform work, deliver goods, collect payments, or take orders. The intent of this provision is to tax only those businesses that have a physical location in the city, such as an office, a headquarters, a storefront, or other location from which the business directs and conducts its operations, or from which it holds itself out to the public as the place where the business is located.
 - It limits a city to the same privilege license tax schedule that was in place for the 2013-2014 fiscal year, meaning that a city may not increase any tax rate or tax amount for the 2014-2015 fiscal year; if a city did not have a privilege license tax in 2013-2014, it may not levy one in 2014-2015.
- Beginning July 1, 2015, both the county and city authority to levy a local privilege license tax are repealed. This includes the authority to levy a privilege tax on low-level radioactive and hazardous waste facilities. The city privilege tax generates a cumulative total of approximately \$62 million; the county privilege tax, levied in only 37 counties, generates a total of less than \$500,000. For many cities, the loss of revenue from the repeal of the current tax structure is overcome by the revenue it receives in local sales tax revenue from an expansion of the sales tax base under S.L. 2013-316¹ and from the greater collection of sales tax applicable to online purchases from the agreement of Amazon to collect and remit sales tax on purchases made through Amazon.²

¹ Approximately \$10.9 million.

² Approximately \$2.9 million.