

LEGISLATIVE BILL 745

Approved by the Governor April 11, 2012

Introduced by Fischer, 43; Lautenbaugh, 18; Cornett, 45; Janssen, 15.

FOR AN ACT relating to cities and villages; to amend sections 15-202, 15-203, 16-205, and 17-525, Reissue Revised Statutes of Nebraska, and section 14-109, Revised Statutes Supplement, 2011; to provide requirements for imposition of an occupation tax; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) Except as otherwise provided in this section, after the effective date of this act, a municipality may impose a new occupation tax or increase the rate of an existing occupation tax, which new occupation tax or increased rate of an existing occupation tax is projected to generate annual occupation tax revenue in excess of the applicable amount listed in subsection (2) of this section, pursuant to section 14-109, 15-202, 15-203, 16-205, or 17-525 if the question of whether to impose the tax or increase the rate of an existing occupation tax has been submitted at an election held within the municipality and in which all registered voters shall be entitled to vote on the question. The officials of the municipality shall order the submission of the question by submitting a certified copy of the resolution proposing the tax or tax rate increase to the election commissioner or county clerk at least fifty days before the election. The election shall be conducted in accordance with the Election Act. If a majority of the votes cast upon the question are in favor of the new tax or increased rate of an existing occupation tax, then the governing body of such municipality shall be empowered to impose the new tax or to impose the increased tax rate. If a majority of those voting on the question are opposed to the new tax or increased rate, then the governing body of the municipality shall not impose the new tax or increased rate but shall maintain any existing occupation tax at its current rate.

(2) The applicable amount of annual revenue for each new occupation tax or annual revenue raised by the increased rate for an existing occupation tax for purposes of subsection (1) of this section is:

- (a) For cities of the metropolitan class, six million dollars;
- (b) For cities of the primary class, three million dollars;
- (c) For cities of the first class, seven hundred thousand dollars;

and

(d) For cities of the second class and villages, three hundred thousand dollars.

(3) After the effective date of this act, a municipality shall not be required to submit the following questions to the registered voters:

- (a) Whether to change the rate of an occupation tax imposed for a specific project which does not provide for deposit of the tax proceeds in the municipality's general fund; or
- (b) Whether to terminate an occupation tax earlier than the determinable termination date under the original question submitted to the registered voters.

This subsection applies to occupation taxes imposed prior to, on, or after the effective date of this act.

(4) The provisions of this section do not apply to an occupation tax subject to section 86-704.

Sec. 2. Section 14-109, Revised Statutes Supplement, 2011, is amended to read:

14-109 (1)(a) The city council shall have power to tax for revenue, license, and regulate any person within the limits of the city by ordinance except as otherwise provided in this section. Such tax may include both a tax for revenue and license. The city council may raise revenue by levying and collecting a tax on any occupation or business within the limits of the city. The occupation tax shall be imposed in the manner provided in section 1 of this act, except that section 1 of this act does not apply to an occupation tax subject to section 86-704. All such taxes shall be uniform in respect to the class upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from taxation, as well as concerts and all other musical entertainments given exclusively by the citizens of the city. It shall be the duty of the city clerk to deliver to the city treasurer the certified copy of the ordinance levying such tax, and the city clerk shall append thereto a warrant requiring the city treasurer to collect such tax.

- (b) For purposes of this subsection, limits of the city does not

include the extraterritorial zoning jurisdiction of such city.

(2) (a) Except as otherwise provided in subdivision (c) of this subsection, the city council shall also have power to require any individual whose primary residence or person who owns a place of business which is within the limits of the city and that owns and operates a motor vehicle within such limits to annually register such motor vehicle in such manner as may be provided and to require such person to pay an annual motor vehicle fee therefor and to require the payment of such fee upon the change of ownership of such vehicle. All such fees which may be provided for under this subsection shall be credited to a separate fund of the city, thereby created, to be used exclusively for constructing, repairing, maintaining, or improving streets, roads, alleys, public ways, or parts thereof or for the amortization of bonded indebtedness when created for such purposes.

(b) No motor vehicle fee shall be required under this subsection if (i) a vehicle is used or stored but temporarily in such city for a period of six months or less in a twelve-month period, (ii) an individual does not have a primary residence or a person does not own a place of business within the limits of the city and does not own and operate a motor vehicle within the limits of the city, or (iii) an individual is a full-time student attending a postsecondary institution within the limits of the city and the motor vehicle's situs under the Motor Vehicle Certificate of Title Act is different from the place at which he or she is attending such institution.

(c) After December 31, 2012, no motor vehicle fee shall be required of any individual whose primary residence is or person who owns a place of business within the extraterritorial zoning jurisdiction of such city.

(d) For purposes of this subsection, limits of the city includes the extraterritorial zoning jurisdiction of such city.

(3) For purposes of this section, person includes bodies corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, cooperatives, and associations. Person does not include any federal, state, or local government or any political subdivision thereof.

Sec. 3. Section 15-202, Reissue Revised Statutes of Nebraska, is amended to read:

15-202 A city of the primary class shall have power to levy taxes for general revenue purposes on all property within the corporate limits of the city taxable according to the laws of Nebraska and to levy an occupation tax on public service property or corporations in such amounts as may be proper and necessary, in the judgment of the mayor and council, for purposes of revenue. All such taxes shall be uniform with respect to the class upon which they are imposed. The occupation tax may be based upon a certain percentage of the gross receipts of such public service corporation or upon such other basis as may be determined upon by the mayor and council and shall be imposed in the manner provided in section 1 of this act, except that section 1 of this act does not apply to an occupation tax subject to section 86-704.

Sec. 4. Section 15-203, Reissue Revised Statutes of Nebraska, is amended to read:

15-203 A city of the primary class shall have power to raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business within the limits of the city and regulate the same by ordinance except as otherwise provided in this section and in section 15-212. The occupation tax shall be imposed in the manner provided in section 1 of this act, except that section 1 of this act does not apply to an occupation tax subject to section 86-704. All such taxes shall be uniform in respect to the class upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation as well as concerts and all other musical entertainments given exclusively by the citizens of the city.

Sec. 5. Section 16-205, Reissue Revised Statutes of Nebraska, is amended to read:

16-205 A city of the first class may raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business within the limits of the city and to regulate same by ordinance. The occupation tax shall be imposed in the manner provided in section 1 of this act, except that section 1 of this act does not apply to an occupation tax subject to section 86-704. All such taxes shall be uniform in respect to the class upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation as well as concerts and all other musical entertainments given exclusively by the citizens of the city.

Sec. 6. Section 17-525, Reissue Revised Statutes of Nebraska, is

amended to read:

17-525 Second-class cities and villages shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the city or village, and regulate the same by ordinance. The occupation tax shall be imposed in the manner provided in section 1 of this act, except that section 1 of this act does not apply to an occupation tax subject to section 86-704. All such taxes shall be uniform in respect to the classes upon which they are imposed. All ~~Provided, all~~ scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the city or village.

Sec. 7. Original sections 15-202, 15-203, 16-205, and 17-525, Reissue Revised Statutes of Nebraska, and section 14-109, Revised Statutes Supplement, 2011, are repealed.