

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 579

Introduced by McDonnell, 5.

Read first time January 18, 2017

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to cities of the metropolitan class; to amend
- 2 section 18-1208, Reissue Revised Statutes of Nebraska, and section
- 3 14-109, Revised Statutes Cumulative Supplement, 2016; to provide for
- 4 termination of occupation taxes subject to a vote of the people; to
- 5 require a change in the rate of certain occupation taxes to be
- 6 subject to a vote of the people; to harmonize provisions; and to
- 7 repeal the original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 14-109, Revised Statutes Cumulative Supplement,
2 2016, is amended to read:

3 14-109 (1)(a) The city council shall have power to tax for revenue,
4 license, and regulate any person within the limits of the city by
5 ordinance except as otherwise provided in this section. Such tax may
6 include both a tax for revenue and license. The city council may raise
7 revenue by levying and collecting a tax on any occupation or business
8 within the limits of the city. After March 27, 2014, any occupation tax
9 imposed pursuant to this section shall make a reasonable classification
10 of businesses, users of space, or kinds of transactions for purposes of
11 imposing such tax, except that no occupation tax shall be imposed on any
12 transaction which is subject to tax under section 53-160, 66-489,
13 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is
14 exempt from tax under section 77-2704.24. The occupation tax shall be
15 imposed in the manner provided in section 18-1208, except that section
16 18-1208 does not apply to an occupation tax subject to section 86-704.
17 All such taxes shall be uniform in respect to the class upon which they
18 are imposed. Any occupation tax imposed pursuant to this section or
19 section 18-1208 on or after the effective date of this act shall
20 terminate on December 31 of the second odd-numbered year after it is
21 imposed unless extended as provided in subdivision (b) of this section.
22 All scientific and literary lectures and entertainments shall be exempt
23 from taxation, as well as concerts and all other musical entertainments
24 given exclusively by the citizens of the city. It shall be the duty of
25 the city clerk to deliver to the city treasurer the certified copy of the
26 ordinance levying such tax, and the city clerk shall append thereto a
27 warrant requiring the city treasurer to collect such tax.

28 (b) The city council may submit the question of whether to continue
29 an occupation tax imposed pursuant to this section on or after the
30 effective date of this act at an election held within the city in an odd-
31 numbered year and in which all registered voters shall be entitled to

1 vote on the question. Any occupation tax imposed on or after the
2 effective date of this act which is not presented to the voters as
3 provided in this subdivision shall terminate on December 31 of the second
4 odd-numbered year after it is imposed. The city council shall order the
5 submission of the question by submitting a certified copy of the
6 resolution proposing the continuation of the tax to the election
7 commissioner at least fifty days before the election. The election shall
8 be conducted in accordance with the Election Act. If a majority of the
9 votes cast upon the question are in favor of continuing the tax, the city
10 council may continue to impose the tax until December 31 four years
11 thereafter subject to submission of the question as provided in this
12 subdivision every four years thereafter. If a majority of those voting on
13 the question are opposed to the continuation of the tax, then the
14 occupation tax shall terminate as of December 31 following the election.

15 (c) ~~(b)~~ For purposes of this subsection, limits of the city does not
16 include the extraterritorial zoning jurisdiction of such city.

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

30 (b) No motor vehicle fee shall be required under this subsection if
31 (i) a vehicle is used or stored but temporarily in such city for a period

1 of six months or less in a twelve-month period, (ii) an individual does
2 not have a primary residence or a person does not own a place of business
3 within the limits of the city and does not own and operate a motor
4 vehicle within the limits of the city, or (iii) an individual is a full-
5 time student attending a postsecondary institution within the limits of
6 the city and the motor vehicle's situs under the Motor Vehicle
7 Certificate of Title Act is different from the place at which he or she
8 is attending such institution.

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

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

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

19 Sec. 2. Section 18-1208, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 18-1208 (1) Except as otherwise provided in this section, ~~after July~~
22 ~~19, 2012,~~ a municipality may impose a new occupation tax or increase the
23 rate of an existing occupation tax, which new occupation tax or increased
24 rate of an existing occupation tax is projected to generate annual
25 occupation tax revenue in excess of the applicable amount listed in
26 subsection (2) of this section, pursuant to section 14-109, 15-202,
27 15-203, 16-205, or 17-525 if the question of whether to impose the tax or
28 increase the rate of an existing occupation tax has been submitted at an
29 election held within the municipality and in which all registered voters
30 shall be entitled to vote on the question. The officials of the
31 municipality shall order the submission of the question by submitting a

1 certified copy of the resolution proposing the tax or tax rate increase
2 to the election commissioner or county clerk at least fifty days before
3 the election. The election shall be conducted in accordance with the
4 Election Act. If a majority of the votes cast upon the question are in
5 favor of the new tax or increased rate of an existing occupation tax,
6 then the governing body of such municipality shall be empowered to impose
7 the new tax or to impose the increased tax rate subject to termination as
8 provided in section 14-109, if applicable. If a majority of those voting
9 on the question are opposed to the new tax or increased rate, then the
10 governing body of the municipality shall not impose the new tax or
11 increased rate but shall maintain any existing occupation tax at its
12 current rate.

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

- 16 (a) For cities of the metropolitan class, six million dollars;
17 (b) For cities of the primary class, three million dollars;
18 (c) For cities of the first class, seven hundred thousand dollars;
19 and
20 (d) For cities of the second class and villages, three hundred
21 thousand dollars.

22 (3) A city of the primary, first, or second class or village After
23 July 19, 2012, a municipality shall not be required to submit the
24 following questions to the registered voters:

25 (a) Whether to change the rate of an occupation tax imposed for a
26 specific project which does not provide for deposit of the tax proceeds
27 in the municipality's general fund; or

28 (b) Whether to terminate an occupation tax earlier than the
29 determinable termination date under the original question submitted to
30 the registered voters.

31 This subsection applies to occupation taxes imposed prior to, on, or

1 after July 19, 2012.

2 (4) A city of the metropolitan class shall not be required to submit
3 the following question to the registered voters: Whether to terminate an
4 occupation tax earlier than the determinable termination date under the
5 original question submitted to the registered voters. This subsection
6 applies to occupation taxes imposed prior to, on, or after the effective
7 date of this act.

8 (5) (4) The provisions of this section do not apply to an occupation
9 tax subject to section 86-704.

10 Sec. 3. Original section 18-1208, Reissue Revised Statutes of
11 Nebraska, and section 14-109, Revised Statutes Cumulative Supplement,
12 2016, are repealed.