

Research Plan: Public Chapter 1024, Acts of 2016, Topic: Privilege Tax

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Support: n/a

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Purpose

To study the effects of phasing out the privilege tax and of exempting certain professionals.

Background

Public Chapter 1024, Acts of 2016, directs the Commission to study and make recommendations relative to the professional privilege tax, considering the application of the tax—or its non-application as the case may be—to various occupations, businesses, and professions, including those not listed in Tennessee Code Annotated, Section 67-4-1702, and to both residents and nonresidents. The Commission is directed to study Senate Bill 1919 by Senator Bowling and its companion, House Bill 1951 by Representative Hazlewood, which would have exempted nonresident licensees from the professional privilege tax, Senate Bill 167 by Bowling and its companion, House Bill 601 by Durham, which would have exempted audiologists and speech pathologists from the tax, and the original language of Senate Bill 556 by Bowling and its companion House Bill 678 by VanHuss, which became Public Chapter 1024. As introduced, the legislation that became Public Chapter 1024 would have decreased the privilege tax annually by 20% over the next five years, eliminating it in 2019 and thereafter, and would have prohibited the tax from being applied more than once for a single person having multiple professions affected by the tax. It also would have prohibited any new tax upon the privilege of engaging in certain professions, businesses, and occupations. The current tax rate is \$400 per year, and the Department of Revenue reports that there are approximately 200,000 taxpayers that would have been affected by this bill.

Public Chapter 1024 also requires the study to examine the history and intent of the professional privilege tax, other states' laws imposing a professional privilege tax or similar tax, and alternatives for eliminating or phasing it out. The report is due January 1, 2017.

Step 1. Define the Problem

How would eliminating the professional privilege tax affect taxpayers, both residents and nonresidents, and the state's ability to fund its services? What options are there for phasing it out?

Step 2. Assemble Some Evidence

- Review referred legislation.

Review Senate Bill 556/House Bill 678 as introduced, as well as Senate Bill 1919/House Bill 1951 and Senate Bill 167/House Bill 601 as introduced and amended, and related statutes and regulations to determine what the proposed legislation does.

Review committee hearings on the bills and summarize comments and concerns of committee members, the bills' sponsors, and others speaking for or against the bills.

Interview the bills' sponsors, proponents, and other stakeholders to determine what is driving the various issues.

Review the fiscal notes. Consult with Fiscal Review Committee staff and follow up with agencies submitting support forms to determine the estimated cost and the method and rationale for the estimates.

- Review current case law, the Tennessee Constitution, and attorney generals' opinions.
- Review relevant federal statutes and regulations.
- Review similar laws and regulations in other states.
- Collect information on current privilege tax filings and on the number of professionals working in Tennessee, including both residents and non-residents and including professionals to which the tax does not currently apply.
- Review relevant literature and data sets.

Step 3. Construct Alternatives

Alternatives will be based on

- current law,
- proposed changes in the current law, and
- any additional alternatives drawn from the research and analysis in Step 2.

Each alternative will be described specifically enough to project outcomes in Step 5.

Step 4. Select Criteria

- Cost, Direct and indirect to

- The state
- Businesses
- Professional licensees
- Economic effect
- Equity
- Estimate receptiveness of
 - State government
 - Professional licensees
 - General public
 - Other stakeholders

Step 5. Project Outcomes

- Estimate costs
- Estimate effect on economy
- Estimate the acceptability to the state and local governments, the general public, and other affected stakeholders.

Step 6. Confront Trade-offs

- How will the differences between the current law and the other alternatives affect the state's revenue and economy, various professionals and their employers, and the general public?
- What are the pros and cons of the potential solutions?

Step 7. Decide which alternatives to present to the Commission

Based on the results of Step 6, choose the alternatives that most practically and realistically resolve the problem.

Step 8. Produce the Draft Report

Develop and present a draft for review and comment to the Commission.

Revisit Steps 5 through 8.

- Respond to feedback from Commission regarding outcome projections, trade-offs, and selection of alternatives.
- Revise and edit the draft to reflect comments of the Commission.
- Submit final report to the Commission for approval.

