

**12-194. Same; city and county excise taxes prohibited, exceptions; rate increase for certain development excise taxes, election required.** (a) Subject to the provisions of subsections (b) and (c), no city or county shall levy or impose an excise tax or a tax in the nature of an excise, other than a retailers' sales tax and a compensating use tax, but the provisions of this section shall not be construed as prohibiting any city from: (1) Contracting with a utility for a fixed charge based upon a percentage of gross receipts derived from the service permitted by grant, right, privilege or franchise to such utility; (2) imposing an occupation tax or license fee for the privilege of engaging in any business, trade, occupation or profession, or rendering or furnishing any service, but the determination of any such license fee shall not be based upon any amount the licensee has received from the sale or transfer of personal or real property, or for the rendering or furnishing of a service, or on the income of the licensee; (3) levying any occupation tax or license fee imposed by such city prior to the effective date of this act; (4) retaining any development excise tax as levied or imposed by such city in existence on January 1, 2006; or (5) levying an excise tax on tickets for admissions to concerts, theatrical performances, sports contests or other similar performances which take place on property owned by a city or county.

(b) No license fee described in subsection (a)(2) shall be imposed upon any utility contracting with and subject to a charge, described in subsection (a)(1), by such city.

(c) (1) On or after July 1, 2006, no city that has levied or imposed any tax described in subsection (a)(4) shall increase the rate of such tax without the governing body of such city having first submitted a proposition to increase the rate of such development excise tax to and having received the approval of a majority of the electors of the city voting thereon at an election called and held therefor.

(2) Any city proposing to increase the rate of a development excise tax shall give notice of its intention to submit such proposition for approval by the electors by publishing notice of such election in a newspaper of general circulation in the city, once each week for two consecutive weeks. The first publication shall be not less than 21 days prior to the election. The notices shall state the time of the election and the rate and effective date of the proposed tax rate increase. If a majority of the electors voting thereon at such election fail to approve the proposition, such proposition may be resubmitted under the conditions and in the manner provided in this act for submission of the proposition. If a majority of the electors voting thereon at such election shall approve the increase of such tax rate, the governing body of any such city shall provide by ordinance for the increase of the tax rate.

(3) Every election held under this act shall be conducted by the county election officer.

(4) The governing body of the city proposing to increase such a development excise tax shall specify the purpose or purposes for which the revenue would be used, and a statement generally describing such purpose or purposes shall be included as a part of the ballot proposition.

**History:** L. 1978, ch. 56, § 8; L. 1982, ch. 66, § 2; L. 2002, ch. 105, § 11; L. 2003, ch. 120, § 14; L. 2006, ch. 204, § 3; July 1.