



H.B. 126

123rd General Assembly
(As Introduced)

Reps. Boyd, Opfer, D. Miller, Barrett, Pringle, Allen, Ford

BILL SUMMARY

- Permits municipal corporations to require employers of its residents to withhold municipal income taxes from the resident's compensation, even if the resident is employed outside the municipal corporation.
- Requires resident employees to furnish their employers with information sufficient to allow the employer to withhold municipal income taxes from the employee's compensation.

CONTENT AND OPERATION

Withholding of municipal income taxes--required only of employers in municipality

Under their constitutional powers of self-government, municipal corporations may impose a tax on the income of individuals and business organizations. Their authority to tax is subject to regulation by the legislature, however.

A municipal corporation may tax the incomes of its residents, and of nonresidents who receive income for services performed within the municipal corporation. Municipal corporations may require employers operating within the municipal corporation to withhold income tax from the compensation paid to employees. However, a municipal corporation currently may not require an employer that is not located in the municipal corporation to withhold taxes from the compensation paid to employees who are residents of the municipal corporation. (See **COMMENT.**)

Withholding may be required of employers outside municipal corporation

(sec. 718.11)

The bill permits a municipal corporation, by ordinance, to require employers of its residents to deduct and withhold the municipal corporation's income tax from the employees' compensation, and to remit that tax to the municipal corporation. The amount of tax withheld must be computed so that the total amount withheld over the course of the year is substantially equivalent to the annual tax owed to the municipal corporation by the employee.

The ordinance must include a provision requiring the employee to furnish the employer with the name of the municipal corporation where the employee resides, and with information sufficient to enable the employer to deduct and withhold the tax. The ordinance may include a provision that imposes penalties and interest on the employer for failing to withhold taxes in a timely manner. However, the ordinance may not impose penalties or interest on the employer if the employer's failure to withhold taxes is due to the employee failing to furnish the employer with information sufficient to enable the employer to withhold taxes.

The ordinance may exempt specified categories of employers from the tax withholding requirements.

COMMENT

In 1993, an Ohio appeals court held that a municipal corporation may not require an employer located outside the municipal limits to withhold municipal income taxes earned by employees who were residents of the municipal corporation. See *Springfield v. All Am. Food Specialists, Inc.* (1993), 85 Ohio App.3d 464. The court held that the requirement, which is an exercise of municipal police powers under the constitutional powers of self-government, could not be extended beyond the territory of the municipal corporation.

However, the court recognized that municipal corporations may exercise such powers as are conferred upon them by the legislature, including the power to require employers outside the municipal corporation to withhold taxes from residents' compensation. The bill confers that power upon municipal corporations.

Also compare Revised Code section 5747.06, which requires employers, wherever located in Ohio, to withhold school district income taxes from the earnings of employees who are residents of the school district but who are employed outside the school district, under terms substantially similar to the terms proposed by the bill for municipal corporations.



HISTORY

ACTION	DATE	JOURNAL ENTRY
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