



Office of Representative John E. Barnes, Jr.

Thank you, Chair Anielski, Vice Chair Hambley, Ranking Member Holmes, and my esteemed colleagues on the State and Local Government Committee for the opportunity to give sponsor testimony on House Bill 670, which would enact the "Simplified Alternative Withholding Tax Compliance Act", authorizing an employer to enter into an agreement with a municipal tax administrator to prescribe, subject to certain parameters, the portion of nonresident employee wages that will be subject to the municipal corporation's income tax.

Currently, employee compensation is generally subject to the income tax of the municipal corporation in which it is earned, though an employee's resident municipal corporation may tax the employee's total compensation wherever it is earned. Continuing law allows many exemptions and exceptions, however; for instance, employee wages earned in the first 20 days of working in a nonresident municipal corporation are generally exempt unless the employer's principal place of business is in that municipality.

An employer is generally required to calculate and withhold the appropriate amount of tax from each employee's wages, computed by multiplying the wages earned in each municipal corporation by the local tax rate. The employer remits withheld tax to each taxing municipal corporation either semimonthly, monthly, or quarterly, depending on the amount of withholding and the schedule prescribed by the municipal corporation. (The bill refers to the employer's remission period applicable to a particular municipal corporation as the "employer's withholding period.")

In contrast to current law, House Bill 670 would allow certain employers and a municipal tax administrator to enter into an agreement prescribing the portion of wages of each "transient employee" that will be subject to the municipal corporation's tax and withholding. A transient employee is defined as one who earns wages both within and outside a municipal corporation during the employer's withholding period -- for example, an employee of a lawn maintenance company who regularly works in multiple jurisdictions. The option to enter into an agreement is available only to an employer who would be required, in the absence of such an agreement, to withhold income tax during the employer's

withholding period with respect to an employee for at least two municipal corporations in which the employee is not a resident (the bill refers to these as "qualifying employers").

Under the agreement, the portion of a transient employee's taxable wages is determined according to the proportion of the employer's total net profit apportioned to the municipal corporation and any other agreed-upon factor. Under continuing law, this proportion typically equals the average of three factors—the value of the employer's property located in a municipality, employee wages earned in a municipality, and gross receipts from sales made or services performed in a municipality, compared to the value of all the employer's property and total compensation and gross receipts, respectively. (An alternative proportion might apply to some businesses.)

An agreement may be in effect for the length of time specified in the agreement, but a tax administrator may rescind an agreement if the administrator determines that information furnished by the employer and used to calculate transient employees' taxable wages under the agreement was submitted in bad faith.

Thank you again for this opportunity, I would be happy to answer any questions.