

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: SB 952

INTRODUCER: Senator Margolis

SUBJECT: Tax on Sales, Use & Other Transactions

DATE: March 30, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	Favorable
2.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	Favorable
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill saves from repeal several sales tax exemptions for certain leases, services, admissions and fees associated with events at certain facilities. The sales tax exemptions are scheduled to repeal on July 1, 2006. This bill extends some of the exemptions through July 1, 2011 and eliminates future repeal of the remaining exemptions.

This bill amends sections 212.031 and 212.04 of the Florida Statutes.

II. Present Situation:

Pursuant to ch. 212, F. S., the State of Florida levies a 6 percent sales and use tax on most sales of tangible personal property and a limited number of services. Section 212.031, F.S., establishes a taxable privilege for engaging in the business of renting, leasing, letting, or granting a license for the use of any real property. Section 212.04, F.S., establishes a taxable privilege for selling or receiving anything of value by way of admissions.

Local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum they may levy in total is 2.5 percent. Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions "subject to the state tax imposed on sales, use, services, rentals, admissions, and other transaction" by ch. 212, F.S. and on communications services by ch. 202, F.S. The surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property. This

\$5,000 cap does not apply to the sale of any service. As of December 2005, 58 counties levied at least one discretionary sales surtax and 13 counties levied at least two.¹

Chapter 2000-345, L.O.F., amended s. 212.031(1) and (3), created subsection (10) of s. 212.031, F.S., and amended s. 212.04(1),(2), and (3), F.S., creating the following sales tax exemptions, with a repeal date of July 1, 2003. Chapter 2002-218, L.O.F., extended these sales tax exemptions until July 1, 2006.

- Section 212.031(1)(a)12., F.S., provides an exemption from any sales tax to be paid by a concessionaire on property leased from a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility that is renting, leasing, subleasing, or licensing use of the facility to the concessionaire for selling souvenirs, novelties, or other event-related products. The exemption applies only to that portion of the tax based on a percentage of sales and not based on a fixed price. Section 212.031(1)(a)12., F.S., is scheduled to be repealed on July 1, 2006.
- Section 212.031(3), F.S., requires that the sales tax due on the rental, lease, or license for the use of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility for an event lasting up to 7 days be collected at the time of the payment for the rental, lease or license but is not due to the DOR until the first day of the month following the last day of the event for which the payment is held. The payment is considered delinquent on the 21st day of that month. Section 212.031(3), F.S., is scheduled to be repealed on July 1, 2006.
- Section 212.031(10), F.S., provides a sales tax exemption for rental or license fees on separately stated charges imposed by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee for food, drink, or services required in connection with a lease or license to use real property. This exemption includes charges for laborers, stagehands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel, advertising, and credit card processing. Section 212.031(10), F.S., is scheduled to be repealed on July 1, 2006.
- Section 212.04(1)(b), F.S., provides that, for purposes of calculating sales tax on admissions, the sale price of admission is the price remaining after deduction of federal taxes and state or locally imposed or authorized seat surcharges, taxes, or fees, if any, imposed upon admission. The actual sales price does not include separately stated ticket service charges that are imposed and added to a separately stated, established ticket price. This means that only the sales price of admissions is subject to sales tax. Section 212.04(1)(b), F.S., is scheduled to be repealed on July 1, 2006.
- Section 212.04(2)(a)b., F.S., provides a sales tax exemption for admission charges to events that are sponsored by a governmental entity, sports authority, or sports commission when

¹ Florida Legislative Committee on Intergovernmental Relations, *2006 Local Discretionary Sales Surtax Rates in Florida's Counties*.

held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility. The governmental entity, sports authority, or sports commission must be responsible for 100 percent of the risk of success or failure of the event and must be responsible for 100 percent of the funds at risk for the event. The terms “sports authority” and “sports commission” mean a nonprofit organization that is exempt from federal income tax under s. 501(c) (3) of the Internal Revenue Code and contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts. Section 212.04(2)(a)b., F.S., is scheduled to be repealed on July 1, 2006.

- Section 212.04(3), F.S., provides that the sales tax on the admission to an event scheduled at a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility shall be collected at the time of payment for admission, but is not due to the DOR until the first day of the month following the actual date of the event, and that the payment will be considered delinquent on the 21st day of that month. Section 212.04(3), F.S., is scheduled to be repealed on July 1, 2006.

III. Effect of Proposed Changes:

For purposes of this analysis, the term “facility” includes the following: convention halls, exhibition halls, auditoriums, stadiums, theaters, arenas, civic centers, performing arts centers, and publicly owned recreational facilities.

Section 1 amends s. 212.031, F.S., to save from repeal s. 212.031(1)(a)12., F.S., which provides a sales tax exemption for certain fees paid by a concessionaire to sell souvenirs, novelties, or other event-related products at a facility. Currently, the primary renter (or event host) is subject to sales tax on the rental or lease of a facility. When a concessionaire is charged a fee for doing business in the facility, based on a percentage of sales, that fee is exempt from sales tax. Section 212.031(1)(a)12., F.S., is scheduled to be repealed on July 1, 2006; this section extends the sales tax exemption through July 1, 2011.

This section also amends s. 212.031(3), F.S., to save from repeal provisions relating to the collection of sales tax on the rental or lease of a facility. Currently, sales tax due on the rental, lease or license of a facility for an event is due at the time of payment for that rental, lease, or license, but is not due to the DOR until the first day of the month following the last day of the event. This section extends this provision without expiration.

Section 2 saves from repeal s. 212.031(10), F.S., which is scheduled to be repealed on July 1, 2006; this section extends the provisions until July 1, 2011. Section 212.031(10), F.S., provides that charges for services associated with an event at a facility are exempt from sales tax. Specifically, this section provides that charges for laborers, stagehands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel, advertising, and credit card processing will continue to be exempt from sales tax through July 1, 2011.

Section 3 amends s. 212.04, F.S., to save from repeal sales tax exemptions for certain fees and admission charges.

Section 212.04(1)(b), F.S., provides that only the sales price or actual value of admission to an event is subject to sales tax. All other separately stated service charges and federal, state, or locally imposed seat surcharges, taxes, or fees, are exempt from sales tax. Section 212.04(1)(b), F.S., is scheduled to be repealed on July 1, 2006. This section extends these provisions without expiration.

Section 212.04(2)(a)2.b., F.S., provides that admissions to an event sponsored by a governmental entity, sports authority, or sports commission² and held in a facility are exempt from sales tax. In order to be eligible for the exemption, 100 percent of the risk of success or failure of the event, and 100 percent of the funds at risk for the event, must belong to the sponsor of the event. Section 212.04(2)(a)2.b., F.S., is scheduled to be repealed on July 1, 2006. This section saves these provisions from repeal, and extends the sales tax exemption until July 1, 2011.

This section also amends s. 212.04(3), F.S., relating to the collection of sales taxes on admissions to events at a facility, which is scheduled to be repealed on July 1, 2006. Currently, the sales tax on admission charges to an event at a facility is due at the time of payment for admission, but is not due to the DOR until the first day of the month following the actual date of the event. This section extends this provision without expiration.

Section 4 provides an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue.

This bill reduces the authority that counties have to raise revenues with local option sales taxes. In January 2006, the Revenue Estimating Conference estimated the total local fiscal impact to be negative \$0.7 million. Because the fiscal impact was determined to be less than \$1.79 million, the impact of the bill will be considered insignificant and therefore exempt from the mandate restriction.

B. Public Records/Open Meetings Issues:

None.

² The terms "sports authority" and "sports commission" mean a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the IRC and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

In January 2006, the Revenue Estimating Conference estimated that the fiscal impact of the extension of these sales tax exemptions would be a recurring reduction of state and local sales tax revenues of \$4.3 million.

FY 2006-07
(millions)

General Revenue		State Trust		Local		Total	
Cash	Recurr.	Cash	Recurr.	Cash	Recurr.	Cash	Recurr.
(3.8)	(3.6)	(*)	(*)	(0.9)	(0.7)	(4.7)	(4.3)

* Insignificant

B. Private Sector Impact:

Those persons eligible for the exemptions will continue to benefit, as certain rentals, leases, services, and fees will continue to be exempt from sales tax.

C. Government Sector Impact:

The Department of Revenue may incur administrative costs associated with the continued administration of the sales tax exemptions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
