

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: SB 1418

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Taxes/Property Rental Fees and Admissions

DATE: April 7, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Earlywine	Cooper	CM	Favorable
2.	Molloy	Yeatman	CA	Favorable
3.			FT	
4.			GA	
5.				
6.				

I. Summary:

This bill repeals the July 1, 2009 repeal of the sales tax exemptions for certain fees, charges for services, and admissions associated with events at certain facilities. The exemptions are extended without expiration.

This bill amends sections 212.031 and 212.04 of the Florida Statutes, and amends s. 2 of chapter 2006-101, Laws of Florida.

II. Present Situation:

Sales and use taxes - 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.

Discretionary sales surtaxes - Local governments are authorized to levy several types of discretionary sales surtaxes pursuant to s. 212.055, F.S., at a maximum total level of 2.5 percent. Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions occurring in the county which are subject to the state imposed tax on sales, use, services, rentals, admissions, and other transactions, and to communications services as defined for purposes of chapter 202. The sales amount is not subject to the tax if the property or service is delivered within a county that does not impose a surtax. In addition, the tax is not subject to any sales amount above \$5,000 on any item of tangible personal property or on long distance telephone service. The \$5,000 cap does not apply to the sale of any other service.

Sections 212.031 and 212.04, F.S., contain sales tax exemptions for certain fees, charges for services, and admissions associated with events at certain facilities. These sales tax exemptions are scheduled to be repealed on July 1, 2009, pursuant to section 2 of chapter 2006-101, Laws of Florida.

Section 212.031(1)(a)12., F.S., provides a sales tax exemption for property that is rented, leased, subleased, or licensed to a concessionaire by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility, to be used by the concessionaire to sell souvenirs, novelties, or other event-related products. The exemption applies only to taxes on that portion of the payment which is based on a percentage of sales and not based on a fixed price. The exemption is scheduled to be repealed on July 1, 2009, pursuant to section 2 of chapter 2006-101, Laws of Florida..

Section 212.031(10), F.S., provides a sales tax exemption for 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. The exemption is scheduled to be repealed on July 1, 2009, pursuant to section 2 of chapter 2006-101, Laws of Florida.

Section 212.04(2)(a)2.b., F.S., provides a sales tax exemption for admission charges to events sponsored by a governmental entity, sports authority, or sports commission when 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, must be responsible for 100 percent of the funds at risk for the event, and student or faculty talent may not be exclusively used at 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 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. The exemption is scheduled to be repealed on July 1, 2009.

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(1)(a)12., F.S., to repeal the July 1, 2009 repeal of the sales tax exemption for certain fees paid by a concessionaire to sell souvenirs, novelties, or other event-related products at a facility, and extend the sales tax exemption without expiration.

Section 2 amends section 2 of chapter 2006-101, Laws of Florida, to repeal the July 1, 2009 repeal of the sales tax exemption for separately stated charges for food, drink, or services associated with an event at a facility, and extend the sales tax exemption without expiration.

Section 3 amends s. 212.04(2)(a)2.b., F.S., to repeal the July 1, 2009 repeal of the sales tax exemption for admission charges to an event sponsored by a governmental entity, sports authority, or sports commission, and extends the sales tax exemption without expiration.

Section 4 provides that this bill takes effect upon becoming law.

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 February 2008, the Revenue Estimating Conference adopted a local government negative fiscal impact of \$900,000. Because the fiscal impact was determined to be less than \$1.8 million, the impact of the bill will be considered insignificant and the bill is therefore exempt from the mandate restriction.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

In February 2008, the Revenue Estimating Conference adopted a negative fiscal impact to local government of \$900,000 in FY 2008-2009, and a negative fiscal impact to the state's General Revenue Fund of \$3.7 million for FY 2008-2009, based on provisions of the bill repealing the sales tax exemptions.

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 determined that the bill has no operational impact to the agency.¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹ See Department of Revenue "2008 Bill Analysis for SB 1418", dated February 7, 2008.