

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 Commerce Committee

BILL: SB 1418

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Tax on property rental fees and the tax on admission

DATE: March 17, 2008

REVISED: _____

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

I. Summary:

This bill saves from repeal sales tax exemptions for certain fees, charges for services, and admissions associated with events at certain facilities. The sales tax exemptions are scheduled to repeal on July 1, 2009. This bill extends these exemptions without expiration.

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.

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 These sales tax exemptions are scheduled to be repealed on July 1, 2009, pursuant to ch. 2006-101, L.O.F.

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, 2009.

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, 2009, pursuant to section 2 of ch. 2006-101, L.O.F.

Section 212.04(2)(a)2.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 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 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. Section 212.04(2)(a)2.b., F.S., 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, 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, 2009. This section extends the sales tax exemption without expiration.

Section 2 saves from repeal s. 212.031(10), F.S., which is scheduled to be repealed on July 1, 2009. This section extends the provisions indefinitely. 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 without expiration.

Section 3 amends s. 212.04, F.S., to save from repeal sales tax exemptions for certain admission charges. Section 212.04(2)(a)2.b., F.S., provides that admissions to an event sponsored by a governmental entity, sports authority, or sports commission¹ 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, 2009. This section saves these provisions from repeal, 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 estimated the total local fiscal impact to be negative \$.9 million. Because the fiscal impact was determined to be less than \$1.8 million, the impact of the bill will be considered insignificant and therefore exempt from the mandate restriction.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ 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.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

In February 2008, 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 \$4.6 million (\$3.7 million to the state, and \$0.9 million to local governments).

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:

DOR may incur administrative costs associated with the continued administration of the sales tax exemptions.

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.