

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 Finance and Tax Committee

BILL: CS/CS/SB 1962

INTRODUCER: Finance and Tax Committee, Health Regulation Committee and Senator Rich

SUBJECT: Tax exemption for nonprofit cooperative hospital laundries

DATE: March 26, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Wilson	HR	Fav/CS
2.	ODonnell	Johansen	FT	Fav/CS
3.			GA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill requires a member of a nonprofit cooperative hospital laundry to no longer participate in the cooperative within 90 days after the member loses its tax exempt status under s. 501(c)(3) of the Internal Revenue Code. The bill also protects from revocation a nonprofit hospital laundry cooperative's certificate of exemption from sales tax for providing laundry supplies and services to a hospital that is not a member of the cooperative if the laundry supplies and services are provided pursuant to a declared emergency and a written emergency plan of operation that has been executed by the members of the cooperative.

This bill amends the following section of the Florida Statutes: 212.08.

II. Present Situation:

Cooperatives Generally

A cooperative is a business that is owned, financed, and controlled by the people who use its services. The National Cooperative Business Association describes cooperatives as having the following characteristics:¹

- Are owned and democratically controlled by their members - the people who use the cooperative's services or buy its goods - not by outside investors;
- Cooperative members elect their board of directors from within the membership;
- Return surplus revenues (income over expenses and investment) to members proportionate to their use of the cooperative, not proportionate to their "investment" or ownership share;
- Are motivated not by profit, but by service - to meet their members' needs for affordable and high quality goods or services;
- Exist solely to serve their members; and
- Pay taxes on income kept within the cooperative for investment and reserves. Surplus revenues from the cooperative are returned to individual members who pay taxes on that income.

Hospital Cooperatives

Community-owned non-profit hospitals, university hospitals and others rely on national purchasing and shared services cooperatives that provide group purchasing for medical devices, equipment and other supplies, and provide training and other educational services for their members. The cooperatives are owned and governed by the hospital members, and, in today's rapidly consolidating healthcare market, help them offer quality healthcare services at affordable prices, while remaining competitive with investor-owned hospitals. Without these purchasing cooperatives, many small, community-owned non-profit hospitals would be even more subject to buyouts by investor-owned hospital networks.²

Sales Tax Exemption for Nonprofit Cooperative Hospital Laundries

Section 212.08(7)(ii), F.S., provides a sales tax exemption for a nonprofit cooperative hospital laundry that meets all of the following conditions:

- It is incorporated under ch. 617, F.S. (Corporations Not For Profit);
- It is treated as a cooperative under subchapter T of the Internal Revenue Code for federal tax purposes;³
- It's sole purpose is to offer laundry supplies and services to its members; and
- All members are exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code.

In order to be exempt from state sales tax, a nonprofit cooperative hospital laundry that meets these criteria must obtain a Florida Consumer's Certificate of Exemption from the Department of Revenue. Three entities currently hold Certificates of Exemption issued by the Department of Revenue pursuant to this exemption for nonprofit cooperative hospital laundries.⁴

¹ National Cooperative Business Association <<http://www.ncba.coop/abcoop.cfm>> (Last visited on March 10, 2008).

² *Ibid.*

³ Part I of Subchapter T of Title 21 United States Code sets forth provisions governing the tax treatment of cooperatives.

⁴ Per Health Reg. telephone communication with the Florida Department of Revenue on March 10, 2008.

If any one member of the cooperative loses its s. 501(c)(3) status, the nonprofit cooperative hospital laundry would lose its Certificate of Exemption and be subject to state sales tax provisions. The most likely scenario for a hospital to lose its s. 501(c)(3) status is pursuant to a change in ownership.

No provisions currently exist to allow a nonprofit cooperative hospital laundry to provide laundry services to any non-member entity. As a result, if a cooperative hospital laundry provided laundry services to a non-member hospital in an emergency situation, such as with an extended power outage due to a hurricane, the cooperative's sales tax exempt status would be jeopardized.

Declared State of Emergency

The Governor may declare by executive order or proclamation that an emergency has occurred or the occurrence or that the threat of an emergency is imminent.⁵ The state of emergency continues until:

- The Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and he or she terminates the order or proclamation,
- Sixty days has elapsed and the Governor has not renewed the order or proclamation, or
- The Legislature, by concurrent resolution, terminates the state of emergency and the Governor issues an executive order or proclamation in response to the concurrent resolution.

III. Effect of Proposed Changes:

Section 1. Amends s. 212.08(7)(ii), F.S., to require a member of a nonprofit cooperative hospital laundry to discontinue participation in the cooperative within 90 days after the member loses its tax exempt status under s. 501(c)(3) of the Internal Revenue Code. The bill also protects a nonprofit hospital laundry cooperative's certificate of exemption from state sales tax from being subject to revocation if laundry supplies and services are provided to a hospital that is not a member of the cooperative when the laundry supplies and services are provided pursuant to an emergency declared under s. 252.36(2), F.S., and a written emergency plan of operation that has been executed by the members of the cooperative.

Section 2. Provides an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

⁵ Section 252.36(2), Florida Statutes.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill has no revenue impact on State or local sales tax collections.

B. Private Sector Impact:

Remaining nonprofit hospital cooperative members will be able to retain the benefit of the cooperative's current sales tax exemption if one or more hospital members becomes ineligible to participate in the cooperative, or a non-member uses cooperative services during a declared state of emergency.

C. Government Sector Impact:

The Department of Revenue has indicated that it will need to revise a form to reflect the changes in the law. However, the impact on the department for rulemaking will be insignificant.⁶

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.)

CS by Health Regulation on March 12, 2008:

The committee substitute clarifies that a nonprofit cooperative hospital laundry may provide laundry services and supplies to a nonmember hospital, as opposed to any nonmember business, pursuant to a declaration of an emergency under s. 252.36(2), F.S., and the cooperative's written emergency plan of operation without losing its sales tax exempt status. Referencing the requirement for a declared emergency under s. 252.36(2), F.S., defines the conditions triggering this authorization and the duration of the exception.

⁶ Department of Revenue 2008 Bill Analysis dated February 29, 2008.

CS by Finance and Tax on March 26, 2008:

The committee substitute removes the requirement that a member of a nonprofit cooperative hospital laundry divest all interest, as well as discontinue participation, in the cooperative within 90 days after the member loses its tax exempt status under s. 501(c)(3) of the Internal Revenue Code. The intent is to make the bill identical to the House version of the bill.

B. Amendments:

None.