

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: CS/SB 1070

INTRODUCER: Community Affairs Committee and Senator Altman

SUBJECT: Sporting Events

DATE: April 14, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Cooper	CM	Favorable
2.	Howes	Yeatman	CA	Fav/CS
3.			FT	
4.			WPSC	
5.				
6.				

I. Summary:

The committee substitute (CS) for SB 1070 authorizes a county to use certain revenues from tourist development taxes to pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of football stadiums with more than 65,000 seats and host at least one NCAA bowl game. These revenues may also be used to pay the planning and design costs incurred before the issuance of bonds.

The CS also revives and amends an exemption to the admissions taxes for events sponsored by a governmental entity, sports authority, or sports commission under certain conditions. This exemption expired on July 1, 2009. The CS would reenact this exemption permanently.

SB 1070 amends ss. 125.0104 and 212.04 F.S.

II. Present Situation:

Tourist Development Taxes:¹

Section 125.0104, F.S., authorizes five separate tourist development taxes on transient rental transactions. Depending on a county's eligibility to levy, the maximum tax rate varies from a minimum of 3 percent to a maximum of 6 percent. The levies may be authorized by vote of the county's governing body or referendum approval. Generally, the revenues may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance; however, the authorized uses vary according to the particular levy.

¹ Information regarding Tourism Development Taxes was taken from the 2009 Local Government Financial Information Handbook issued in August 2009 by the Florida Legislative Committee on Intergovernmental Relations.

State Taxes on Admissions:

Section 212.04, F.S., establishes a taxable privilege for selling or receiving anything of value by way of admissions. Admissions are taxed at 6 percent of the sales price or actual value received. The sales price or actual value of admission is the price remaining after deducting federal taxes, state and local seat surcharges, taxes, or fees imposed upon admission, and ticket office or ticketing service charges. A separately stated ticketing service charge added to the price of a separately stated, established admission price by a facility ticket office or ticketing service is not part of the sales price.

The tax on admissions is not levied on

- Athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Children and Family Services, and state correctional institutions when only student, faculty, or inmate talent is used;²
- Dues, membership fees, and admission charges imposed by 501(c)(3) not-for-profit sponsoring organizations;³
- Admission paid by a student, or on the student's behalf, as part of a school sponsored activity or program to a place of sport or recreation, so long as the student is required to attend as a participant and not as a spectator;⁴
- Admissions to the National Football League championship game, admissions to any semifinal game or championship game of a national collegiate tournament, admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association, or on admissions to a Major League Baseball all-star game;⁵
- Participation or sponsorship fees associated with a governmental athletic or recreation program;⁶
- Entry fees for freshwater fishing tournaments;⁷
- Participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to the event;⁸ and
- Certain live theatre, opera, or ballet productions sponsored by 501(c)(3) non-profit organizations.⁹

Admissions taxes are to be paid and remitted at the same time and in the same manner as those taxes for tangible personal property. However, for events at convention halls, exhibition halls, auditoriums, stadiums, theaters, arenas, civic centers, performing arts centers, or publicly owned recreational facilities the admissions taxes are not due until the month after the actual date of the event.¹⁰

² Section 212.04(2)(a)1., F.S.

³ Section 212.04(2)(a)2.a., F.S.

⁴ Section 212.04(2)(a)3., F.S.

⁵ Section 212.04(2)(a)4. and 9., F.S.

⁶ Section 212.04(2)(a)5., F.S.

⁷ Section 212.04(2)(a)7., F.S.

⁸ Section 212.04(2)(a)8., F.S.

⁹ Section 212.04(2)(a)6., F.S.

¹⁰ Section 212.04(3), F.S.

Effective July 1, 2009, sales tax began to be due on admissions to an event sponsored by a governmental entity, sports authority, or sports commission when the event is held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly-owned recreational facility.¹¹

Local Government Taxes on Admissions:

Sections 212.054 and 212.055, F.S., authorize Florida counties to charge a discretionary sales surtax; only those surtaxes specifically designated in s. 212.055, F.S., may be levied. The surtax applies to all transactions occurring in a county that are “subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions” and on communications services, defined in ch. 202, F.S.

The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold and is levied in addition to the state taxes. The maximum discretionary sales surtax that any county can levy depends upon the county’s eligibility for the taxes listed in s. 212.055, F.S.; currently, the maximum levy ranges between 1.5 percent and 2 percent for Florida’s 67 counties.

The surtax does not apply to a 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. The Florida Department of Revenue (DOR) is responsible for administering, collecting, and enforcing all sales taxes. Collections received by DOR are returned monthly to the county imposing the tax.

III. Effect of Proposed Changes:

Section 1 amends s. 125.0104(3), F.S. to authorize a county to use certain revenues from tourist development taxes. These revenues may be used to pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of football stadiums with more than 65,000 seats and host at least one NCAA bowl game. These revenues may also be used to pay the planning and design costs incurred before the issuance of bonds.

Section 2 amends s. 212.04(2)(a)2.b., F.S., to revive and amend an exemption to the admissions tax for events sponsored by a governmental entity, sports authority, or sports commission under certain conditions. This exemption expired on July 1, 2009.

In order to qualify for the exemption:

- The event must be held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publically owned recreational facility;
- All of the risk of success or failure must lie with the sponsor; and
- All the funds at risk for the event belong to the sponsor.

¹¹ Section 212.04(2)(a)2.b., F.S. Chapter 2000-345, L.O.F., created s. 212.04(2)(a)2.b., F.S. The new admissions tax exemption was created with a repeal date of July 1, 2003. Chapter 2002-218, L.O.F., extended this tax exemption until July 1, 2006; and ch. 2006-101, L.O.F., extended the exemption until July 1, 2009.

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.

The expired exemption which this CS replaces also had required that the event not exclusively use student or faculty talent, but this is not included as a requirement of the new exemption.

Section 3 provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Since the bill reduces a county’s ability to collect admission taxes on certain events, this bill falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate.

However, art. VII, s. 18(d), Florida Constitution, provides an additional exemption from the prohibition. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (which is \$1.88 million for FY 2010-2011), are exempt.

The Revenue Estimating Conference estimated that this CS will have an insignificant fiscal impact annually on local government. Consequently, it may be exempt from the mandates restriction due to its insignificant fiscal impact.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference met on February 26, 2010, and determined that this CS would have an annual recurring impact of \$200,000, and a cash impact of:

	FY 2010-2011	FY 2011-2012	FY 2012-2013	FY 2013-2014
General Revenue	(0.2)	(0.2)	(0.2)	(0.2)
State Trust	(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)
Total State Impact	(0.2)	(0.2)	(0.2)	(0.2)

	FY 2010-2011	FY 2011-2012	FY 2012-2013	FY 2013-2014
Total Local Impact	(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)
	FY 2010-2011	FY 2011-2012	FY 2012-2013	FY 2013-2014
Total Impact	(0.2)	(0.2)	(0.2)	(0.2)

B. Private Sector Impact:

Entities that sell tickets to eligible events will benefit from the exemption, as will ticket purchasers.

C. Government Sector Impact:

DOR has indicated that this CS would have an insignificant impact on departmental operations.

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 Community Affairs Committee on April 14, 2010:

This committee substitute authorizes a county to use certain revenues from tourist development taxes. These revenues may be used to pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of football stadiums with more than 65,000 seats and host at least one NCAA bowl game. These revenues may also be used to pay the planning and design costs incurred before the issuance of bonds.

B. Amendments:

None.