

**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 1070

INTRODUCER: Senator Altman

SUBJECT: Tax on Admissions

DATE: April 6, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Cooper	CM	<b>Favorable</b>
2.			CA	
3.			FT	
4.			WPSC	
5.				
6.				

**I. Summary:**

SB 1070 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 bill would reenact this exemption permanently.

SB 1070 amends s. 212.04, F.S.

**II. Present Situation:**

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;<sup>1</sup>
- Dues, membership fees, and admission charges imposed by 501(c)(3) not-for-profit sponsoring organizations;<sup>2</sup>
  - 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;<sup>3</sup>
  - 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;<sup>4</sup>
  - Participation or sponsorship fees associated with a governmental athletic or recreation program;<sup>5</sup>
  - Entry fees for freshwater fishing tournaments;<sup>6</sup>
  - 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;<sup>7</sup> and
  - Certain live theatre, opera, or ballet productions sponsored by 501(c)(3) non-profit organizations.<sup>8</sup>

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.<sup>9</sup>

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.<sup>10</sup>

#### 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

<sup>1</sup> Section 212.04(2)(a)1., F.S.

<sup>2</sup> Section 212.04(2)(a)2.a., F.S.

<sup>3</sup> Section 212.04(2)(a)3., F.S.

<sup>4</sup> Section 212.04(2)(a)4. and 9., F.S.

<sup>5</sup> Section 212.04(2)(a)5., F.S.

<sup>6</sup> Section 212.04(2)(a)7., F.S.

<sup>7</sup> Section 212.04(2)(a)8., F.S.

<sup>8</sup> Section 212.04(2)(a)6., F.S.

<sup>9</sup> Section 212.04(3), F.S.

<sup>10</sup> 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.

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. 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.

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 bill 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 2 provides an effective date of July 1, 2010.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Article VII, s. 18, Florida Constitution, excuses counties and municipalities from complying with laws requiring them to spend funds or to take an action unless certain conditions are met.

To the extent this bill limits the ability of counties and municipalities to raise revenue or receive state tax revenue, the provisions of art. VII, s. 18(a), Florida Constitution, may

apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest and one of the following relevant exceptions:

- a. Appropriate funds estimated at the time of enactment to be sufficient to fund such expenditures;
- b. Authorize a county or municipality to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- c. The law is approved by 2/3 of the membership in each house in the Legislature;
- d. The expenditure is required to comply with a law that applies to all persons “similarly situated,” including state and local governments; or
- e. The law is either required to comply with a federal requirement or required for eligibility for a federal entitlement.

Further, 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 bill 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 bill would have an annual recurring impact of \$200,000, and a cash impact of:

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

	<b>FY 2010-2011</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>Total Local Impact</b>	(Insignificant)	(Insignificant)	(Insignificant)	(Insignificant)

	<b>FY 2010-2011</b>	<b>FY 2011-2012</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>Total Impact</b>	(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 bill 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.)

None.

**B. Amendments:**

None.