

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: CS/SB 1128

INTRODUCER: Commerce Committee and Senator Altman

SUBJECT: Admissions Tax

DATE: April 14, 2010 REVISED: _____

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

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 1128 creates additional exemptions from the tax on admissions for certain sporting events:

- National Basketball Association All-Star Game, Rookie Challenge, Celebrity Game, 3-Point Shooting Contest, and Slam Dunk Contest;
- National Hockey League All-Star Game;
- Major League Baseball Home Run Derby; and
- National Football League Pro-Bowl.

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

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.⁹

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

¹ Section 212.04(2)(a)1., F.S.

² Section 212.04(2)(a)2.a., F.S.

³ Section 212.04(2)(a)3., F.S.

⁴ Section 212.04(2)(a)4. and 9., F.S.

⁵ Section 212.04(2)(a)5., F.S.

⁶ Section 212.04(2)(a)7., F.S.

⁷ Section 212.04(2)(a)8., F.S.

⁸ Section 212.04(2)(a)6., F.S.

⁹ Section 212.04(3), F.S.

convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly-owned recreational facility.¹⁰

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.

Sporting Events

The Home Run Derby is an event played prior to the Major League Baseball (MLB) All-Star Game. It is a contest among the top home run hitters in MLB to determine who can hit the most home runs. It has been an event of the All-Star weekend since 1985, but has never been held in a Florida city. In 2009, the All-Star weekend was held in St. Louis, Missouri. This year the Home Run Derby will be in Anaheim, CA, on July 12, 2010. MLB’s All-Star weekend also includes other events, including a fan-fest and a double header game involving both sport and other celebrities. Tickets to the MLB All-Star game are currently exempt from Florida admissions tax. Florida has two MLB teams – the Florida Marlins (1993) and the Tampa Bay Rays (1998).

Like MLB, the National Basketball Association (NBA), also holds an All-Star weekend. Events include charity games, a dunk contest, 3-point shot contest, and an all-star game. Since the All-Star game was first played in 1951, the game has taken place in Florida only twice – in 1990 in Miami, and in 1992 in Orlando. The 2010 NBA All-Star weekend will take place in Dallas, Texas in 2010. Orlando is currently bidding to host the NBA All-Star weekend in 2012. Florida has two NBA teams – the Miami Heat (1988), and the Orlando Magic (1989).

The National Hockey League (NHL) also holds an All-Star weekend. The NHL All-Star weekend events include skills contests and a game pitting rookies against sophomore players. The All-Star game began to be officially played in 1947, and since then has been played twice in Florida – in 1999 in Tampa Bay and in 2003 in Sunrise. There will be no NHL All-Star game in

¹⁰ 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.

2010 due to the Winter Olympics. Florida has two NHL teams – the Florida Panthers (1993), and the Tampa Bay Lightning (1992).

The National Football League (NFL) Pro Bowl game was not regularly played until after 1951. From 1962 until 1971, two Pro Bowl games took place, one for each football league (the National Football League and the American Football League) until the leagues merged in 1970. The game is typically held the weekend after the Super Bowl. However, in 2010, the Pro Bowl was held in Florida the weekend prior to the Super Bowl in Miami. This was the first time since 1980 that the Pro Bowl was played somewhere other than Honolulu, HI. Historically, the game has been played 4 times in Florida (1968, 1969 AFL Pro Bowl in Jacksonville; 1975, Pro Bowl Miami; 1978, Tampa). The Pro Bowl will return to Hawaii in 2011 and 2012. Currently, Florida has 3 NFL teams – the Jacksonville Jaguars (1995), the Miami Dolphins (1966), and the Tampa Bay Buccaneers (1976).

III. Effect of Proposed Changes:

Section 1 amends s. 212.04(2)(a), F.S., to create additional exemptions from the tax on admissions for certain sporting events:

- National Basketball Association All-Star Game, Rookie Challenge, Celebrity Game, 3-Point Shooting Contest, and Slam Dunk Contest;
- National Hockey League All-Star Game;
- Major League Baseball Home Run Derby; and
- National Football League Pro-Bowl.

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.

Subsection (b) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce county or municipal aggregate revenue generating authority as it existed on February 1, 1989. The exception to this prohibition is if the Legislature passes such a law by 2/3 of the membership of each chamber.

Subsection (d) provides an exemption from this 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 2010/11), are exempt.

The Revenue Estimating Conference estimated that the new exemptions created by this CS will have an indeterminate fiscal impact on local governments. Consequently, it may be exempt from the mandates restriction.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If one of the special sporting events exempt from taxation by the CS were to be held in Florida, then state and local sales tax revenues would not increase on the sale of tickets. However, the increase in tourism may have added economic benefits. For example, some economists estimate that the impact of the NFL Super Bowl and the Pro Bowl in south Florida in January this year had a \$463 million impact on the local economy. Such events have not frequently been held in Florida.

The Revenue Estimating Conference considered this bill as originally filed on February 10, 2010, and adopted a zero cash impact estimate, with the recurring impacting being negative indeterminate. The exemptions provided by the CS are substantially the same as the original bill.

B. Private Sector Impact:

Individuals attending these sporting events will not have to pay sales tax on the tickets they purchase. Additionally, the venues or teams hosting these events will not need to collect sales tax on the tickets sold to such events.

Generally, organizers of these events set the price of admission and print admission tickets. The price printed on the ticket is the actual amount paid by an attendee. Consequently, any sales tax due is currently borne by the tournament organizer, the host organization, or facility. The existence of a sales tax exemption for these tickets may make a Florida locale vying to bring such an event to Florida more competitive in comparison with other locations.

C. Government Sector Impact:

DOR has indicated that the provisions of the CS would have an insignificant impact on their operations.

See Tax/Fee Issues.

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 the Commerce Committee on April 13, 2010:

This CS differs from the bill as filed in that the CS limits the exemption to specific events surrounding the NBA's All-Star Game, and does not include events surrounding the NHL's All-Star Game in the exemption. The CS also reorganizes the subparagraph into a delineated list.

- B. **Amendments:**

None.