

STORAGE NAME: s884z.tu

****FINAL ACTION****

DATE: May 5, 1998

****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TOURISM
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: SB 884/1ST ENG

RELATING TO: Local Option Tourist Development Tax

SPONSOR(S): Senator Clary

COMPANION BILL(S): CS/HBs 3691 and 3441 (I) and SB 1392 (S)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMUNITY AFFAIRS YEAS 5 NAYS 0
- (2) COMMERCE & ECONOMIC OPPORTUNITIES YEAS 8 NAYS 0
- (3) WAYS & MEANS WITHDRAWN
- (4)
- (5)

I. FINAL ACTION STATUS:

On April 28, 1998, the House substituted SB 884/1ST ENG for CS/HBs 3691 and 3441 and passed the bill by a vote of 119 YEAS to 0 NAYS. Senate Bill 884/1ST ENG became law without the Governor's signature on May 22, 1998, and is now cited as **Chapter 98-106, Laws of Florida.**

II. SUMMARY:

Senate Bill 884/1ST ENG (CS/HBs 3691 and 3441) amends s. 125.0104(3)(I), F.S., which authorizes any county to levy an additional 1 percent of local option tourist development tax for the purpose of financing a professional sports facility or a convention center. The bill eliminates the caveat that only those counties that have elected to levy the additional penny for planning and financing the capital costs of a professional sports franchise facility may subsequently use the proceeds of that levy for planning or financing the capitol costs of a convention center. The bill then authorizes those counties that have elected to levy the additional penny for the purpose of planning and financing a convention center to use the tax for the payment of operation and maintenance costs of a convention center for a period of up to ten years. Although the provisions of this bill do not create a new category of additional taxing, it does have the effect of creating more widespread use of this tax levy option.

There is no fiscal impact on state government. Regarding local government impact, local option tax revenues used to pay the operation and maintenance costs of a public convention center for a period of ten years will free the counties from using general funds to support a convention center operating at a deficit.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 125.0104, F.S., is known as the Local Option Tourist Development Act. The taxable privilege described by legislative intent in subsection (3) relates to the renting, leasing or letting for consideration of "transient rentals". Transient rentals are described in this section as living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, or condominium for a term of 6 months or less. This act authorizes certain counties to levy a tourist development tax of 1 percent or 2 percent on transient rentals, in addition to the tax imposed on such rentals by Chapter 212, F.S. After 3 years of collecting the 1 percent or 2 percent tax, the governing board of the county (by extraordinary vote) may elect to impose an additional 1 percent tax on transient rentals.

Section 125.0104(5)(a), F.S., dictates that the revenues from these taxes may be used for four designated purposes.

- To acquire, construct, extend, enlarge, remodel, repair, improve, operate and promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums, or museums within the county or subcounty special taxing district levying the tax, to secure or liquidate bonds for these purposes (counties may let service contracts to certain qualified lessors to provide for the operation of such facilities), and to promote public zoos;
- To promote and advertise tourism in the state, nationally, and internationally;
- To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county; or
- To finance beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access and to secure revenue bonds for these purposes.

Paragraph (b) of subsection (5) provides that counties with less than 600,000 in population which are imposing a tourist development tax may use the revenues of that tax to acquire, construct, generally improve, or promote zoos, fishing piers or nature centers. Those entities must be owned and operated publicly or by a not-for-profit corporation and open to the public.

Currently, there are 41 counties in Florida which have elected to levy local option tourist development taxes. Most of the revenues from this tax are spent by the counties on advertising and promotion and on convention centers. Several opportunities (tied to certain conditions) exist within s. 125.0104, F.S., for counties to levy additional taxes on transient rentals for other purposes.

Each of paragraphs (l) and (n) of s. 125.0104(3), F.S., conditionally provides for the levy of an additional 1 percent tourist development tax. Paragraph (l) authorizes any county to levy an additional 1 percent tax for the purpose of paying the debt service on bonds issued to finance capital costs of a professional sports franchise facility and to pay the planning and design costs of such a facility. The facility must be publicly owned and operated or publicly owned and operated by the sports franchise or other lessee. If a county initially levies the tax for such purposes, it is then authorized to use the tax proceeds to pay the debt service on bonds issued to finance construction, reconstruction, or renovation of a convention center and to pay the planning and design costs of such a facility. Ten of the 41 counties have opted to levy the additional penny authorized under paragraph (l).

Of the ten counties which have opted to levy the additional penny authorized under paragraph (l), six of those counties have convention centers in operation. Five of the six responding county convention centers contacted through committee research have reported operating at a deficit since their existence. These convention centers have been in operation for periods ranging from eight to twelve years.

If certain counties (except specific counties which have levied convention development taxes under s. 212.0305, F.S.) have exercised their authority to levy the tax in paragraph (l), they may then levy an additional 1 percent tax under paragraph (n) for the purpose of paying the debt service on bonds issued to finance construction, reconstruction, or renovation costs of a professional sports franchise facility and to pay the planning and design costs of such a facility.

B. EFFECT OF PROPOSED CHANGES:

Senate Bill 884/1ST ENG (CS/HBs 3691 and 3441) amends s. 125.0104(3)(l), F.S., which authorizes any county to levy an additional 1 percent of local option tourist development tax for the purpose of financing a professional sports facility or a convention center. The bill eliminates the caveat that only those counties that have elected to levy the additional penny for planning and financing the capital costs of a professional sports franchise facility may subsequently use the proceeds of that levy for planning or financing the capitol costs of a convention center. The bill then authorizes those counties that have elected to levy the additional penny for the purpose of planning and financing a convention center to use the tax for the payment of operation and maintenance costs of a convention center for a period of up to ten years. Although the provisions of this bill do not create a new category of additional taxing, it does have the effect of creating more widespread use of this tax levy option.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No

b. Does the bill require or authorize an increase in any fees?

No

c. Does the bill reduce total taxes, both rates and revenues?

No

d. Does the bill reduce total fees, both rates and revenues?

No

e. Does the bill authorize any fee or tax increase by any local government?

No

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 125.0104(3)(l), F.S.

E. SECTION-BY-SECTION RESEARCH:

A section-by-section analysis is not required. See "Effect of Proposed Changes."

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

Local option tax revenues used to pay the operation and maintenance costs of a public convention center for a period of ten years will free the counties from using general funds to support a convention center operating at a deficit.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Florida residents and guests who stay in transient lodgings will not experience a change in sales taxes in those counties which have previously elected to levy an additional 1 percent local option tax.

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

None

D. FISCAL COMMENTS:

N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to expend funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenue.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

VI. COMMENTS:

None

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Senate Bill 884, companion to HB 3441, was prefiled by Senator Clary on February 2, 1998, and referred to the Committees on Community Affairs, Commerce and Economic Opportunities, and Ways and Means on February 11, 1998. The Committee on Community Affairs reported the bill favorably on March 9, 1998, by a vote of 5 YEAS to 0 NAYS. The Committee on Commerce and Economic Opportunities on March 23, 1998 reported SB 884 favorably by a vote of 8 YEAS to 1 NAY. The bill was withdrawn from the Committee on Ways and Means on April 1, 1998, and placed on the Consent Calendar on April 24, 1998. The Senate adopted an amendment to the bill on April 24, 1998, which added the provisions of SB 1392, companion to HB 3691, and made the bill identical to CS/HBs 3691 and 3441. The amended bill was passed by the Senate on April 24, 1998, by a vote of 34 YEAS to 3 NAYS and was immediately certified to the House. On April 28, 1998, the House substituted **SB 884/1ST ENG** for CS/HBs 3691 and 3441 and passed it by a vote of 119 YEAS to 0 NAYS. **Senate Bill 884/1ST ENG** became law without the Governor's signature on May 22, 1998, and is now cited as **Chapter 98-106, Laws of Florida**.

House Bill 3691, companion to SB 1392, was prefiled by Representative Merchant on February 17, 1998, and referred to the Committees on Tourism, Finance and Taxation, and Transportation and Economic Development Appropriations on March 10, 1998. The

Committee on Tourism, on April 2, 1998, adopted an amendment to HB 3691 adding the provision of HB 3441 which removed the caveat under s. 125.0104(3)(l), F.S., of having to levy the additional 1 percent of local option tourist development tax for a professional sports facility before the tax revenues can be used for a convention center. Then, the Committee voted to combine both bills into a committee substitute and passed **CS/HBs 3691 and 3441** by a vote of 7 YEAS to 0 NAYS.

On April 14, 1998, the Committee on Finance and Taxation adopted one amendment to CS/HBs 3691 and 3441. The amendment allowed a county to hold harmless and indemnify any party to a lease or financing of real property, airport, seaport operation or facility against damages to third parties. The committee then reported the bill favorably by a vote of 13 YEAS to 0 NAYS.

CS/HBs 3691 and 3441 was withdrawn from the Committee on Transportation and Economic Development Appropriations on April 23, 1998. On April 24, 1998, the bill was placed on the Consent Calendar and, at the request of Representative Merchant, a negative vote was taken on the Finance and Taxation Committee amendment. On April 28, 1998, the bill was laid on the table and SB 884/1ST ENG was substituted and passed the House by a vote of 119 Yeas to 0 Nays.

House Bill 3441, companion to SB 844, was prefiled by Representative Melvin on January 22, 1998, referred to the Committees on Tourism, Finance and Taxation, and Transportation and Economic Development Appropriations on February 13, 1998, withdrawn from those committees on February 27, 1998, and designated as "filed but not referred." House Bill 3441 was again referred to those committees on March 19, 1998. On March 27, 1998, the Committee on Tourism combined HB 3441 with HB 3691 as a committee substitute and the original bill was laid on the table.

Senate Bill 1392, companion to HB 3691, was prefiled by Senator Rossin and others on February 20, 1998, and was referred to the Committees on Community Affairs, Commerce and Economic Opportunities, and Ways and Means on February 26, 1998. The Committee on Community Affairs reported the bill out on April 7, 1998, as favorable with 1 amendment. The amendment added the language of SB 844 (HB 3441) to the bill. On April 20, 1998, the Committee on Commerce and Economic Opportunities reported the bill out as favorable and on April 23, 1998, the bill was withdrawn from the Committee on Ways and Means and placed on the Senate Calendar where it died on May 1, 1998. The provisions of this bill and its amendment, however, were the same as SB 884 as it was amended and passed by the Senate and House.

VIII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Legislative Research Director:

Susan F. Cutchins

Judy C. McDonald

STORAGE NAME: s844z.tu

DATE: May 5, 1998

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FINAL RESEARCH PREPARED BY COMMITTEE ON TOURISM:

Prepared by:

Legislative Research Director:

Susan F. Cutchins

Judy C. McDonald