

**STORAGE NAME:** h0561.ca

**DATE:** February 20, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
ANALYSIS**

**BILL #:** HB 561

**RELATING TO:** Tax on Sales, Use and Other Transactions

**SPONSOR(S):** Representative Fasano and others

**COMPANION BILL(S):** SB 700 (c)

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

- (1) COMMUNITY AFFAIRS
  - (2) FINANCE AND TAXATION
  - (3) GENERAL GOVERNMENT APPROPRIATIONS
  - (4)
  - (5)
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**I. SUMMARY:**

House Bill 561 revises an existing exemption from all sales and use taxes for veterans' organization headquarters and allows the exemption to include all qualified veterans' organizations.

Furthermore, the bill provides for an exemption from all sales and use taxes for organizations which hold a current exemption from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code.

The Revenue Impact Conference has estimated that the expanded exemption for veterans' organizations will have a recurring fiscal impact on state general revenue of \$500,000.

During the 1998 legislative session, the Revenue Impact Conference estimated that the exemption for all 501(c)(3) organizations have a recurring fiscal impact on state general revenue of \$14.1 million. The estimated impact to local governments is \$2.3 million annually. Therefore, the estimate exceeds \$1.4 million, which reduces the authority that municipalities or counties have to raise revenues in the aggregate, as such authority existed on February 1, 1989.

This provision constitutes, as defined by Section 18, Article VII of the Florida Constitution, an unfunded mandate to local governments. The bill requires a 2/3 vote of both houses of the Legislature for passage.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 212, Florida Statutes, establishes taxation and exemptions therefrom on the retail sales, storage and use of all tangible personal property in the State of Florida. The rate of taxation in Florida is 6 percent of the sales price of each item or article of tangible personal property when sold at retail, computed on each taxable sale for the purpose of remitting the amount of tax due to the state, and including each and every retail sale. Furthermore, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from up to 0.5 percent to 1.0 percent each.

Currently, section 212.08(7)(o), Florida Statutes, provides an exemption from all sales and use taxes to nonprofit organizations; including religious, charitable, scientific, educational, and veterans' institutions and organizations.

Specifically, the exemption provided to veterans' organizations applies only to state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in providing customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organizations and used to maintain the highest ranking state official, of the qualified veterans' organization, are exempt from the sales and use taxes.

The 1998 Legislature defined a qualified veterans' organization as a nationally chartered or recognized veterans' organization, including but not limited to; Florida Chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under section 501(c)(4) or (19) of the Internal Revenue Code.

Currently, entities must have a 501(c)(3) status and meet additional Florida-specific criteria to qualify for a "consumer certificate of exemption." Therefore, some organizations may be exempt from federal taxes but not from state taxes. Other entities that do not or cannot obtain 501(c)(3) status from the Internal Revenue Service may also qualify for a "consumer certificate of exemption" if they meet the Florida-specific criteria. Historically, the Legislature has specifically exempted a number of entities which do not meet the statutory criteria. Some examples of the more than 50 exemptions are; professional services, charter fishing vessels and citizen support organizations.

B. EFFECT OF PROPOSED CHANGES:

House Bill 561 revises an existing exemption from all sales and use taxes for veterans' organization headquarters and expands the exemption to include all qualified veterans' organizations.

Furthermore, the bill provides for an exemption from all sales and use taxes for organizations which hold a current exemption from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code.

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?

The bill allows an exemption from the taxes authorized in chapter 212, Florida Statutes, to all qualified veterans' organizations.

Furthermore, the bill creates an exemption from the taxes authorized in chapter 212, Florida Statutes, for all entities that qualify as a 501(c)(3) organization per the Internal Revenue Code. Currently, there are many 501(c)(3) organizations that already qualify for an exemption from chapter 212, Florida Statutes. However, there are many more organizations which cannot meet related Florida-specific requirements.

- 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?

No.

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

No.

4. Individual Freedom:

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

No.

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

No.

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 212.08.

E. SECTION-BY-SECTION ANALYSIS:

SECTION 1: Amends section 212.08 (7)(o), 1998 Supplement, to revise an existing exemption from all sales and use taxes for veterans' organization headquarters; allows the exemption to include all qualified veterans' organizations; provides for an exemption from all sales and use taxes for organizations which hold a current exemption from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code.

SECTION 2: Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The Revenue Impact Conference has estimated that the expanded exemption for veterans' organizations will have a recurring fiscal impact on state general revenue of \$500,000.

During the 1998 legislative session, the Revenue Impact Conference estimated that the exemption for all 501(c)(3) organizations have a recurring fiscal impact on state general revenue of \$14.1 million.

3. Long Run Effects Other Than Normal Growth:

The amount of lost revenue to the state general revenue will increase as more organizations qualify for each of these two exemptions.

4. Total Revenues and Expenditures:

See A2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

The Revenue Impact Conference estimates that the expanded exemption for veterans' organizations has an insignificant impact on local governments revenue.

During the 1998 legislative session, the Revenue Impact Conference estimated that the exemption for all 501(c)(3) organizations had a recurring fiscal impact on local government revenues of \$2.3 million.

3. Long Run Effects Other Than Normal Growth:

The amount of lost revenue to local governments will increase as more organizations qualify for each of these two exemptions.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Qualified veterans' organizations and federally recognized 501(c)(3) organizations will receive significant tax reductions due to these additional exemptions from Chapter 212, Florida Statutes.

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

N/A

D. FISCAL COMMENTS:

The Revenue Impact Conference estimates that the expanded exemption for veterans' organizations has a recurring fiscal impact on state general revenue of \$500,000. However, It is reported by veterans' groups that for as long as 15 years that they have been exempt from taxes provided for in chapter 212, Florida Statutes. According to these groups, only recently has the Department of Revenue denied certificates of exemption for veterans groups. The Department of Revenue contends that this issue is in dispute and they are unsure of how many veterans' groups received the exemption and for how long. The Revenue Impact Conference may not have had this benefit of this information when they met on the bill.

During the 1998 legislative session, the Revenue Impact Conference estimated that the exemption for all 501(c)(3) organizations had a total recurring fiscal impact on state general revenue and local government revenues of \$16.4 million.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to expend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill reduces the authority of cities and counties to raise revenues of sales and use taxes in the aggregate, which are authorized by chapter 212, Florida Statutes, by providing an exemption for all organizations which federally qualify as 501(c)(3) organizations.

The estimated impact to local governments is \$2.3 million annually. Therefore, the estimate exceeds \$1.4 million, which would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority existed on February 1, 1989.

This provision constitutes, by Section 18, Article VII of the Florida Constitution, an unfunded mandate to local governments and requires a 2/3 vote of both houses of the Legislature for passage.

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

The bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

The Tri-state chapter of the Paralyzed Veterans of America and the Council of Veterans Organization are supportive of the provisions of the bill relating to providing an exemption from chapter 212, Florida Statutes for all veterans' organizations.

The Department of Revenue is supportive of the provisions of the bill relating to the additional exemption for all 501(c)(3) organizations and maintains this change will reduce continual administrative difficulties with the current exemption structure.

The Florida Association of Counties supports the provisions of the bill relating to providing an exemption from chapter 212, Florida Statutes for all veterans' organizations.

The Florida League of Cities was contacted regarding the bill and did not respond prior to the publication of the analysis.



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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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