

STORAGE NAME: h1001a.ca
DATE: March 23, 2000

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

BILL #: HB 1001
RELATING TO: Tax Exemption/Public Golf Course
SPONSOR(S): Representative Fuller
TIED BILL(S): None

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

- (1) COMMUNITY AFFAIRS (PRC) YEAS 4 NAYS 3
 - (2) FINANCE & TAXATION (FRC)
 - (3) GENERAL GOVERNMENT APPROPRIATIONS (FRC)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides an exemption from the tax on the lease or rental of or license in real property for that portion of leased real property which is used as a public golf course when charges for use of the golf course are taxable as admissions. The bill provides for the determination of the exempt portion and provides requirements to qualify for the exemption.

A golf course qualifies as a public golf course if not more than 75 percent of the rounds played at the golf course are played by members. The bill defines "member" to mean a person who pays a fixed amount of dues for the privilege of playing an unlimited number of rounds of golf. Golf rounds played by members' guests are to be considered rounds played by nonmembers.

The Impact Conference projects a negative \$0.3 million impact on the General Revenue Fund in FY 2000-2001, and a negative \$0.6 million recurring impact on the General Revenue Fund in subsequent years. The Impact Conference projects a negative \$0.1 million recurring impact on the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties. The reduction in revenues collected by local governments under local option sales taxes is expected to be insignificant.

The Committee on Community Affairs adopted one amendment that is traveling with the bill. As discussed in the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section of the analysis, the amendment provides that any golf course receiving exemptions under this act shall not exclude from its membership any person because of gender, race, religion, national origin or physical disability.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Sales Tax on Lease or Rental of or License in Real Property

Section 212.031(1)(a), F.S., states that every person is exercising a taxable privilege who engages in the renting, leasing, letting, or granting of a licence for the use of any real property. There are several exemptions to the tax imposed on this privilege based on the type or use of the property. Section 212.031(1)(c), F.S., imposes a tax rate of 6 percent of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. The lease of property for use as a golf course is not listed as a specific exemption in chapter 212, F.S.

Admissions Sales Tax

Section 212.04(1)(a), F.S., provides that it is a taxable privilege to sell or receive anything of value by way of admissions. Paragraph (b) of this subsection provides the tax rate of 6 percent for such privilege and specifies the rate shall be computed after deducting any federal taxes imposed on the admission.

Local Option Sales Taxes

Section 212.055, F.S., authorizes local governments to levy numerous types of local discretionary sales surtaxes. These include:

- (1) The Charter County Transit System Surtax [s. 212.055(1), F.S.];
- (2) The Local Government Infrastructure Surtax [s. 212.055(2), F.S.];
- (3) The Small County Surtax [s. 212.055(3), F.S.];
- (4) The Indigent Care Surtax [s. 212.055(4), F.S.];
- (5) The County Public Hospital Surtax [s. 212.055(5)]; and
- (6) The School Capital Outlay Surtax [s. 212.055(6), F.S.].

Pursuant to section 212.054, F.S., the local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions. The surtax is computed by multiplying the rate imposed by the county where the sale occurs by the amount of taxable sale. The sales amount is not subject to the surtax if the property or service is delivered within a county that does not impose a surtax. In addition, the tax is not subject to any sales amount above \$5,000 on any item of tangible personal property and on long distance telephone service. The \$5,000 cap does not apply to the sale of any other service.

C. EFFECT OF PROPOSED CHANGES:

This bill provides an exemption from the tax on the lease or rental of or license in real property for that portion of leased real property which is used as a public golf course when charges for the use of the golf course are taxable as admissions under s. 212.04, F.S. The bill provides for the determination of the exempt portion and provides requirements to qualify for the exemption.

A golf course qualifies as a public golf course if not more than 75 percent of the rounds played at the golf course are played by members. The bill defines "member" to mean a person who pays a fixed amount of dues for the privilege of playing an unlimited number of rounds of golf. Golf rounds played by members' guests are to be considered rounds played by nonmembers.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. A new subsection (10) is added to s. 212.031, F.S., to exempt from tax imposed on the lease, rental, or license that portion of leased real property used for a public golf course when use of the golf course is subject to a charge taxable under 212.04, F.S. Paragraph (a) of new subsection (10) provides that the portion of real property eligible for the exemption shall be the lesser of:

- The percentage of the total area of the leased property used for the golf course; or
- Ninety percent of the total area of the property.

Paragraph (a) provides the area of the property used for the golf course is to be determined by multiplying the published length of the course in yards times 100 yards.

Paragraph (b) of new subsection (10) provides that a golf course qualifies as a public golf course if not more than 75 percent of the rounds played at the golf course are played by members. Such determination is to be made on an annual basis based on the rounds played during the previous full calendar year. For golf courses not in business during the entire previous year, the determination is to be made on a monthly basis based on the rounds played in the previous month. "Member" is defined to mean a person who pays a fixed amount of dues for the privilege of playing an unlimited number of rounds of golf. Golf rounds played by members' guests are to be considered rounds played by nonmembers.

Subsection (c) of new subsection (10) provides the exemption shall not be allowed unless the lessee extends a signed certificate to the lessor stating the property to be exempted is for the exclusive use described in subsection (10). The certificate must include the exempt percentage determined pursuant to paragraph (a), and a statement that the golf course qualifies as a public golf course pursuant to this subsection.

Section 2. An effective date of January 1, 2001, is provided.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Impact Conference projects a negative \$0.3 million impact on the General Revenue Fund in FY 2000-2001, and a negative \$0.6 million recurring impact on the General Revenue Fund in subsequent years.

2. Expenditures:

This bill has no impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Impact Conference projects a negative \$0.1 million recurring impact on the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties. The reduction in revenues collected by local governments under local option sales taxes is expected to be insignificant.

2. Expenditures:

This bill does not directly affect local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill reduces taxes paid by golf courses qualifying for the tax exemption provided by this bill.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not yet considered HB 1001.

IV. 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 spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the bill will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

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

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Community Affairs

The Committee on Community Affairs adopted one amendment on March 23, 2000, that is traveling with the bill. The amendment provides that any golf course receiving exemptions under this act shall not exclude from its membership any person because of gender, race, religion, national origin or physical disability.

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

Staff Director:

Thomas L. Hamby

Joan Highsmith-Smith