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DATE: May 31, 2001

****AS PASSED BY THE LEGISLATURE****

CHAPTER #: 2001-311, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LOCAL GOVERNMENT & VETERANS AFFAIRS
FINAL ANALYSIS – LOCAL LEGISLATION**

BILL #: HB 867, 1ST ENG

RELATING TO: Hillsborough County/Tourist Development

SPONSOR(S): Representative(s) Romeo & others

TIED BILL(S): None

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

- (1) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC) YEAS 8 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill revises the composition of the Hillsborough County Tourist Development Council to include two additional members. One member must be an elected municipal official from the one municipality currently not represented on the Hillsborough County Tourist Development Council, and the other a representative of the tourist industry.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill. (See II.C. "EFFECT OF PROPOSED CHANGES:" section.)

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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

Counties are authorized to levy five separate taxes on transient rental transactions. Depending on the particular tax, the levy may be authorized by vote of the governing body or by referendum. Tax rates vary by county depending on a county's eligibility to levy particular taxes; however, the absolute maximum tax rate is 6 percent.

Current law, section 125.0104(3)(c), Florida Statutes, provides for a local option tourist development tax at a rate of 1 or 2 percent. As of September 2000, all of the 47 counties levying the tax are at the 2 percent rate. In addition to any 1 or 2 percent tourist development tax, section 125.0104(3)(d), Florida Statutes, provides for an additional 1 percent tourist development tax by the extraordinary vote of the governing board of the county or by referendum approval by the registered electors within the county or subcounty special district. Only counties that have levied the 1 or 2 percent for three years are eligible. Of the 38 counties eligible to levy the tax, 25 were levying the additional tax as of September 2000.

Section 125.0104(4)(e), Florida Statutes, requires that the governing board of each county that levies and imposes a tourist development tax, to establish, by ordinance, an advisory council to be known as the "... (name of county) ... Tourist Development Council." The council is a nine-member board, which is appointed by the governing board of the county. The chair of the governing board of the county or any other member of the governing board as designated by the chair, shall serve on the council. Two members of the council are elected municipal officials, with at least one of them being from the most populous municipality in the county or subcounty special taxing district in which the tax is levied. Six members of the council are persons involved in the tourist industry who have demonstrated an interest in tourist development. Not less than three, nor more than four, are owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. The governing board of the county has the option of designating the chair of the council or allowing the council to elect a chair. The chair is appointed or elected annually and may be reelected or reappointed.

Members of the council serve for staggered terms of 4 years. The council must meet at least once each quarter. The council makes recommendations to the county governing board for the effective operation of the special projects or for uses of the tourist development tax revenue and perform such other duties as may be prescribed by county ordinance or resolution. The council continuously reviews expenditures of revenues from the tourist development trust fund and receives, at least quarterly, expenditure reports from the county governing board or its designee.

Expenditures that the council believes are unauthorized must be reported to the county governing board and the Department of Revenue. The governing board and the department, upon reviewing the findings of the council, must take appropriate administrative or judicial action to ensure compliance with this section.

C. EFFECT OF PROPOSED CHANGES:

This bill revises and expands the composition of the Hillsborough County Tourist Development Council (council), by increasing the council from nine members to eleven members. The number of elected municipal officials is increased to three, with the additional member being an elected municipal official from the one municipality currently not represented on the council (the City of Temple Terrace). In addition, an additional representative of the tourist industry is added to increase the number from six to seven members on the council. The appointments of the new members are to be made within 30 days of the bill becoming a law.

Currently, the City of Tampa holds one of the municipal seats by virtue of its population. The other municipal seat is held by Plant City. This bill allows the City of Temple Terrace to hold a municipal seat on the council by requiring the county to appoint an elected municipal officer from each municipality within the county to the council.

This revision and expansion has a *de minimis* effect on the distribution of power among the members. Municipal representation is increased from 22 percent to 27 percent; county representation is decreased from 11 percent to 9 percent; and tourist industry representation from 67 percent to 64 percent.

In addition, this bill provides that the revisions to the council composition do not impact the current term of any council member.

Pursuant to House Rule 5.6(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.6(b) appear to apply to this bill.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: This section revises and expands the composition of the Hillsborough County Tourist Development Council, by increasing the council from nine members to eleven members. The number of elected municipal officials is increased to three, with the additional member being an elected municipal official from the one municipality currently not represented on the council. An additional representative of the tourist industry is added to increase the number from six to seven members on the council. The appointments of the new members are to be made within 30 days of the bill becoming a law. In addition, this section provides that the revisions to the council composition do not impact the current term of any council member.

Section 2: The act becomes effective upon becoming a law.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN?

January 6, 2001

WHERE?

The Times; Tampa, Hillsborough County

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill raised some concerns that the provisions violated Article III, Section 11, and Article VII, Section 9(a), of the Florida Constitution. Article III, Section 11, of the Constitution, provides the general prohibitions on special laws, including a prohibition on special laws relating to the assessment or collection of taxes for state or county purposes. This bill does not appear to affect the assessment or collection of taxes.

Article VII, Section 9(a), of the Florida Constitution, provides that local governments may be authorized by general law to levy ad valorem and other taxes for local purposes. The courts have held that this prohibits a special act that authorizes the levy of a new tax or a new use of an existing tax. This bill does not appear to impose a new tax or permit a new use.

In response to a letter by Representative Sorensen, the Chairman of Local Government & Veterans Affairs, on the applicability of these constitutional provisions, the House General Counsel replied in a March 23, 2001 letter that the membership of a local tourist development council may be altered by a special act and that the bill does not violate the above mentioned constitutional provisions. A copy of this letter is available at the office of the House Local Government & Veterans Affairs Committee.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Local Government & Veterans Affairs, at its March 27, 2001 meeting, adopted a strike-everything amendment, offered by Representative Romeo, which clarifies the bill by (1) inserting current statutory language relating to the council member that represents the county and (2) providing that the revisions composition do not impact the current term of any council member.

VI. SIGNATURES:

COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

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Laura Jacobs

Joan Highsmith-Smith

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON LOCAL GOVERNMENT & VETERANS AFFAIRS:

Prepared by:

Staff Director:

Laura Jacobs

Joan Highsmith-Smith