

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1081      Public Service Taxes/Elderly Exemption  
**SPONSOR(S):** Pickens  
**TIED BILLS:**      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government &amp; Veterans' Affairs</u>		<u>Grayson</u>	<u>Cutchins</u>
2) <u>Business Regulation</u>			
3) <u>Finance &amp; Tax</u>			
4) _____			
5) _____			

## SUMMARY ANALYSIS

This bill authorizes those local taxing authorities that levy a public service tax under either s. 166.231 or 166.232, F.S., to exempt from that tax those persons aged 65 years or older. The bill requires that the exemption be established by resolution and that the resolution provide procedures to notify eligible exempt persons and for their application for the exemption.

The bill does not appear to have an impact on the state budget.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | 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. EFFECT OF PROPOSED CHANGES:

This bill authorizes those local taxing authorities that levy a public service tax under either s. 166.231 or 166.232, F.S., to exempt from that tax those persons aged 65 years or older. The bill requires that the exemption be established by resolution and that the resolution provide procedures to notify eligible exempt persons and for their application for the exemption.

##### Public Service Tax

Municipalities and charter counties are authorized to levy by ordinance a public service tax on the purchase of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water service.<sup>1</sup> The tax shall be levied only upon purchases within the municipality or within the charter county’s unincorporated area and shall not exceed 10 percent of the payments received by the seller of the taxable item. Services competitive with those listed above, as defined by ordinance, shall be taxed on a comparable base at the same rates; however, fuel oil shall be taxed at a rate not to exceed 4 cents per gallon.<sup>2</sup> The tax proceeds are considered general revenue for the municipality or charter county.

A charter county, by virtue of numerous legal rulings in Florida case law, may levy the tax within the unincorporated area. For example, the Florida Supreme Court has ruled that charter counties, unless specifically precluded by general or special law, may impose by ordinance any tax in the area of its tax jurisdiction that a municipality may impose.<sup>3</sup> More recently, the Court held that Orange County could levy a public service tax without specific statutory authority to do so.<sup>4</sup>

#### C. SECTION DIRECTORY:

Section 1. Creates s. 166.233(2)(c), F.S., to provide authority for the exemption of any person 65 years of age or older from a public service tax levied by the local taxing authority.

Section 2. Provides for an effective date of October 1, 2004.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

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<sup>1</sup> Section 166.231(1), F.S.

<sup>2</sup> Id., at (2).

<sup>3</sup> *Volusia County v. Dickinson*, 269 So.2d 9 (Fla. 1972).

<sup>4</sup> *McLeod v. Orange County*, 645 So.2d 411 (Fla. 1994).

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. This bill provides discretion to local taxing authorities to exempt elderly persons from the public service tax levied by that authority.

2. Expenditures:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Some persons 65 years of age or older may be relieved from locally imposed public service taxation.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

None.