

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1924

SPONSOR: Comprehensive Planning Committee and Senator Margolis

SUBJECT: Sales Tax/Publicly Owned Football Facility

DATE: March 16, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AGG</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	<u>RC</u>	_____
6.	_____	_____	_____	_____

**I. Summary:**

This Committee Substitute (CS) allows qualified publicly owned football facilities to retain sales tax proceeds generated by the facility to fund renovations of the facility.

This CS substantially amends section 212.08, Florida Statutes.

**II. Present Situation:**

**Tax on Sales, Use, and Other Transactions**

Chapter 212, F.S., provides for a 6 percent tax on sales, use, and other transactions. Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under ch. 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a 6 percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in Florida. Section 212.05(1)(b), F.S., provides for a 6 percent tax on the cost price of any item of tangible personal property that is not sold but used in Florida. Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging 0.5 percent to 1.0 percent each.<sup>1</sup>

<sup>1</sup> The maximum combined rate for the Local Government Infrastructure Surtax, the Small County Surtax, the Indigent Care and Trauma Center Surtax, and the County Public Hospital Surtax, is 1%. In counties with a publicly supported medical school levying the Voter-Approved Indigent Care Surtax, the combined rate is 1.5 percent. The maximum combined rate for

Pursuant to s. 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 on any sales amount above \$5,000 on any item of tangible personal property and on long-distance telephone service is not subject to the surtax. The \$5,000 cap does not apply to the sale of any other service.

### **Sales Taxes on School Sponsored Events**

Section 212.04(2)(a)1., F.S., provides that sales taxes may not be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Children and Family Services, and state correctional institutions when only student, faculty, or inmate talent is used. But, this exemption does not apply on admissions to athletic events sponsored by a state university. The proceeds from the tax collected on state university sponsored events are to be retained and used by each institution to support women's athletics.

### **Financial Matters and Political Subdivisions**

Section 218.503, F.S., states that a local government is in a state of a financial emergency when any of the following conditions occurs:

- failure, within the same fiscal year, to pay short-term loans from banks or to make bond debt service payments when due;
- failure to transfer at the appropriate time, due to lack of funds, taxes withheld on the income of employees or employer and employee contributions for Social Security or any employee pension, retirement, or benefit plan;
- failure to pay for one pay period, due to lack of funds, wages and salaries owed to employees or retirement benefits owed to former employees;
- an unreserved or total fund balance or retained earnings deficit for which sufficient resources of the local government are not available to cover the deficit for two successive years; or
- noncompliance of the local government retirement system with actuarial conditions provided by law.

A local government must notify the Governor and Joint Legislative Auditing Committee when one or more of these conditions has occurred or will occur. The Governor has the authority to implement measures as set forth in ss. 218.50-218.504, F.S., to resolve the financial emergency, including establishing a financial emergencies board to oversee the activities of the local governmental entity.

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counties authorized to levy the Charter County Transit System Surtax is 2.5%. The School Capital Outlay Surtax is capped at 0.5%, and is not included in these tax rate caps.

### III. Effect of Proposed Changes:

**Section 1** amends s. 212.08(5), F.S., adding a new paragraph (r), which allows a certain public football facility to retain the proceeds of the sales taxes generated by the facility, its concessionaires, ticket sales, merchandising, ticket surcharges imposed by the local government, charges for services, and rental of the facility. These proceeds may be used to renovate and modernize the facility. To be eligible for the exemption, the football facility must be located within a municipality which, in the preceding ten years, has been declared in a state of financial emergency pursuant to s. 218.503, F.S., and has had a financial emergencies board established, regardless of whether the board is currently in existence, and at which a collegiate football team of a private or public university or college is based. A public or private university or college's football team is considered based only at the facility at which it plays the majority of games where it is designated the "home" team. An institution may not be deemed based at more than one facility in any single academic year.

The term "sales taxes generated by the facility" means taxes on ticket sales for events located at the facility, ticket surcharges imposed by the local government for events held at the facility, merchandise sales and concession sales on the premises of the facility, charges for services at the facility, and rental of the facility. It also includes any applicable local discretionary surtaxes.

Concessionaires, merchandisers, and other persons collecting the tax at the facility must remit the taxes to the department and report the sales to the Department of Revenue and to the facility. The department, in turn, must remit tax proceeds to the facility.

The executive director of the Department of Revenue is authorized to adopt emergency rules to implement this act.

**Section 2** provides that this bill takes effect July 1, 2004.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

The Impact Conference has estimated that the sales tax retention authorized in this bill will result in a 2004-05 fiscal year loss to the General Revenue Fund of \$600,000, with a annual recurring loss of \$600,000. There will be a corresponding increase in revenue to local governments.

**B. Private Sector Impact:**

A qualified publicly owned football facility would be able to retain the proceeds of the sales taxes generated by the facility, its concessionaires, ticket sales, merchandising, ticket surcharges imposed by the local government, charges for services, and rental of the facility, and may use these tax proceeds for the purpose of renovating and modernizing the facility.

**C. Government Sector Impact:**

This CS instructs the Department of Revenue to promulgate rules regarding how concessionaires, merchandisers, and other persons collecting tax at an eligible publicly owned football facility would remit the tax to the facility.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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