

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 737 Tax Benefits Related to Catastrophic Emergencies
SPONSOR(S): Grant
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Domestic Security Committee		Wiggins	Newton
2) Local Government Council			
3) Finance & Tax Committee			
4) State Administration Council			
5) _____			

SUMMARY ANALYSIS

The bill provides additional definition of the term “infrastructure”, allowing local governments the authority to expend proceeds from the Local Government Infrastructure Surtax for private entity facilities that are used, when needed, as public emergency shelters. The bill also provides an exemption from the Transient Rentals Tax for displaced persons seeking temporary housing due to an emergency or a major catastrophic disaster.

The bill amends s. 212.055 F.S. and s. 212.03 F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Maintain public security- The bill allows local government to expend the proceeds from the Local Government Infrastructure Surtax for private facilities to be utilized for the purposes of emergency public shelter needs; thus preserving the public's safety.

B. EFFECT OF PROPOSED CHANGES:

Present situation:

Local Government Infrastructure Surtax- Local governments are sanctioned to levy different types of local discretionary sales surtaxes pursuant to s. 212.055, F. S. The Local Government Infrastructure Surtax is one local tax that is utilized and may be levied at .5 percent or 1 percent. The proceeds of the tax may be expended within a county or municipalities within a county or by negotiated joint county agreement within another county to finance, plan, and construct infrastructure, to acquire land for public recreation or conservation or protection of natural resources, or to finance the closure of county-owned or municipality owned solid waste landfills.¹

As currently defined by the section, infrastructure means any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and related engineering costs.²

Section 212.03 F. S. provides for a sales tax of 6 percent on the business of renting, leasing, or granting a license to use any living quarters or sleeping or housekeeping accommodation in connection with any hotel, apartment house, rooming house, or tourist or trailer camp. The statute provides an exemption when a period of continuous residence is longer than 6 months.³

The Department of Community Affairs Division of Emergency Management's 2005 *Shelter Retrofit Report* highlights the deficit of safe public emergency shelter space. While significant progress has reduced the deficit of spaces meeting the American Red Cross standard ARC 4496, the report projects a need of almost 1.3 million public shelter spaces in 2006. The department estimates Florida will have 816,778 spaces meeting the public standard by the 2006 hurricane season.⁴ According to the report, under current shelter retrofit and building programs, Florida is projected to meet its estimated emergency public shelter needs by 2011.

Proposed situation:

Section 1 amends 212.055, F. S, to define the term "infrastructure" and further define the term "public facilities." Under the bill, public facilities can include private facilities temporarily used by local government as emergency public shelters or a staging area for emergency response equipment.

Under this broadened definition of "public facilities", local governments will be allowed to expend Local Government Infrastructure Surtax revenue on privately owned facilities to be used as temporary emergency public shelters and for a staging area for emergency response equipment. Additionally, the surtax revenue could be used for economic development purposes with private business so long as the

¹ S.212.055 (d)(1.) F.S.

² S. 212.055(2) (a) F.S.

³ S. 212.03 (1)F.S.

⁴ Department of Community Affairs, 2006 Shelter Retrofit Report, September, 2005.

building project meets public emergency shelter standards. These capital improvements may result in private buildings being better able to withstand hurricane force winds and other related threats to building safety.

Section 2 amends 212.03, F. S., to provide an exemption from the Transient Rentals Tax for a person who rents, leases, lets, or grants a license to use, occupy or enter transient living accommodations covered by the section to an individual who has been displaced from his or her usual living quarters by a hurricane or other catastrophic disaster. The Department of Revenue is charged with creating a rule, defining acceptable "proof", that is submitted to a landlord proving that the disaster is the legitimate cause of the individual's need for temporary housing.

C. SECTION DIRECTORY:

Section 1. Defines the term public facilities used on a temporary basis to provide emergency public shelters to local government agencies.

Section 2. Describes the exemption from the Transient Rentals Tax for displaced persons seeking temporary housing because of a hurricane and or a major catastrophic disaster.

Section 3. Provides for an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The impact of the exemption on Transient Rentals Revenue is (18.2) million to the General Revenue fund (2006-2007), according to the Revenue Estimating Impact Conference dated March 9, 2006.⁵

Local governments will be given expanded authority to expend surtax proceeds. Use of such funds would be intended to aid in reducing the current deficit of suitable emergency public shelters.

2. Expenditures:

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private sector businesses that agree to allow their buildings to be used as needed, during a disaster, may seek Local Government Infrastructure Surtax funds to offset capital development costs. Local building owners may contract with local construction and engineering entities to perform these capital

⁵ Revenue Estimating Conference, HB737, 3/9/06
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improvements for a profit. Additionally, by broadening the term of “public facilities” privately owned and publicly owned entities may be competing for the same pool of money for capital improvements. If a county decides that providing adequate shelter space is a priority, than the Local Government Infrastructure Surtax could be utilized for capital improvements on privately owned emergency shelters before those monies would be eligible for other public infrastructure projects.

Individuals who are displaced from their residence as a result of a hurricane or catastrophic event will be eligible for a tax exemption. As a result, there will most likely be a reduction in the amount of Transient Rentals Tax that is collected and reported by landlords. Landlords will also have to spend additional staff time to verify which individuals are eligible for the exemption.

D. FISCAL COMMENTS:

The bill will reduce the revenue potential from the Transient Rental Tax as outlined in s. 212.054 and 212.055., F.S.⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill may fall under subsection (b) of 2. 18 of Article VII, Florida Constitution. Subsection (b) that requires a two-thirds vote of the membership of each chamber in order to enact a general law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenue in the aggregate. By adding an exemption to the state sales tax, the bill has the effect of adding an exemption to the local option county sales surtax. Since there may be a qualifying anticipated annual local revenue loss from the Transient Rentals Tax, the bill may not be exempt from the requirements of subsection (b). Final determination would be made pending an impact review by the Revenue Estimating Impact Conference.

2. Other:

B. RULE-MAKING AUTHORITY:

The Department of Revenue is charged with creating a rule, defining acceptable “proof”, that is submitted to a landlord proving that the disaster is the legitimate cause of the individual’s need for temporary housing.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

⁶ Revenue Estimating Conference, HB 737, 3/9/06
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