

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Commerce Committee

BILL: PCS/SB 926

INTRODUCER: Commerce Committee and Senator Ring

SUBJECT: Economic Development

DATE: March 31, 2008

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Earlywine	Cooper	CM	Pre-meeting
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

I. Summary:

This proposed committee substitute authorizes a local option sales tax of 2 percent on food and beverages sold in hotels and motels. The proceeds from this tax are to be allocated to the local school district to be used to fund K-12 education services.

This proposed committee substitute amends s. 212.0306, F.S.

II. Present Situation:

Local Option Tourist Development Taxes

Section 125.0104, F.S., authorizes counties to levy five separate tourist development taxes on transient rental transactions: the Tourist Development Tax, the Additional Tourist Development Tax, the Professional Sports Franchise Facility Tax, the Additional Professional Sports Franchise Facility Tax, and the High Tourism Impact Tax. (See TABLE 1) Depending on the particular tax, the levy may be authorized by vote of the governing body or referendum approval. Tax rates vary by county depending on a county's eligibility to levy particular taxes. The maximum tax rate for most counties is 3 or 4 percent; however, the maximum rate is 6 percent for several counties.¹

¹ Section 125.0104(3)(b), F.S., provides "that there shall be no additional levy under this section in any cities or towns presently imposing the municipal resort tax as authorized under ch. 67-930, Laws of Florida." Section 125.0104(3)(b), F.S., was enacted in 1977 (ch.77-209, L.O.F.). Cities imposing this tax (of up to 2 percent) include Bal Harbour, Miami Beach, and Surfside in Miami-Dade County. The "additional levy" includes all of the tourist taxes other than the original Tourist Development Tax of 1-2 percent.

Generally, the revenues may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance; however, the authorized uses vary according to the particular levy.

Tourist Impact Tax

Section 125.0108, F.S., authorizes any county creating a land authority, pursuant to s. 380.0663(1), F.S., to levy a 1 percent tax on transient rental facilities within the county area designated as an area of critical state concern. If the area(s) of critical state concern are greater than 50 percent of the county's total land area, the tax may be levied countywide. Revenues from the tax must be used to purchase property in an area of critical state concern and to offset the loss of ad valorem taxes due to these acquisitions.

There are currently four areas of critical state concern. These include the Florida Keys in Monroe County; the Big Cypress Swamp, primarily in Collier County; the Green Swamp in central Florida; and the Apalachicola Bay area in Franklin County. Only Monroe County has satisfied the requirements of s. 380.0663(1), F.S., and levies the tax.

Convention Development Taxes

Section 212.0305, F.S., authorizes Duval, Miami-Dade, and Volusia counties to levy convention development taxes on transient rental transactions at a rate of 2 or 3 percent. Tax revenues may be used for capital construction of convention centers and other tourist related facilities as well as tourist promotion; however, the authorized uses vary according to the particular levy.

Miami-Dade Local Option Food and Beverage Taxes

Section 212.0306(1)(a), F.S., authorizes Miami-Dade County to impose, by majority vote of the county's governing body, a 2 percent tax on the sale of food, beverages, and alcoholic beverages in hotels and motels. The proceeds of this 2 percent tax must be used for tourism promotion and advertising as well as funding convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county.

Section 212.0306(1)(b), F.S., authorizes Miami-Dade County to impose, by majority vote of the county's governing body, a 1 percent tax on the sale of food, beverages, and alcoholic beverages in establishments that are licensed by the state to sell alcoholic beverages for consumption on the premises, except for hotels and motels. For the first 12 months of this 1 percent tax levy, the proceeds must be used by the county to assist persons who have become or are about to become homeless. These funds must be made available for emergency homeless shelters, food, clothing, medical care, counseling, alcohol and drug abuse treatment, mental health treatment, employment and training, education, and housing. Thereafter, not less than 15 percent of the proceeds must be made available for construction and operation of domestic violence centers. The remainder must be used for programs to assist the homeless or those about to become homeless. In addition, the proceeds and accrued interest may be used as collateral, pledged, or hypothecated for authorized projects, including bonds issued in connection with such authorized projects.

TABLE 1: Tourist Taxes

TAX	AUTHORIZED LEVY (%)	# OF COUNTIES AUTHORIZED TO LEVY TAX	# OF COUNTIES LEVYING TAX
TOURIST DEVELOPMENT			
Original Tax (s. 125.0104(3)(c), F.S.)	1 or 2%	67	59
Additional Tax (s. 125.0104(3)(d), F.S.)	1%	54	40
Professional Sports Franchise Facility Tax (s. 125.0104(3)(l), F.S.)	up to 1%	67	27
Additional Professional Sports Franchise Facility Tax (s. 125.0104(3)(n), F.S.)	up to 1%	23	13
High Tourism Impact Tax (s. 125.0104(3)(m), F.S.)	1%	Monroe, Orange & Osceola	Orange & Osceola
TOURIST IMPACT TAX			
Areas of Critical State Concern (s. 125.0108, F.S.)	1%	Monroe	Monroe
CONVENTION DEVELOPMENT			
Consolidated County Convention Tax (s. 212.0305(4)(a), F.S.)	2%	Duval	Duval
Charter County Convention Tax (s. 212.0305(4)(b), F.S.)	3%	Miami-Dade	Miami-Dade
Special District, Special, & Sub-county Convention Tax (s. 212.0305(4)(c), (d) & (e), F.S.)	3%	Volusia	Volusia
LOCAL OPTION FOOD & BEVERAGE TAX			
Food & Beverages in Hotels (s. 212.0306(1)(a), F.S.)	2%	Miami-Dade	Miami-Dade
Food & Beverages in Other Estbl. (s. 212.0306(1)(b), F.S.)	1%	Miami-Dade	Miami-Dade
MUNICIPAL RESORT TAX			
(ch. 67-930, L.O.F., as amended)	2% on food & beverages (Bal Harbour, Miami Beach, & Surfside) 4% on transient rentals		

(Source: Legislative Committee on Intergovernmental Relations, 3/2008)

The Municipal Resort Tax

Chapter 67-930, L.O.F., as amended, authorizes certain municipalities in Florida to levy the Municipal Resort Tax, at a rate of up to 4 percent on transient rental transactions, and up to 2 percent on the sale of food and beverages consumed in restaurants and bars. Tax revenues may be used for tourism promotion activities, capital construction and maintenance of convention and cultural facilities, and relief of ad valorem taxes used for those purposes.

Only those municipalities located in any county of the state which had a total county population based on the 1960 Census of between 330,000 and 340,000 (Broward) or more than 900,000 (Miami-Dade) and whose charter specifically provided for the levy of this tax at the original rate of up to 2 percent prior to January 1, 1968, are authorized to levy a tax. Currently, only Bal Harbour, Miami Beach, and Surfside (Miami-Dade County) are eligible to impose the tax.

III. Effect of Proposed Changes:

Section 1 amends s. 212.0306, F.S., to authorize counties, by ordinance adopted by a majority vote of the county commission, to levy a local option sales tax of 2 percent tax on food, beverages, and alcoholic beverages sold in hotels and motels. The proceeds from this tax are to be allocated to the local school district to be used to fund K-12 education services.

Only Miami-Dade County would not be authorized to levy this tax.

The current Miami-Dade Local Option Food and Beverage Tax of 3 percent is retained, and the specified current uses of tax proceeds, are not amended.

A certified copy of the ordinance that authorizes the imposition of a tax must be furnished by the county to the Department of Revenue within 10 days after the adoption of the ordinance.

If enacted, the tax may take effect on the first day of any month, but may not take effect until at least 60 days after the adoption of the ordinance.

Any county levying this tax is authorized to locally administer the tax, pursuant to s. 123.0104, F.S.

Section 2 provides an effective date of July 1, 2008.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article IX, Section 1 of the Florida Constitution states:

The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education...

The Florida Education Finance Program (FEFP) is the state's program for funding public schools. The FEFP uses a multifaceted funding distribution formula designed to provide each student in the Florida public education system educational programs and services that are substantially equal to those available to any similar student, notwithstanding geographic differences and varying local economic factors.

To the extent that counties exercise the option to levy the sales tax authorized by this bill, it may affect the equalization effect of the FEFP, resulting in a "non-uniform" public school system.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This proposed committee substitute creates a local option sales tax of 2 percent on food and beverages sold in hotels and motels. The proceeds from this tax are to be allocated to the local school district to be used to fund K-12 education services.

B. Private Sector Impact:

If imposed by the eligible counties, consumers would be subject to an additional tourist tax, at a rate of 2 percent on food, beverages, and alcoholic beverages in hotels and motels.

C. Government Sector Impact:

If imposed by an eligible county, they may incur cost associated with administration of the tax.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
