

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 Community Affairs Committee

BILL: SB 1226

INTRODUCER: Senator Montford

SUBJECT: Sales Tax Exemptions

DATE: February 5, 2012

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Toman | Yeatman | CA | Pre-meeting |
| 2. | | | BC | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill reimplements s. 212.031(10), F.S., exempting from sales tax separately stated charges imposed by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee for food, drink, or services required or available in connection with a lease or license to use real property, including charges for laborers, stagehands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel, advertising, and credit card processing.

Section 212.031(10), F.S. (2009), providing the above exemptions was repealed by operation of law effective July 1, 2009.

This bill reimplements s. 212.031(10) of the Florida Statutes.

II. Present Situation:

Sales and Use Tax

Chapter 212, F.S., contains the state's statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property and a limited number of services. The statutes currently provide more than 200 different exemptions.

Sections 212.054 and 212.055, F.S., authorize Florida counties to charge a discretionary sales surtax; only those surtaxes specifically designated in s. 212.055, F.S., may be levied.¹ The maximum discretionary sales surtax that any county may levy depends upon the county's eligibility for the taxes listed in s. 212.055, F.S., and ranges between 1.5 percent and 3.5 percent. The maximum any county currently levies is 1.5 percent. As of January 2012, 58 counties levied at least one discretionary sales surtax and 13 counties levied at least two.²

The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold and is levied in addition to the state taxes. The surtax applies to all transactions occurring in a county that are "subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions" and on communications services, defined in ch. 202, F.S. The surtax does not apply to a sales amount above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service. The Florida Department of Revenue (DOR) is responsible for administering, collecting, and enforcing all sales taxes. Collections received by DOR are returned monthly to the county imposing the tax.

Tax on Rental or License Fee for Use of Real Property

Section 212.031, F.S., establishes a taxable privilege for engaging in the business of renting, leasing, letting, or granting a license for the use of any real property. The tax imposed by s. 212.031, F.S., is in addition to the total amount of the rental or license fee.

There are several exemptions to the imposition of this taxable privilege cited in s. 212.031, F.S. Some of these exemptions include:

- Property used as an integral part of the performance of qualified production services.
- Property leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility.
- Property used or occupied predominantly for space flight business purposes.
- Property rented, leased, subleased, or licensed to a person providing telecommunications, data systems management, or Internet services at a publicly or privately owned convention hall, civic center, or meeting space at a public lodging establishment.

Chapter 2000-345, Section 212.031(10), F.S. (2009)

Chapter 2000-345, L.O.F., created subsection (10) of s. 212.031, F.S., providing a sales tax exemption for rental or license fees on separately stated charges imposed by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee for food, drink, or services required in connection with a lease or license to use real property. This exemption includes charges for

¹ These include: charter county and regional transportation system surtax, local government infrastructure surtax, small county surtax, county public hospital surtax, school capital outlay surtax, voter-approved indigent care surtax, emergency fire rescue services and facilities surtax.

² Florida Department of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2012*, available at <http://dor.myflorida.com/dor/forms/2012/dr15dss.pdf> (last visited Feb. 5, 2012).

laborers, stagehands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel, advertising, and credit card processing.

Section 212.031(10), F.S., was scheduled for repeal on July 1, 2003. Chapter 2002-218, L.O.F., extended these sales tax exemptions until July 1, 2006. Chapter 2006-101, L.O.F, once again extended the tax exemptions of subsection (10), this time, until July 1, 2009. The exemptions were repealed by operation of law on July 1, 2009.

III. Effect of Proposed Changes:

Section 1 adds subsection (10) to s. 212.031, F.S., to provide that separately stated charges imposed by a convention hall, exhibition hall, auditorium, stadiums, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee for food, drink, or services required or available in connection with a lease or license to use real property, including charges for laborers, stagehands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel, advertising, and credit card processing, are exempt from the tax imposed by this section.

Section 2 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue.

Subsection (d) provides an additional applicable exemption. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (\$1.88 million for FY 2011-2012), are exempt.

This bill reduces the authority that counties have to raise revenues with local option sales taxes. A February 2, 2012, analysis by the Revenue Estimating Conference estimated the total recurring local fiscal impact to be negative \$0.5 million.³ Because the fiscal impact was determined to be less than \$1.88 million, the impact of the bill will be considered insignificant and therefore exempt from the mandate restriction.

B. Public Records/Open Meetings Issues:

None.

³ Office of Economic and Demographic Research, The Florida Legislature, *Analysis of HB 1497 and SB 1226: Sales and Use Tax*, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/page179.pdf> (last visited Feb. 7, 2012)

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) estimated that the fiscal impact of these sales tax exemptions would be a recurring reduction of state and local sales taxes of \$2.1 million. The table below summarizes FY 2012-13 REC figures for the bill.⁴

| | FY 2012-13 Cash | FY 2012-13 Annualized |
|---------------------------|------------------------|------------------------------|
| General Revenue | - \$1.5 million | - \$1.6 million |
| State Trust | insignificant | insignificant |
| Total State Impact | - \$1.5 million | - \$1.6 million |
| Revenue Sharing | insignificant | - \$0.1 million |
| Local Gov't. Half Cent | - \$0.1 million | - \$0.2 million |
| Local Option | - \$0.1 million | - \$0.2 million |
| Total Local Impact | - \$0.2 million | - \$0.5 million |
| Total Impact | - \$1.7 million | - \$2.1 million |

B. Private Sector Impact:

Those persons eligible for the exemptions will benefit as certain rentals, leases, services and fees will be exempt from sales tax.

C. Government Sector Impact:

The DOR may incur administrative costs associated with the administration of the sales tax exemptions.

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.

⁴ *Id.*

B. Amendments:

None.

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