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 Appropriations Subcommittee on Finance and Tax

BILL: PCS/SB 658 (345480)

INTRODUCER: Appropriations Subcommittee on Finance and Tax and Senator Brandes

SUBJECT: Tourist Development Tax

DATE: February 7, 2018 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Favorable**
2.	Fournier	Diez-Arguelles	AFT	**Recommend: Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 658 authorizes counties imposing the tourist development tax to use the tax revenues to finance estuary or lagoon improvements, including construction of beach groins, and to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or finance public facilities if the public facilities are needed to increase tourist-related business activities in the applicable county or subcounty special district and are recommended by the county tourist development council.

Additionally, the bill authorizes the use of tax revenues for any related land acquisition, land improvement, design, and engineering costs and all other professional and related costs required to bring the public facilities into service. The term "public facilities" means major capital improvements that have a life expectancy of five or more years, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, and pedestrian facilities.

The bill provides that tourist development tax revenues may be used to finance public facilities only if the county or subcounty district in which the tax is levied received at least $20 million in revenue from the tax in the year before using the revenue for infrastructure, the infrastructure use is approved by a vote of at least two-thirds of the county governing board, no more than 70 percent of the cost of the infrastructure is paid for with tourist development tax revenue, and an independent professional analysis has shown the positive impact of the infrastructure on tourist-related businesses.

The bill has no impact on state or local revenues and does not require expenditures of state or local funds.

II. Present Situation:

Tourist Development Taxes

Florida law permits counties to impose local option taxes on short-term[1] rentals or leases of accommodations.[2] The taxes are generally referred to as "tourist development taxes," but consist of several separate tax levies.

- 1 or 2 Percent Tax:[3] This tax may be levied by the county's governing board at a rate of 1 or 2 percent on the total amount charged for transient rental transactions.
- Additional 1 Percent Tax:[4] This tax may be levied by an extraordinary vote of a county's governing board, in addition to the 1 or 2 percent tax on the total amount charged for transient rental transactions. To be eligible to levy the tax, a county must have levied the 1 or 2 percent tax for at least 3 years.
- High Tourism Impact Tax:[5] By extraordinary vote of the governing board of the county, a county with high tourism impact may levy an additional 1 percent tax on the total amount charged for transient rental transactions.[6]
- Professional Sports Franchise Facility Tax:[7] In addition to any other tourist development taxes, a 1 percent tax on the total amount charged for transient rental transactions may be levied to pay debt service on bonds issued to finance professional sports franchise facilities, retained spring training franchise facilities, and convention centers. These funds may also be used to promote tourism in the state.
- Additional Professional Sports Franchise Facility Tax:[8] A county that levies the professional sports franchise facility tax may levy an additional 1 percent tax to be used for the same purposes. This tax must be approved by a majority plus one vote of the membership of the board of county commissioners.

Depending on a county's eligibility, the maximum tax rate varies from 3 to 6 percent. The table below displays the five local option tourist development taxes available to counties, the number of counties eligible to levy a specific tourist development tax, and the number of counties currently levying such tax.[9]

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[1] Section 125.0104(3)(a), F.S. provides that the tax applies to rentals or leases of 6 months or less.
[2] Section 125.0104, F.S.
[3] Section 125.0104(3)(c), F.S.
[4] Section 125.0104(3)(d), F.S.
[5] Section 125.0104(3)(m), F.S.
[6] A county may be designated as having a "high tourism impact" by the Department of Revenue as provided by s. 125.0104(3)(m)2, F.S. The tax is levied by Monroe, Orange, Osceola, Palm Beach, and Pinellas counties. Broward, Lee, and Walton counties are eligible to levy it.
[7] Section 125.0104(3)(l), F.S.
[8] Section 125.0104(3)(n), F.S.
[9] Office of Economic Demographic Research, The Florida Legislature, *County Tax Rates: CY 2007-2017, Local Option Tourist Taxes, available at* http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm (Published June 1, 2017*).*

	Original Tax (1% or 2%)	Additional Tax (1%)	Professional Sports Franchise Facility Tax (up to 1%)	High Tourism Impact Tax (1%)	Additional Professional Sports Franchise Facility Tax (up to 1%)
Eligible to Levy:	67	59	67	8	65
Levying:	63	48	41	5	27

These local option taxes may be administered by the Department of Revenue or by one or more units of local government. These taxes may be levied within a subcounty special district. If the tax is levied in a subcounty special district, the additional taxes must be levied only in that district.[10]

As a requirement for adopting tourist development taxes, a county's tourist development council[11] must prepare a plan for tourist development and present it before the governing board of the county. The plan must include the anticipated revenue derived from the tax for the first 24 months, the tax district where it will be imposed, and a list prioritizing the use of the revenue. The county's governing board must approve any changes to the plan after the levy has been enacted.[12]

Local option tourist development tax revenues may be used for capital construction of tourist-related facilities, tourism promotion, and beach or shoreline maintenance. More specifically, the revenues derived from tourist development taxes are authorized to be used:

- To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:
  - Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums; or
  - Aquariums and museums that are publicly owned and operated, or owned and operated by a non-profit organization that is open to the public;
- To promote zoological parks that are publicly owned and operated or owned and operated by a non-profit organization that is open to the public;
- To promote and advertise tourism in the state;
- To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies; or
- To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control. [13]

III. Effect of Proposed Changes:

The bill authorizes counties imposing the tourist development tax to use those tax revenues to finance estuary or lagoon improvements, including construction of beach groins, and to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or finance public

[10] See ss. 125.0104(3)(b) and (d), F.S.
[11] Also referred to as a "tourism" development council.
[12] See ss. 125.0104(4), F.S. The provisions found in ss. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.
[13] Section 125.0104(5)(a), F.S.

facilities[14] within the boundaries of the county or subcounty special taxing district in which the tax is levied, if the public facilities are needed to increase tourist-related business activities in the county or subcounty special district and are recommended by the county tourist development council created pursuant to s. 125.0104(4)(e), F.S.

Tax revenues may be used for any related land acquisition, land improvement, design, and engineering costs and all other professional and related costs required to bring the public facilities into service.

The bill provides that tourist development tax revenues may be used to finance public facilities only if the following conditions are satisfied:

- The county or subcounty district in which the tax is levied received at least $20 million in revenue from the tax in the year before using the revenue for infrastructure.[15]
- The use of tax revenue for public infrastructure must be approved by a vote of at least two-thirds of the county governing board.
- No more than 70 percent of the cost of the infrastructure may be paid for with tourist development tax revenue and sources of funding for the remaining cost must be identified and confirmed by the county governing board.
- An independent professional analysis, paid for by the tourist development council, must show the positive impact of the infrastructure on tourist-related businesses.

The bill takes effect October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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[14] The term "public facilities" means major capital improvements that have a life expectancy of 5 or more years, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, and pedestrian facilities.

[15] In the state fiscal year ending June 30, 2017, ten counties (Broward, Collier, Hillsborough, Lee, Miami-Dade, Monroe, Orange, Osceola, Palm Beach, and Pinellas) were estimated to have received at least $20 million in tourist development tax revenues. (Office of Economic Demographic Research, The Florida Legislature, *2016 Local Government Financial Information Handbook, available at* http://edr.state.fl.us/Content/local-government/reports/lgfih16.pdf (Published November 1, 2016)).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Counties may use revenues from the tourist development tax to fund public facilities that are needed to increase tourist-related business activities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 125.0104 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

Recommended CS by Appropriations Subcommittee on Finance and Tax on February 5, 2018:

The committee substitute:

- Adds certain water-related items to the list of approved uses of tourist development tax revenues.
- Provides conditions under which tourist development tax revenues may be used for public infrastructure. These are:
  - Only counties that received at least $20 million in revenues from this source may use it for public infrastructure;
  - The county governing board must approve the use by at least a two-thirds vote;
  - This revenue source may pay no more than 70 percent of the cost of the infrastructure; and
  - An independent professional analysis must show the positive impact of the infrastructure on tourist-related businesses.
- Changes the effective date to October 1, 2018.

B. Amendments:

None.