HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1429 Tourist And Convention Development Taxes
SPONSOR(S): Environment, Agriculture & Flooding Subcommittee, Avila
TIED BILLS: **IDEN./SIM. BILLS:** SB 2008

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Environment, Agriculture & Flooding Subcommittee	17 Y, 0 N, As CS	Melkun	Moore
2) Ways & Means Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Local Option Tourist Development Act authorizes counties to levy five separate taxes on transient rental transactions (tourist development taxes or TDTs). Depending on a county's eligibility to levy such taxes, the maximum tax rate varies from a minimum of 3 percent to a maximum of 6 percent. Current law authorizes counties to levy and spend local option TDTs as a mechanism for funding a variety of tourist-related uses.

Certain counties or sub-parts of counties are authorized to levy convention development taxes (CDTs) on transient rental transactions. Depending on a jurisdiction's ability to levy such taxes, the maximum tax rate varies from a minimum of 1 percent to a maximum of 3 percent. In general, CDTs are adopted by ordinances, some of which must be approved by a referendum election of the voters of the county or area where the tax is to be levied.

The bill authorizes all TDT or CDT revenue to be used to finance flood mitigation projects or improvements.

The bill requires all TDTs and CDTs to be approved by referendum every five years and requires any TDT or CDT currently imposed to be renewed in a referendum on or before July 1, 2026.

The bill makes each of the five TDTs stand-alone, independent propositions for renewal by removing the condition precedents related to the levy of the additional 1 percent tax and the additional sports facility tax. Specifically, the bill eliminates the requirement that a county must impose the original TDT for at least three years before imposing the additional 1 percent tax. In addition, the bill eliminates the requirement that a county must impose the initial professional sports franchise facility tax before imposing the additional professional sports franchise facility tax.

The bill does not appear to have a fiscal impact on the state. The Revenue Estimating Conference has not reviewed the proposed fiscal impact of the bill to local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Tourist Development Taxes

The Local Option Tourist Development Act[1] authorizes counties to levy five separate taxes on transient rental[2] transactions (tourist development taxes or TDTs). Depending on a county's eligibility to levy such taxes, the maximum tax rate varies from a minimum of 3 percent to a maximum of 6 percent:

- The original TDT may be levied at the rate of 1 or 2 percent.[3]
- An additional 1 percent tax may be levied by counties who have previously levied a TDT at the 1 or 2 percent rate for at least three years.[4]
- A high tourism impact tax may be levied at an additional 1 percent.[5]
- A professional sports franchise facility tax may be levied up to an additional 1 percent.[6]
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.[7]

TDT Process

Each county that levies the original 1 or 2 percent tax is required to have a tourist development council.[8] The tourist development council is a group of residents from the county who are appointed by the county governing board.[9] The tourist development council, among other duties, makes recommendations to the county governing board for the effective operation of the special projects or for uses of the TDT revenue.[10]

Prior to the authorization of the original 1 or 2 percent TDT, the levy must be approved by a countywide referendum[11] and additional TDT levies must be authorized by a vote of the county's governing board or by voter approval of a countywide referendum.[12] Each county proposing to levy the original 1 or 2 percent tax must then adopt an ordinance for the levy and imposition of the tax,[13] which must include a plan for tourist development prepared by the tourist development council.[14] The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, as well as a list of the proposed uses of the tax and the approximate cost for

[1] Section 125.0104, F.S.

[2] Section 125.0104(3)(a)(1), F.S. considers "transient rental" to be the rental or lease of any accommodation for a term of six months or less.

[3] Section 125.0104(3)(c), F.S. Sixty-two counties levy this tax, all at a rate of 2 percent. Office of Economic & Demographic Research (EDR), Local Option Tourist/Food & Beverage Tax Rates, available at http://edr.state.fl.us/Content/local-government/data/county-municipal/2021LOTTrates.pdf (last visited Mar. 5, 2021). These counties are expected to collect an estimated $303 million in revenue in the 2020-21 fiscal year. EDR, *2020 Local Government Financial Information Handbook*, p. 255, available at http://edr.state.fl.us/Content/local-government/reports/lgfih20.pdf (last visited Mar. 5, 2021).

[4] Section 125.0104(3)(d), F.S. Fifty-five of the eligible 59 counties levy this tax, with an estimated 2020-21 state fiscal year collection of $123 million. *Id.* at 259.

[5] Section 125.0104(3)(m), F.S. Eight of the nine eligible counties levy this tax, with an estimated 2020-21 state fiscal year collection of $79 million. *Id.* at 265.

[6] Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-five of the 67 eligible counties levy this additional tax, with an estimated 2020-21 state fiscal year collection of $143 million. *Id.* at 263.

[7] Section 125.0104(3)(n), F.S. Thirty of the eligible 65 counties levy the additional professional sports franchise facility tax, with an estimated 2020-21 state fiscal year collection of $106 million. *Id.* at 269.

[8] Section 125.0104(4)(e), F.S.

[9] *Id*.

[10] *Id*.

[11] Section 125.0104(6), F.S.

[12] Section 125.0104(3)(d), F.S.

[13] Section 125.0104(4)(a), F.S.

[14] Section 125.0104(4), F.S.

each project or use.[15] The plan for tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.[16]

TDT Uses

Current law authorizes counties to levy and spend local option TDTs as a mechanism for funding a variety of tourist-related uses, including tourism promotion and the financing and construction of public facilities needed to increase tourist-related business activities in the county, beach restoration and maintenance projects, and convention centers and professional sports franchise facilities.[17] More specifically, the revenues derived from TDTs 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 within the boundaries of the county or subcounty special taxing district in which the tax is levied;
  - Auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied; or
  - Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied.
- Promote zoological parks that are publicly owned and operated or owned and operated by a non-profit organization that is open to the public.
- Promote and advertise tourism in the state as well as nationally and internationally.
- Fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies.
- Finance beach park facilities or beach improvement, maintenance, nourishment, restoration, and erosion control.
- Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or finance public facilities within the boundaries of the county or subcounty special taxing district, 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, and only if the following five conditions are satisfied:
  - $10 million in tourist development tax revenue was received the year before expenditure.
  - The county governing board approves the use for the proposed public facilities by a vote of at least two-thirds of its membership.
  - No more than 70 percent of the cost of the proposed public facilities will be paid for with tourist development tax revenues.
  - At least 40 percent of all tourist development tax revenues collected in the county are spent to promote and advertise tourism.
  - An independent professional analysis, performed at the expense of the county tourist development council, demonstrates the positive impact of the infrastructure project on tourist-related businesses in the county.[18]

A county that has a population of less than 950,000 may, in addition to the aforementioned uses, expend tax revenues to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more zoological parks, fishing piers, or nature centers that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public.[19]

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[15] *See* s. 125.0104(4), F.S.

[16] *See* s. 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.

[17] Florida Legislative Committee on Intergovernmental Relations, *Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10* (December 2009), available at http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf (last visited Mar. 5, 2021).

[18] Section 125.0104(5)(a), F.S.

[19] Section 125.0104(5)(b), F.S.

Convention Development Taxes

Certain counties or sub-parts of counties are authorized to levy convention development taxes (CDTs) on transient rental transactions.[20] Depending on a jurisdiction's ability to levy such taxes, the maximum tax rate varies from a minimum of 1 percent to a maximum of 3 percent:

- The consolidated county convention tax may be levied at 2 percent.[21]
- The charter county convention tax may be levied at 3 percent.[22]
- The special district, special, and subcounty convention tax may be levied at a rate up to 3 percent.[23]

In general, CDTs are adopted by ordinances, some of which must be approved by a referendum election of the voters of the county or area where the tax is to be levied. CDTs on transient rentals must then be remitted to the Department of Revenue (DOR) by the person receiving the consideration, unless a county has adopted an ordinance providing for local collection and administration of the tax.[24] Further, the use of the proceeds from each tax may only be used to:

- Promote and advertise tourism, if the municipality has a population of 10,000 or more.
- Extend, enlarge, and improve existing publicly owned convention centers in the county.
- Construct a multipurpose convention/coliseum/exhibition center or the maximum components thereof as funds permit in the county.
- Acquire, construct, extend, enlarge, remodel, repair, improve, or maintain one or more convention centers, stadiums, exhibition halls, arenas, coliseums, or auditoriums.[25]

Currently, Duval, Miami-Dade, and Volusia[26] Counties are authorized to levy CDTs on transient rental transactions. The specific authorized uses vary according to the particular levy.[27]

Effect of the Bill

Tourist Development Taxes

The bill authorizes all TDT revenue to be used to finance flood mitigation projects or improvements.

The bill requires all TDTs to be approved by referendum every five years and requires any TDT currently imposed to be renewed in a referendum on or before July 1, 2026. The bill specifies that in any case where the proceeds of a TDT have been pledged to secure and liquidate revenue bonds or revenue refunding bonds, the expiration of the TDT is not effective with respect to any portion of taxes initially levied before July 1, 2021, that has been pledged or is being used to support bonds until the retirement of those bonds.

The bill makes each of the five TDTs stand-alone, independent propositions for renewal by removing the condition precedents related to the levy of the additional 1 percent tax and the additional sports facility tax. Specifically, the bill eliminates the requirement that a county must impose the original TDT for at least three years before imposing the additional 1 percent tax. In addition, the bill eliminates the requirement that a county must impose the initial professional sports franchise facility tax before imposing the additional professional sports franchise facility tax.

The bill repeals a provision authorizing a board of county commissioners to hold a referendum to repeal a TDT that has been previously adopted by referendum when 15 percent of electors in the county or subcounty special district in which the tax is levied file a petition with the board to hold such referendum.

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[20] Section 212.0305, F.S.
[21] Section 212.0305(4)(a), F.S.
[22] Section 212.0305(4)(b), F.S.
[23] Section 212.0305(4)(c), (d), and (e), F.S.
[24] Section 212.0305(5), F.S.
[25] Section 212.0305(4)(a)3., F.S.
[26] Three of the five available levies apply to separate taxing districts in Volusia County.
[27] DOR, *Local Option Taxes*, available at https://floridarevenue.com/taxes/taxesfees/pages/local_option.aspx (last visited Mar. 5, 2021).

Convention Development Taxes
The bill authorizes all CDT revenue to be used to finance flood mitigation projects or improvements.

The bill requires all CDTs to be approved by referendum every five years and requires any CDT currently imposed to be renewed in a referendum on or before July 1, 2026.

The bill requires the governing board of a county levying a CDT to place a question on the ballot at a regular or special election held within the county, substantially as follows:

> ....FOR the Convention Development Tax.
> ....AGAINST the Convention Development Tax.

If a majority of the electors voting on the question approve the levy, the ordinance must take effect.

The bill specifies that in any case where the proceeds of a CDT have been pledged to secure and liquidate revenue bonds or revenue refunding bonds, the expiration of the CDT is not effective with respect to any portion of taxes initially levied before July 1, 2021, that has been pledged or is being used to support bonds until the retirement of those bonds.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.0104, F.S., relating to TDTs.

Section 2. Amends s. 212.0305, F.S., relating to CDTs.

Section 3. Provides an effective date of July 1, 2021.

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 Revenue Estimating Conference has not reviewed the proposed fiscal impact of the bill.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Revenue Estimating Conference has not reviewed the proposed fiscal impact of the bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 15, 2021, the Environment, Agriculture & Flooding Subcommittee adopted a technical amendment and reported the bill favorably as a committee substitute.

This analysis is drafted to the committee substitute as approved by the Environment, Agriculture & Flooding Subcommittee.