

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Domestic Security Committee

BILL: SB 2336

SPONSOR: Senator Bennett

SUBJECT: Tax Benefit/Catastrophic Emergencies

DATE: April 8, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>DS</u>	Favorable
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>GE</u>	_____
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This 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 from time to time as emergency public shelters. The bill also provides an exemption from the Transient Rentals tax for individuals seeking temporary housing as a result of displacement from their usual housing as a result of a hurricane or other catastrophic disaster and for a refund of the tax for qualifying individuals who sought temporary housing as a result of the 2004 hurricanes.

This bill amends the following sections of the Florida Statutes: 212.055 and 212.03.

II. Present Situation:

Local Government Infrastructure Surtax

Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. One such tax is the Local Government Infrastructure Surtax which may be levied at 0.5 percent or 1 percent. The proceeds of the tax are authorized to 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, acquire land for public recreation or conservation or protection of natural resources, or finance the closure of county-owned or municipality-owned solid waste landfills.

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.

Transient Rentals Tax

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 accommodations in connection with any hotel, apartment house, rooming house, or tourist or trailer camp. The statute provides an exemption when the period of continuous residence is longer than 6 months. In addition, three municipalities levy a municipal resort tax on transient rentals of 4 percent. These municipalities are Miami Beach, Bal Harbour, and Surfside.

A Deficit of Public Emergency Shelters Exists

The Department of Community Affairs Division of Emergency Management's *2004 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 by up to 50% since 1995, the current deficit estimate remains at approximately 800,000 spaces. The department estimates Florida will have 738,722 spaces meeting the standard by August 2005.¹ Thus the impact on emergency shelter requirements and evacuation infrastructure is significant in considering emergency planning.

III. Effect of Proposed Changes:

Section 1 amends s. 212.055, F. S., to provide additional definition of the term infrastructure by further defining the term public facilities. Under this bill, public facilities will also include private facilities used on a temporary basis from time to time by local government as an emergency public shelter or a staging area for emergency response equipment.

The effect of this change will allow local governments to expend Local Government Infrastructure Surtax proceeds on private entity facilities that are used for public purpose as temporary emergency public shelters.

The language in the bill is general in nature leading to several possibilities. It is possible, for example, that under this bill the surtax revenue could be used for economic development purposes by agreement with private business. A local government could agree to help fund a private building project if the project met emergency shelter building code requirements and the owner agreed to allow its use as an emergency public shelter. The language allows for greatly expanded use of surtax revenues.

Section 2 amends s. 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 authorized to publish a rule regarding acceptable proof to be presented to a landlord that the catastrophe is the cause of the individual's need for temporary housing.

Section 3 provides a refund of the sales tax collected pursuant to s. 212.03, F. S., for an individual who rented or leased any living quarters as a consequence of being displaced from his or her usual housing due to a hurricane that occurred in Florida during the year 2004.

¹ Department of Community Affairs, *2004 Shelter Retrofit Report*, September, 2004.

Application for such refund will be made on a form provided by the Department of Revenue and will be accompanied by such proof as required by department rule.

Section 4 provides for an effective date of July 1, 2005.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill may fall under subsection (b) of s. 18 of Art. 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 revenues 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, this 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.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

This bill will reduce revenue from the Transient Rental tax, a discretionary sales surtax, levied pursuant to s. 212.054 and s 212.055, F. S.

B. Private Sector Impact:

The bill may provide a possible new source of local government economic development funding. By agreeing to allow private buildings to be used from time to time as emergency public shelters, private sector entities may be able to seek Local Government Infrastructure Surtax funds to offset some capital development costs.

This bill will reduce the amount of Transient Rentals taxes that must be collected and reported by landlords. However, additional administrative effort will likely be required by landlords to document individuals qualified for the exemption.

C. Government Sector Impact:

The Local Government Infrastructure Surtax revenues are not affected by this bill. Local governments will be given expanded authority to expend surtax proceeds for private facilities used for public purpose as temporary emergency public shelters. Use of such funds would likely aid in reducing the current deficit of suitable emergency public shelters.

The effect of the exemption on the future collection of Transient Rentals taxes and the 2004 hurricane season refund of the tax is unknown at this time pending a review by the Revenue Estimating Impact Conference.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue does not believe that an effective date of July 1, 2005 allows it sufficient time to develop the rules necessary to implement the bill. The department recommends an effective date of October 1, 2005.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
