

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 27, 1998 Revised: 04/27/98 _____

Subject: Sales Tax Exemption/Public Pension Plans

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Keating</u>	<u>Beggs</u>	<u>WME</u>	<u>Fav/1 amendment</u>
2.	<u>_____</u>	<u>_____</u>	<u>WM</u>	<u>Withdrawn</u>
3.	<u>_____</u>	<u>_____</u>	<u>CM</u>	<u>Withdrawn</u>
4.	<u>Keating</u>	<u>Smith</u>	<u>WM</u>	<u>Fav/1 amendment</u>
5.	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

I. Summary:

This bill adds governing boards of public pension plans for government employees to the list of entities exempted from the sales and use tax pursuant to s. 212.08(6), F.S.

This bill substantially amends section 212.08(6) of the Florida Statutes.

II. Present Situation:

Florida's sales and use tax is a tax of general applicability which applies to receipts from the sales, storage and use of all tangible personal property unless specifically exempted. Section 212.08, F.S., enumerates specific exemptions to the sales tax. Section 212.08 (6), F.S., provides an exemption from sales made to the United States Government, a state, or a county, municipality, or political subdivision of the state when payment is made directly to the dealer by the governmental entity.

III. Effect of Proposed Changes:

The bill amends s. 212.08(6), F.S., adding governing boards of public pension plans for government employees to the list of entities exempted from pay sales tax pursuant to s. 212.08(6), F.S. The bill also corrects a statutory reference.

The bill shall take effect July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill initially falls under subsection (b) of section 18 of Article VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house 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 the annual local revenue loss is estimated to be less than \$1.4 million, the bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of section 18 of Article VII. (See subsection (d) of s. 18, Art. VII, Florida Constitution, for various types of general laws, including those with insignificant fiscal impact.)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that there will be a negative fiscal impact from exempting sales made to governing boards of any public pension plan for government employees. The meaning of the term “governing board” is unclear in the bill. There are commercial management and consulting firms that oversee and administer pension plans, including plans for government employees. The way the bill is written, such commercial management and consulting firms could qualify for the sales tax exemption, which could result in a significant revenue loss to the state.

Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Public Pension Plans	(**)	(**)	(**)	(**)	(**)	(**)	(**)	(**)

** Indeterminate

The sales tax exemption provided in this bill could benefit both nonprofit and for-profit corporations that govern public pension plans for government employees.

B. Private Sector Impact:

Governing boards of public pension plans for government employees will not have to pay sales tax on their purchases.

C. Government Sector Impact:

The Department of Revenue does not anticipate the need for additional resources to administer this bill.

VI. Technical Deficiencies:

The Department of Revenue will need to define by rule the following terms in the bill if definitions are not provided: “public pension plan” and “governing board”.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Ways and Means:

Provides that in order to qualify for the exemption, the governing board of any public pension plan for government employees must be a nonprofit corporation. (WITH TITLE AMENDMENT)

The amendment reduces the fiscal impact of the bill to insignificant.