

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.)

BILL: CS/SB 1078

SPONSOR: Fiscal Resource Committee and Senator Carlton

SUBJECT: Local Option Tourist Taxes

DATE: March 29, 2000 **REVISED:** _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|---------------------|
| 1. | <u>Cooper</u> | <u>Yeatman</u> | <u>CA</u> | <u>Favorable</u> |
| 2. | <u>Keating</u> | <u>Wood</u> | <u>FR</u> | <u>Favorable/CS</u> |
| 3. | _____ | _____ | _____ | _____ |
| 4. | _____ | _____ | _____ | _____ |
| 5. | _____ | _____ | _____ | _____ |

I. Summary:

This bill allows counties that chose to assume responsibility for audit and enforcement of their local option tourist development tax, area of critical state concern tourist impact tax, or convention development tax, to use certified public accountants to perform these tasks.

The bill also allows counties that choose to assume responsibility to audit and enforce their local option tourist development taxes and the tourist impact tax to use certified public accountants licensed in this state, to perform these tasks. These certified public accountants are bound by the same confidentiality requirements and subject to the same penalties as the county under s. 213.053, F.S.

The bill adds to the membership of the Juvenile Welfare Board, a designated alternate member of the county governing board in lieu of one member of the county government.

The bill authorizes the Department of Revenue to share information with certified public accountants for participants in the Registration Information Sharing and Exchange Program (R.I.S.E.)

The bill provides for a distribution of proceeds from the Local Government Infrastructure Surtax to be used solely for detention facilities if the governing body of a county enacts an ordinance which limits the use of the proceeds from the surtax exclusively to county detention facilities or court facilities.

This bill amends the following sections of the Florida Statutes: 125.901, 125.0104, 212.0305, 213.053, and 212.055.

II. Present Situation:

Section 125.901(1), F.S., authorizes each county to create, by ordinance, an independent special district, to provide funding for children’s services. Such a district is known as a Juvenile Welfare Board. Paragraph (a) provides for membership of the board.

Tourist Development Taxes

Section 125.0104, F.S., authorizes counties to impose tourist development taxes. Counties may, by majority vote of the county commission or by referendum, impose a tax on “transient rentals,” which include living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreational vehicle park, or condominium for a term of six months or less. Initially, the goal of the “bed tax” was to generate funds to advertise and promote tourism in a specific area, thereby increasing the use of local hotels and motels. The creation of new tourist development taxes reflects the evolving goals of county governments.

TABLE 1 identifies, in part, the five tourist development taxes, the tax rate limits, and the number of counties authorized to impose and the number imposing each tax. While the total available tax rate varies by county, the highest rate any county can levy for any combination of taxes is 6 percent. These tourist development taxes are in addition to the state and local sales taxes imposed on transient rentals.

Paragraphs (3)(g) - (k) of s. 125.0104, F.S., require businesses to remit tax proceeds to the Department of Revenue (DOR), which is responsible for administering the tax. Collections received by the department are returned monthly to the county imposing the tax. (While DOR is authorized to retain an administration fee, department representatives state that no fee is charged.) The proceeds are placed in the county tourist-development trust fund, established by each county as a prerequisite to receipt of such funds.

| TABLE 1 | | | |
|---|------------------------|--|------------------------------|
| Tourist & Convention Development Taxes | | | |
| TAX | AUTHORIZED LEVY (%) | # OF COUNTIES AUTHORIZED TO LEVY TAX | # OF COUNTIES LEVYING TAX |
| TOURIST DEVELOPMENT TAXES (TDT, s. 125.0104, F.S.) | | | |
| Original TDT | 1 or 2% | 67 | 46 |
| Additional TDT | 1% | 38 | 27 |
| Professional Sports Franchise Facility Tax | 1% | 67 | 13 |
| Additional Sports Franchise Facilities Tax | 1% | 12 | 3 |
| High Tourism | | | |

| | | | |
|--|----|---------------------|---|
| Impact Tax | 1% | 3 | 2 |
| TOURIST IMPACT TAX (s. 125.0108, F.S.) | | | |
| | 1% | (Monroe County) | 1 |
| CONVENTION DEVELOPMENT TAXES (CDT, s. 212.0305, F.S.) | | | |
| Consolidated County | | | |
| Convention Tax | 2% | (Duval County) | 1 |
| Charter County | | | |
| Convention Tax | 3% | (Miami-Dade County) | 1 |
| Special District, Special, & Subcounty Convention | | | |
| Development Tax | 3% | (Volusia County) | 1 |
| Total Collections, FY 97/98: \$280,845,083 | | | |
| (Source: Legislative Committee on Governmental Relations, Sept., 1999) | | | |

Tourist Impact Tax

Section 125.0108, F.S., authorizes any county creating a land authority pursuant to s. 380.0663(1), F.S., to levy a tourist impact tax of one percent in areas designated as an area of critical state concern. At this time, only Monroe County is authorized to levy this tax. Section s. 125.0104(10), F.S., authorizes local administration of this tax.

Convention Development Tax

Section 212.0305, F.S., authorizes three counties to levy convention development taxes. (See **TABLE 1**) These taxes provide a revenue source for the promotion of tourism and the development of tourist facilities. It is levied on the same tax base as the tourist development taxes, with the addition of “tourist or trailer camps.” The convention development taxes are in addition to the state and local sales taxes imposed on transient rentals. The combination of tourist and convention development taxes may not exceed 6%.

Self-Administration

Counties may “self-administer” their tourist and convention development taxes if they adopt an ordinance pursuant to s. 125.0104(10) or s. 212.0305(5), F.S., respectively. Counties electing to self-administer must also adopt an ordinance to assume responsibility for auditing the records and accounts of dealers, and assessing, collecting, and enforcing payments of delinquent taxes or to delegate such authority to DOR. While DOR is authorized to contract with private agents to perform these tasks, there is no clear statutory authority for counties to do so.

The Legislative Committee on Governmental Affairs reports that 32 counties “self-administer” their tourist impact, tourist and convention development taxes, and that revenues from these self-administering counties constitute nearly all of “bed tax” proceeds collected statewide. The Florida Association of Counties suggest that counties elect to self-administer these taxes primarily because they can more efficiently enforce collections. In addition, the counties are able to receive

tax revenues immediately after collection, thus avoiding the inevitable delay of revenues when collected by the state.

Confidentiality

Section 213.053, F.S., declares that all information contained in tax returns, reports, accounts, or declarations received by county governments in the administration of tourist and convention development taxes is confidential and exempt from the public records requirements of s. 119.07(1), F.S. Violation of this provision constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.

Section 212.055(2), F.S., authorizes local governments to levy a Local Government Infrastructure Surtax by referendum. Such funds must be used to finance, plan, and construct infrastructure; to acquire land for public recreation or conservation or protection of natural resources; and to finance the closure of local government-owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Infrastructure also includes emergency vehicles and equipment.

III. Effect of Proposed Changes:

Section 1 amends s. 125.0104, F.S., to allow counties that chose to assume responsibility to audit and enforce their local option tourist development taxes and the tourist impact tax to use certified public accountants licensed in this state, to perform these tasks. These certified public accountants are bound by the same confidentiality requirements and subject to the same penalties as the county under s. 213.053, F.S.

Section 2 amends s. 125.901, F.S., adding to the membership of the Juvenile Welfare Board, a designated alternate member of the county governing board in lieu of one member of the county government.

Section 3 amends s. 212.0305, F.S., to allow counties that chose to assume responsibility to audit and enforce their local option convention development taxes to use certified public accountants licensed in this state to perform these tasks. These certified public accountants are bound by the same confidentiality requirements and subject to the same penalties as the county under s. 213.053, F.S.

Section 4 amends s. 213.035, F.S., authorizing the Department of Revenue to share information with certified public accountants for participants in the Registration Information Sharing and Exchange Program (R.I.S.E.)

Section 5 amends s. 212.055, F.S., providing for a distribution of proceeds from the Local Government Infrastructure Surtax to be used solely for detention facilities if the governing body of a county enacts an ordinance which limits the use of the proceeds from the surtax exclusively to county detention facilities or court facilities.

Section 6 provides that the act will take effect upon becoming a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Independent agents will be eligible to contract with counties to audit and enforce tourist and convention development taxes.

C. Government Sector Impact:

This provision will allow counties that audit and enforce their local option tourist development taxes the flexibility to contract these services with independent contract agents. This could result in cost savings to those counties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.