

STORAGE NAME: h1987a.cu

DATE: April 18, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COLLEGES & UNIVERSITIES
ANALYSIS**

BILL #: HB 1987

RELATING TO: Sales Tax on Public Athletic Facilities

SPONSOR(S): Representative Gustavo Barreiro

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COLLEGES & UNIVERSITIES YEAS 7 NAYS 0
 - (2) FINANCE & TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

This bill permits any public athletic facility where the athletic team of a public or private postsecondary education institution is based to retain the sales tax proceeds generated by the facility, the facility's concessionaires, ticket sales, merchandising, ticket surcharges imposed by a local government, charges for services, and the rental of the facility in order to renovate and modernize the facility.

This bill appears to have a significant negative fiscal impact on state revenues as a result of permitting certain public athletic facilities to retain certain sales tax proceeds.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

This bill does not appear to support the principle of personal responsibility because the beneficiaries of the legislation do not directly pay any portion of the costs associated with the provisions of the legislation. Specifically, this bill provides financial resources to certain public athletic facilities for the purpose of renovating and modernizing the facilities at the State of Florida's expense.

B. PRESENT SITUATION:

Section 212.05, Florida Statutes, specifies that every person who engages in the business of selling tangible personal property at retail in the state, rents or furnishes any of the things or services taxable under chapter 212, Florida Statutes, or stores any item or article of tangible personal property for use or consumption and leases or rents such property within the state is exercising a taxable privilege.

Subsection 212.05(1)(a)1.a., Florida Statutes, levies a six percent tax rate on the sales price of each item or article of tangible personal property that is sold at retail in the state. Additionally, subsection 212.05(1)(b), Florida Statutes, levies a six percent tax rate on the cost price of each item or article of tangible personal property that is not sold but is used, consumed, distributed, or stored for the use or consumption in the state.

Section 212.055, Florida Statutes, authorizes local governments to levy one or more of six types of discretionary sales surtaxes. The six discretionary sales surtaxes include the charter county transit system surtax, the local government infrastructure surtax, the small county surtax, the indigent care surtax, the county public hospital surtax, and the school capital outlay surtax. The authorized discretionary sales surtaxes range from 0.5 percent to 1.0 percent.

Subsection 212.054(2)(a), Florida Statutes, stipulates that all authorized discretionary sales surtaxes must be levied on all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions. An authorized discretionary sales surtax is computed by multiplying the rate of the surtax by the amount of taxable sale and taxable purchase. However, a discretionary sales surtax may not be levied on any sales amount above \$5,000 for any item of tangible personal property and for long-distance telephone service.

Section 212.08, Florida Statutes, specifies that the sale at retail, the rental, the use, the consumption, the distribution, and the storage to be use or consumed in the state of certain items are exempt from the tax imposed by chapter 212, Florida Statutes. These exemptions are classified under one of 17 different categories. Subsection 212.08(5), Florida Statutes,

identifies account of use exemptions and specifies that the following items are exempt from the tax imposed by chapter 212, Florida Statutes: items in agricultural use and certain nets; machinery and equipment used to increase productive output; machinery and equipment used in production of electrical or steam energy; machinery and equipment used under a federal procurement contract; gas used for certain agricultural purposes; motion picture or video equipment and sound recording equipment used in certain production activities; building materials used in the rehabilitation of real property located in an enterprise zone; business property used in an enterprise zone; aircraft modification services; machinery and equipment used in silicon technology production and research and development; paint color card samples and similar samples; growth enhancers or performance enhancers for cattle; and educational material purchased by certain child care facilities.

Except as otherwise provided by law, proceeds from the taxes imposed by chapter 212, Florida Statutes, must be remitted to the state to be credited to the account of the general revenue fund.

Lastly, there are 10 public universities and 28 public community colleges within the State of Florida and information provided by the State Board of Independent Colleges and Universities indicates that there are 210 private colleges and universities located in the State of Florida.

C. EFFECT OF PROPOSED CHANGES:

This bill permits any public athletic facility where the athletic team of a public or private postsecondary education institution is based to retain the sales tax proceeds generated by the facility, the facility's concessionaires, ticket sales, merchandising, ticket surcharges imposed by a local government, charges for services, and the rental of the facility in order to renovate and modernize the facility.

This bill does not define the term "public athletic facility" and consequently, it is unclear how many public athletic facilities may be eligible to retain certain sales tax proceeds in order to renovate and modernize the facilities. As mentioned previously, there are 10 state universities, 28 public community colleges, and 210 private colleges and universities located in the State of Florida. Information relating to the number of athletic teams belonging to these 248 institutions that are based at a public athletic facility is currently unknown.

This bill also does not define the term "athletic team" and consequently, it is unclear which types of collegiate teams must be based at a public athletic facility in order for the facility to be eligible to retain certain sales tax proceeds. For instance, the bill does not differentiate between an intramural athletic team, a club athletic team, and an athletic team engaging in an event sponsored by the National Collegiate Athletic Association, the National Association of Intercollegiate Athletics, or the National Junior College Athletic Association.

Additionally, this bill does not delineate the criteria that must be used in order to determine whether or not an athletic team is "based" at a public athletic facility. Specifically, the bill does not specify the percentage of an athletic team's games that must be played at a certain public athletic facility so that the athletic team is considered to be based at the public athletic facility.

Lastly, the bill does not establish a process for remitting to the public athletic facility the sales tax proceeds generated by concessionaires, entities selling tickets, entities selling merchandise, and other legal entities.

D. SECTION-BY-SECTION ANALYSIS:

SECTION 1: Amends subsection 212.08(5), Florida Statutes, to permit any public athletic facility where the athletic team of a public or private postsecondary education institution is based to retain the sales tax proceeds generated by the facility, the facility's concessionaires, ticket sales, merchandising, ticket surcharges imposed by a local government, charges for services, and the rental of the facility in order to renovate and modernize the facility.

SECTION 2: Establishes an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill appears to have a significant negative fiscal impact on state revenues as a result of permitting certain public athletic facilities to retain certain sales tax proceeds.

2. Expenditures:

This bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill permits any public athletic facility where the athletic team of a public or private postsecondary education institution is based to retain certain sales tax proceeds in order to renovate and modernize the facility.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional issues.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 18, 2000, the Committee on Colleges & Universities adopted an amendment that is traveling with the bill. The amendment (1) permits a publicly owned football facility where the football team of a public or private postsecondary education institution is based to retain certain sales tax proceeds in order to renovate and modernize the facility if the facility is located in a municipality that has been declared to be in a state of a financial emergency and has established a financial emergencies board; (2) defines the term "sales taxes generated by the facility"; and (3) requires entities collecting sales taxes at a facility to report the sales to the Department of Revenue but remit the taxes to the facility in a manner prescribed by rules adopted by the Department of Revenue.

VII. SIGNATURES:

COMMITTEE ON COLLEGES & UNIVERSITIES:

Prepared by:

Staff Director:

Daniel Furman

Betty H. Tilton, Ph.D.