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**DATE:** April 5, 2001

**HOUSE OF REPRESENTATIVES**  
**FISCAL RESPONSIBILITY COUNCIL**  
**ANALYSIS**

**BILL #:** HB 163  
**RELATING TO:** Sales Tax on Public Athletic Facilities  
**SPONSOR(S):** Representative Prieguez  
**TIED BILL(S):**

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

- (1) TOURISM YEAS 4 NAYS 0
  - (2) FISCAL POLICY & RESOURCES YEAS 10 NAYS 2
  - (3) FISCAL RESPONSIBILITY COUNCIL YEAS 16 NAYS 0
  - (4)
  - (5)
- 

I. SUMMARY:

The bill amends s. 212.08, F.S., to allow a publicly owned football facility where the football team of a public or private postsecondary education institution is based to retain sales tax proceeds generated by the facility. In order to retain the proceeds, the facility must be located in a municipality that has been declared to be in a state of financial emergency pursuant to s. 218.503, F.S., (Local Government Financial Emergencies Act) within six years prior to the January 1, 2002, effective date of this bill and has had established a financial emergencies board. The current existence of the financial emergencies board is not required.

The bill defines the term "sales taxes generated by the facility" to mean taxes on ticket sales for events located at the facility, ticket surcharges imposed by the local government for events held at the facility, merchandise sales and concession sales on the premises of the facility, charges for services at the facility, and rental of the facility.

The bill requires concessionaires, merchandisers, and other entities collecting tax at the 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.

The estimated impact to the General Revenue Fund is (\$0.1 m) for FY 2001-2002 and (\$0.3 m) for FY 2002-2003. The estimated impact on local governments local option taxes is negligible, although it will be the local government receiving the benefit of the tax revenues that would otherwise be going to the state.

Three amendments were adopted by the Committee on Fiscal Policy & Resources and two amendments were adopted by the Fiscal Responsibility Council. These amendments are traveling with the bill; please see the Amendments section of this analysis for details.

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 type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Subsection 212.04(2)(a)1., F.S., provides that no tax shall be levied on admissions to athletic events sponsored by an institution within public or private colleges and universities when only student and faculty talent is used. However, this exemption does not apply to athletic events sponsored by an institution within the State University System as defined in s. 240.2011, F.S. Proceeds from the tax collected on such admissions must be retained and used by each institution to support women's athletics as provided in s. 240.533(3)(c), F.S., relating to gender equity in intercollegiate athletics. 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.

Section 212.05, F.S., 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, F.S., 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., F.S., 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), F.S., 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, F.S., 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), F.S., 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, F.S., specifies that the sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in the state of certain items are exempt from the tax imposed by Chapter 212, F.S. These exemptions are classified under 17 different categories. Subsection 212.08(5), F.S., identifies account-of-use exemptions and specifies that the following items are exempt: 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, F.S., must be remitted to the state to be credited to the account of the general revenue fund.

**C. EFFECT OF PROPOSED CHANGES:**

The bill amends s. 212.08, F.S., to allow a publicly owned football facility where the football team of a public or private postsecondary education institution is based to retain sales tax proceeds generated by the facility. In order to retain the proceeds, the facility must be located in a municipality that has been declared to be in a state of financial emergency pursuant to s. 218.503, F.S., the Local Government Financial Emergencies Act, within six years prior to the January 1, 2002, effective date of this bill and has had established a financial emergencies board established under that act. The financial emergencies board does not have to be in existence on the bill's effective date.

Currently, the Orange Bowl in Miami would qualify under this bill by meeting the criteria that the facility must be located in a municipality (the City of Miami) that has been declared to be in a state of financial emergency pursuant to s. 218.503, F.S., within six years prior to January 1, 2002, and has had established a financial emergencies board. The University of Miami, which leases the Orange Bowl Stadium from the City of Miami, is not part of the ten-member State University System, but is an independent institution. The University of Miami has a 501(c)(3) status and does not collect sales tax on admissions to its intercollegiate athletic events. The Orange Bowl facility, however, does collect sales tax on other types of events held (e.g., concerts, professional soccer games, and religious events)

and ancillary services such as parking, concessions, and merchandise sold at the Orange Bowl Stadium.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1:** Amends s. 212.08(5), F.S., by adding subparagraph (g) to do the following:

- Allows a publicly owned football facility where the football team of a public or private postsecondary education institution is based to retain sales tax proceeds generated by the facility. In order to retain the proceeds, the facility must be located in a municipality that has been declared to be in a state of financial emergency pursuant to s. 218.503, F.S., (Local Government Financial Emergencies Act) within six years prior to the January 1, 2002, effective date of this bill and has had established a financial emergencies board. The current existence of the financial emergencies board is not required.
- Defines the term “sales taxes generated by the facility” to mean taxes on ticket sales for events located at the facility, ticket surcharges imposed by the local government for events held at the facility, merchandise sales and concession sales on the premises of the facility, charges for services at the facility, and rental of the facility.
- Requires concessionaires, merchandisers, and other entities collecting tax at the 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.

**Section 2:** Establishes an effective date of January 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues:</u>	<u>2001-2002</u>	<u>2002-2003</u>
General Revenue	(\$ .1 m)	(\$ .3 m)
Solid Waste Management TF	<u>(negligible)</u>	<u>(negligible)</u>
TOTAL	(\$ .1 m)	(\$ .3 m)

See Amendment Section below.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The affected local government will receive the state and local sales taxes collected at the facility.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may provide an additional resource for capital improvements to facilities that qualify under the provisions of this bill.

D. FISCAL COMMENTS:

On February 16, 2001, the Revenue Estimating Conference estimated the general revenue impact of House Bill 163 to the state to be (\$.1 m) in FY 2001-2002 and (\$.3 m) in FY 2002-2003. The impact on local governments was estimated to be negligible for both years, although it is the local government receiving the benefit of the tax revenues that would otherwise be going to the state.

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 is anticipated to reduce the revenue raising authority of counties or municipalities by an insignificant amount. Thus, the bill is exempt from the mandates provision.

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

This bill is not anticipated to reduce the total aggregate percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue to promulgate rules on the remittance of taxes collected by concessionaires, merchandisers and other persons collecting tax at the facility directly to the facility.

C. OTHER COMMENTS:

Staff of the Committee on Tourism have been informed that no other publicly-owned stadium in the state qualifies for the exemption.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

At its meeting on March 27, 2001, the Committee on Fiscal Policy & Resources adopted three amendments. These amendments are traveling with the bill.

**Amendment One** amends s. 212.04(2)(a)4., F.S., to provide that admissions to tournament games that are played for the purposes of qualifying for the championship game of a national collegiate tournament or admissions to tournament games that are played in any collegiate athletic end-of-season tournament that determines a collegiate athletic conference champion are exempt from the application of the tax imposed by this section. This amendment is expected to reduce revenues into the General Revenue Fund by \$0.1 million annually.

**Amendment Two** creates s. 212.08(5)(q)3., to provide that the provisions of the paragraph (that is, the provisions of this bill) are expire effective January 1, 2032.

**Amendment Three** amends s. 212.08(5)(q)1, to provide that if the sales tax proceeds generated by a facility are retained by the facility, then those proceeds shall be used for the purpose of renovating, expanding, and modernizing the facility. The bill as filed provided that the proceeds may be used for the purposed of renovating and modernizing the facility.

On April 5, 2001, the Fiscal Responsibility Council adopted two amendments that are traveling with the bill. The first amendment is a substitute amendment to Amendment One approved by the Committee on Fiscal Policy & Resources. The substitute amendment is substantively identical with technical modifications. The second amendment is a conforming amendment to correct the effective dates of the provisions.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Monique Cheek

Staff Director:

Judy C. McDonald

AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

David Greenbaum

Staff Director:

Greg Turbeville

AS FURTHER REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:

Joe McVaney

Staff Director:

David K. Coburn