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.)

BILL: SB 184

SPONSOR: Senator Silver

SUBJECT: Sales Tax/Publicly Owned Football Facility

DATE: March 6, 2001 REVISED: 03/07/01

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Birnholz	Maclure	CM	Fav/2 amendment
2.			FT	
3.			GO	
4.				
5.				
6.				

I. Summary:

This bill allows any publicly owned football facility within a municipality meeting certain criteria, at which the collegiate football team of a private or public university or college is based, to retain certain sales tax proceeds and to use those proceeds for the purpose of renovating and modernizing the facility.

This bill substantially amends section 212.08, Florida Statutes.

II. Present Situation:

Tax on Sales, Use, and Other Transactions

Chapter 212, F.S., provides for a 6 percent tax on sales, use, and other transactions. Section 212.05, F.S., provides that every person who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under ch. 212, F.S., or who stores for use or consumption any item or article of tangible personal property and who leases or rents such property is exercising a taxable privilege. Section 212.05(1)(a)1.a., F.S., provides for a 6 percent tax rate on the retail price of each item or article of tangible personal property when sold at retail in Florida. Section 212.05(1)(b), F.S., provides for a 6 percent tax on the cost price of any item of tangible personal property that is not sold but used in Florida. Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging 0.5 percent to 1.0 percent each, with a maximum of 1.5 percent.

Pursuant to s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions subject to the state tax imposed on sales, use, services, rentals, admissions, and other authorized transactions. The surtax is computed by multiplying the rate imposed by the county where the sale occurs by the amount of taxable sale. The sales amount is not subject to the surtax if the property or service is delivered within a county that does not impose a surtax. In addition, the tax on any sales amount above $5,000 on any item of tangible personal property and on long-distance telephone service is not subject to the surtax. The $5,000 cap does not apply to the sale of any other service.

Financial Matters and Political Subdivisions

Section 218.503, F.S., states that a local government is in a state of a financial emergency when any of the following conditions occurs:

- failure, within the same fiscal year, to pay short-term loans from banks or to make bond debt service payments when due;
- failure to transfer at the appropriate time, due to lack of funds, taxes withheld on the income of employees or employer and employee contributions for Social Security or any employee pension, retirement, or benefit plan;
- failure to pay for one pay period, due to lack of funds, wages and salaries owed to employees or retirement benefits owed to former employees;
- an unreserved or total fund balance or retained earnings deficit for which sufficient resources of the local government are not available to cover the deficit for two successive years; or
- noncompliance of the local government retirement system with actuarial conditions provided by law.

A local government must notify the Governor and Joint Legislative Auditing Committee when one or more of these conditions has occurred or will occur. The Governor has the authority to implement measures as set forth in ss. 218.50-218.504, F.S., to resolve the financial emergency, including establishing a financial emergencies board to oversee the activities of the local governmental entity.

III. Effect of Proposed Changes:

This bill amends s. 212.08(5), F.S., adding a new paragraph (q), which allows a certain public football facility to retain the proceeds of the sales taxes generated by the facility, its concessionaires, ticket sales, merchandising, ticket surcharges imposed by the local government, charges for services, and rental of the facility. These proceeds may used to renovate and modernize the facility. To be eligible for the exemption, the football facility must be located within a municipality which, in the preceding six years, has been declared in a state of financial emergency pursuant to s. 218.503, F.S., and has had a financial emergencies board established, regardless of whether the board is currently in existence, and at which a collegiate football team of a private or public university or college is based.

The term “sales taxes generated by the facility” means 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.

Concessionaires, merchandisers, and other persons collecting the tax at the facility must report the sales to the Department of Revenue but must remit the tax directly to the facility in a manner prescribed by rules promulgated by the department.

This bill takes effect July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill initially falls under subsection (b) of s. 18 of Art. 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, this 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 $1.6 million, this bill will be exempt from the requirements of subsection (b) due to the insignificant negative fiscal impact as permitted under subsection (d) of s. 18 of Art. 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 has not established a projected revenue impact associated with this specific bill; however, it has done so for House Bill (HB) 163, which is similar to Senate Bill (SB) 184, differing only slightly in wording. Nonetheless, the fiscal estimate for HB 163 is expected to be accurate for SB 184 as well. The Revenue Estimating Conference has estimated that the sales tax retention authorized in HB 163 will result in a 2001-02 fiscal year loss to the General Revenue Fund of $100,000, with a recurring loss of $300,000.

	General Revenue		Trust		Local		Total	
Issue/Fund	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
College Facility Renovation	$ (0.1)	$ (0.3)	(*)	(*)	(*)	(*)	$ (0.1)	$ (0.3)

* Insignificant (less than $50,000)

B. Private Sector Impact:

A qualified publicly owned football facility would be able to retain the proceeds of the sales taxes generated by the facility, its concessionaires, ticket sales, merchandising, ticket surcharges imposed by the local government, charges for services, and rental of the facility, and may use these tax proceeds for the purpose of renovating and modernizing the facility.

C. Government Sector Impact:

This bill instructs the Department of Revenue to promulgate rules regarding how concessionaires, merchandisers, and other persons collecting tax at an eligible publicly owned football facility would remit the tax to the facility.

VI. Technical Deficiencies:

On page 1, lines 23 and 24, the placement of subparagraph A1.,@ should be immediately before the sentence beginning AAny publicly owned football . . .@

VII. Related Issues:

None.

VIII. Amendments:

#1 by Commerce and Economic Opportunities:
Corrects a drafting error noted in the ATechnical Deficiencies@ section of this analysis.

#2 by Commerce and Economic Opportunities:
Provides for repeal of sales tax retention provisions effective July 1, 2021. (WITH TITLE AMENDMENT)