

**STORAGE NAME:** h0547s1.br.doc  
**DATE:** March 21, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
BUSINESS REGULATION  
ANALYSIS**

**BILL #:** CS/HB 547

**RELATING TO:** Sales Tax/Private Physical Fitness

**SPONSOR(S):** Committee on Business Regulation, Representative Harrell & Others

**TIED BILL(S):**

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

- (1) BUSINESS REGULATION YEAS 10 NAYS 0
  - (2) FISCAL POLICY & RESOURCES
  - (3) FISCAL RESPONSIBILITY COUNCIL
  - (4)
  - (5)
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I. SUMMARY:

The bill creates a tax exemption on admissions, dues, and fees paid to private physical fitness facilities and provides for an effective date of July 1, 2001. The bill states the "term physical fitness facilities" does not include "country clubs" that are operated for members where physical exercise is an incidental part of the total social and recreational program. The bill defines "country club" to mean a facility that offers a "variety of services" to members including swimming, golf, tennis and spas, among others.

The bill qualifies the application of the tax exemption to contracts executed on or after July 1, 2001.

The fiscal impact of the bill on state and local revenues is presently indeterminate.

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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

Chapter 212, F.S., establishes a 6 percent tax on sales, use, and other transactions, including dues and fees received for admission or entry into places of amusement, sport, or recreation. This includes, but is not limited to, athletic, exercise, and physical fitness facilities as established in s. 212.02, F.S., excepting those owned or operated by licensed hospitals.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 547 expands the current exemption of taxes on dues and fees paid to physical fitness facilities operated by licensed hospitals to include other physical fitness facilities. The bill states that the term "physical fitness facilities" does not include country clubs that are operated for members where physical exercise is an incidental part of the total social and recreational program. The bill defines "country club" to mean a facility that offers a "variety of services" to members including swimming, golf, tennis and spas, among others.

The bill limits the application of the exemption to contracts executed on or after the effective date of the act, July 1, 2001.

D. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Amends s. 212.02, F.S., to exempt dues and fees paid to private physical fitness facilities from the state sales tax; to exclude "country clubs" from being considered "physical fitness facilities"; and to define "country clubs".

**Section 2:** Provides that the act shall take effect July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill's fiscal impact on state government is presently indeterminate (see "FISCAL COMMENTS" below).

2. Expenditures:

Expenditures, if any, are anticipated to be insignificant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill's fiscal impact on local governments is presently indeterminate (see "FISCAL COMMENTS" below).

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Patrons charged dues and fees for use of private physical fitness facilities will not pay state and local option sales taxes on the dues and fees.

D. FISCAL COMMENTS:

CS/HB 547, by not clearly defining "physical fitness facility," though the bill excludes country clubs from the application of the exemption, could require the Florida Department of Revenue (DOR) to adopt rules stipulating the circumstances under which a firm charging user fees and dues is also considered a physical fitness facility subject to sales tax collection. This results in variability of fiscal impact estimates as pertinent DOR rules are adopted, litigated, or both.

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 requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Since the sales tax on physical fitness facilities was established pursuant to s. 2, chapter 90-358, Laws of Florida, and thus after February 1, 1989, it would appear that the bill does not fall under subsection (b) of s. 18 of Article VII, Florida Constitution.

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

While CS/HB 547 will reduce the amount of Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of state taxes shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None noted.

B. RULE-MAKING AUTHORITY:

While the bill does not specifically authorize the DOR to adopt rules relating to this tax exemption, it could be anticipated that administrative rules would need to be adopted in order to clarify the application of the exemption to this particular class of taxpayers. See "Fiscal Comments" in III.D., above.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The CS differs from the original bill as follows:

The CS states that country clubs that are operated for members where physical exercise is an incidental part of the total social and recreational program are excluded from the exemption as they are not to be considered "physical fitness facilities."

The CS defines "country club" to mean a facility that offers a "variety of services" to members including swimming, golf, tennis and spas, among others.

The CS limits the application of the exemption to contracts in effect after the effective date of the act, July 1, 2001.

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

Staff Director:

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Randall C. Wasserman/Alan W. Livingston

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M. Paul Liepshutz