

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: CS/SB 802

SPONSOR: Commerce and Economic Opportunities Committee, Senator Silver and others

SUBJECT: Physical Fitness Facilities/Sales Tax

DATE: March 15, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Birnholz	Maclure	CM	Favorable/CS
2.	_____	_____	FT	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute creates an exemption from the tax on sales, use, and other transactions for dues and fees paid to private physical fitness facilities.

This committee substitute substantially amends section 212.02, Florida Statutes.

II. Present Situation:

Chapter 212, F.S., provides for a 6 percent tax on sales, use, and other transactions. Currently, dues and fees paid to private clubs and membership clubs providing athletic, exercise, or physical fitness facilities are considered admissions and are subject to this tax. (ss. 212.02 and 212.04, F.S.)

Additionally, local governments are authorized to levy one or more of six types of Local Discretionary Sales Surtaxes, ranging from 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.

III. Effect of Proposed Changes:

This committee substitute amends s. 212.02(1), F.S., to remove from the definition of admissions dues and fees paid to private clubs and membership clubs that provide physical

fitness facilities. Therefore, dues and fees paid to those clubs would no longer be subject to the state tax on sales, use, and other transactions or applicable local taxes.

This committee substitute provides that the term “physical fitness facilities,” as used in s. 212.02(1), F.S., does not include country clubs that have as their primary function the provision of a social life and recreational amenities to their members and for which a program of physical exercise is merely incidental to membership. The term “country club” is defined by this committee substitute as “a facility that offers its members a variety of services that may include, but is not limited to, social activities; dining; banquet, catering, and lounge facilities; swimming; yachting; golf; tennis; and spas.”

This committee substitute also provides that s. 212.02, F.S., as amended by this committee substitute, shall not apply to contracts entered into and financed prior to July 1, 2001, and that sales tax due at the time such contracts were entered into shall not be subject to refund.

This committee substitute takes effect July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This committee substitute 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 committee substitute has the effect of adding an exemption to the local option county sales surtax. However, this committee substitute is exempt from the requirements of subsection (b) because the tax on sales, use, and other transactions was only expanded after February 1, 1989, to include dues and fees paid to physical fitness facilities.

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 committee substitute.

B. Private Sector Impact:

This committee substitute would exempt citizens from having to pay taxes on dues and fees paid to private physical fitness facilities.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
