

STORAGE NAME: h0117a.br.doc
DATE: December 19, 2001

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

BILL #: HB 117
RELATING TO: Sales Tax on Private Physical Fitness
SPONSOR(S): Representative(s) Harrell

TIED BILL(S):

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

- (1) BUSINESS REGULATION YEAS 6 NAYS 4
 - (2) FISCAL POLICY & RESOURCES
 - (3) FISCAL POLICY COUNCIL
 - (4)
 - (5)
-

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, 2002.

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:

HB 547 expands the current exemption of taxes on dues and fees paid to physical fitness facilities operated by licensed hospitals to include all physical fitness facilities.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides for sales tax exemption for dues and fees paid to private physical fitness facilities.

Section 2. Provides that the act shall take effect July 1, 2002.

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:

None.

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:

HB 117, by not defining "Physical Fitness Facility", requires 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 and, therefore, would be eligible for the sales tax exemption. 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, ch. 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 HB 117 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

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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:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS REGULATION:

Prepared by:

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