

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 1162
 SPONSOR: Senator Pruitt
 SUBJECT: Taxation
 DATE: March 24, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Favorable</u>
2.	<u>Kruse</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill revives and reenacts and readopts provisions relating to the tourist development tax and the Florida Taxpayer’s Bill of Rights which are otherwise scheduled to be repealed October 1, 2005.

This bill revives and reenacts s. 125.0104(7), F.S., and revives and readopts s. 192.0105, F.S.

II. Present Situation:

Tourist Development Taxes

Florida has four local option tourist-related “bed taxes”: the municipal resort tax, the tourist impact tax, the local option tourist development tax, and the convention development tax. Each of these taxes has a number of common elements, one of which is the transient rental trade which forms the primary base on which they are levied. Generally, any person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, mobile home park, recreational vehicle park, or condominium for a term of 6 months or less is part of the transient rental trade.

The local option tourist development tax may be levied on transient rental transactions in any county of the state.¹ The base levy is set at 1 percent or 2 percent. Following passage of an ordinance by the governing board of the county authorizing the tourist development tax, the tax must be approved by the electorate in a referendum. Revenues from this tax may be used, among other things, for certain types of capital construction, for tourism promotion, to finance beach

¹ Section 125.0104(3)(b), F.S.

park facilities and beach and shoreline maintenance, for museum construction or maintenance, and for zoo promotion.

Subsection (7) of s. 125.0104, F.S., provides for the automatic expiration of the tourist development tax in the county upon the later of either:

- The retirement of bonds issued by the county for financing the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, or auditorium, or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization; or
- The expiration of any agreement by the county for the operation or maintenance, or both, of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum.

The county may extend a tourist development tax for the amount of time the board determines is necessary to fund the operation, maintenance, capital improvement, or replacement of such facilities upon or following the expiration of the ordinance without referendum approval, unless the original referendum required ordinance expiration.²

Florida Taxpayer's Bill of Rights

Section 25, Art. I, of the Florida Constitution, adopted in 1992, requires the Legislature to prescribe and adopt a Taxpayer's Bill of Rights that sets forth a taxpayer's rights and responsibilities and the government's responsibility to deal fairly with taxpayers under the laws of the state. The Taxpayer's Bill of Rights is found in s. 213.015, F.S., and addresses revenue laws administered and enforced by the Department of Revenue (DOR), but states that s. 92.0105, F.S., details taxpayer rights regarding property tax assessment and collections.

Section 15 of ch. 2000-312, L.O.F., created s. 192.0105, F.S., the "Florida Taxpayer's Bill of Rights" for property taxes and assessments, and states that this bill of rights "compiles, in one document, brief but comprehensive statements that summarize the rights and obligations" of government and taxpayers. The rights are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue.³ The section states general principles regarding "The Right to Know," "The Right to Due Process," "The Right to Redress," and "The Right to Confidentiality."⁴

Repeal Provision for Chapter 2000-312, L.O.F.

During the 2000 Regular Session, a number of bills were amended onto House Bill 509. The amended bill passed the Legislature and, upon approval by the Governor, became ch. 2000-312, L.O.F. It appears that one of the bills amended into HB 509, HB 71, relating to a county hospital surtax, contained a repealer section that, once amended into HB 509, was not limited in its scope.

² Section 125.0104(7)(b), F.S.

³ Section 192.0105, F.S.

⁴ Section 192.0105(1)-(4), F.S.

The repealer section states that “[t]he provisions of this act shall be reviewed by the Legislature prior to October 1, 2005, and shall be repealed on that date unless otherwise reenacted by the Legislature.”⁵ This repealer section creates the current situation where a number of provisions in the Florida Statutes will be repealed in 2005 unless reenacted by the Legislature:

- Section 197.182(1)(a) and (b) and (3), F.S.,⁶ which relates to DOR’s authority to order refunds of property taxes;
- Section 120.80(14)(b)6., F.S., which awards attorney’s fees and cost to the prevailing party in an assessment of tax, penalty, or interest proceeding where DOR improperly rejected or modified a conclusion of law;
- Section 213.21(2)(c) and (3), F.S., which addresses a taxpayer’s reasonable reliance on a written determination by DOR;
- Section 199.185(1)(n), F.S., which relates to intangible personal property tax exemptions;
- Section 125.0104(6)(d),⁷ (7)⁸ and (10)(c),⁹ F.S., which relates to the referendum repeal requirements for the tourist development tax, the automatic expiration of the tourist development tax upon retirement of bonds, and local administration of the tourist development tax and tourist impact tax;
- Section 212.0305(5)(c), F.S.,¹⁰ which relates to auditing of records regarding the self-administration of the convention development tax;
- Section 213.053(7)(j), F.S.,¹¹ which relates to the disclosure of confidential information by DOR;
- Section 212.055(4), (5)(d)¹² and (e), and (7), F.S., which authorizes counties to levy the Indigent Care and Trauma Center Surtax, the County Public Hospital Surtax, and the Voter-Approved Indigent Care Surtax; and
- Section 192.0105, F.S., which provides for a taxpayer bill of rights for property taxes and assessments.

III. Effect of Proposed Changes:

This bill revives and reenacts subsection (7) of s. 125.0104, F.S., as amended by s. 14 of ch. 2001-252, L.O.F., which provides for the automatic expiration of the tourist development tax under specified circumstances.

The bill also revives and readopts s. 192.0105, F.S., which provides for the “Florida Taxpayer’s Bill of Rights” for property taxes and assessments.

The bill provides that the act will take effect upon becoming a law.

⁵ Section 11, ch. 2000-312, L.O.F.

⁶ Only portions of paragraphs (a) and (b) and subsection (3) will be repealed.

⁷ Only a portion of paragraph (d) will be repealed.

⁸ Only a portion of subsection (7) will be repealed.

⁹ Only a portion of paragraph (c) will be repealed.

¹⁰ Only a portion of paragraph (c) will be repealed.

¹¹ Only a portion of paragraph (j) will be repealed.

¹² Only a portion of paragraph (5)(d) will be repealed.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

Reenacting subsection (7) of s. 125.0104, F.S., will allow for the automatic expiration of the tourist development tax in a county under the conditions described above.

B. Private Sector Impact:

If subsection (7) of s. 125.0104, F.S., is reenacted and the automatic expiration conditions described above are met, individuals renting, leasing, or letting property in a particular county will no longer have to pay the tourist development tax.

C. Government Sector Impact:

County-operated entities receiving funds from the tourist development tax may lose this revenue source if subsection (7) of s. 125.0104, F.S., is reenacted and the automatic expiration conditions are met.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.