

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: February 27, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper	Yeatman	CP	Favorable
2.	_____	_____	CM	_____
3.	_____	_____	FT	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill revives and reenacts 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relating to the tourist development tax and the Florida Taxpayer's Bill of Rights which are otherwise scheduled to be repealed October 1, 2005.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 readopts s. 125.0104(7), F.S., and 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 have a number of common elements, one of which is the transient rental trade which forms the primary base on which they are levied. A “transient rental transaction” is defined in ss. 125.0104 and 212.0305, F.S.

The local option tourist development tax, s. 125.0104, F.S., may be levied on transient rental transactions in any county of the state. The base levy is set at 1% or 2%. The initial rate must be approved by the electorate in a referendum. Under certain conditions, the county governing board may increase the rate to 6%. Revenues from this tax may be used, under varying conditions, for certain types of capital construction, tourism promotion, beach and shoreline maintenance, beach park facilities, and athletic, museum, zoo, and nature center facilities.

Subsection (7) of s. 125.0104, F.S., provides for the automatic expiration of the tourist development tax upon the retirement of bonds issued by the county when the tax is used for 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. The subsection specifically provides that nothing precludes the county from re-imposing a tourist development tax upon or following the expiration of the ordinance.

Section 6 of ch. 2000-312, L.O.F., amended s. 125.0104(7), F.S., to provide that the automatic expiration of an ordinance will occur upon the later of the retirement of the previously discussed bonds, or the expiration of any agreement by the county for the operation or maintenance, or both, of such facilities. The subsection was also amended to allow for the county to amend the ordinance, rather than having an automatic expiration, to extend the tax for the amount of time the board determines is necessary to fund the operation and maintenance, any necessary capital improvements, or replacement of such facilities. This section was further amended in 2001 to clarify that counties may enact an ordinance extending the tax without referendum approval, unless the original referendum required ordinance expiration. [s. 14 of ch. 2001-252, L.O.F.]

Subsection (10) of s. 125.0104, F.S., authorizes counties to elect to self-administer the local option tourist development tax, as well as the tourist impact tax (s. 125.0108, F.S.), instead of having the Department of Revenue administer the tax on their behalf. The county is required to adopt a local ordinance specifying the responsibility for performance of tax administration duties.

Section 6 of ch. 2000-312, L.O.F., amended s. 125.0104(10)(c), F.S., to authorize counties that elect to self-administer the local option tourist development tax or the tourist impact tax to use certified public accountants to perform the functions associated with self-administration. These accountants are subject to the same confidentiality requirements and the same penalties as the county under s. 213.053, F.S.

Florida Taxpayer's Bill of Rights

Government and taxpayers have certain rights and obligations under tax laws regarding property tax assessment and collection, which rights and responsibilities are found throughout the tax codes.

Art. I, sec. 25 of the Florida Constitution, adopted in 1992, requires the Legislature to prescribe and adopt a Taxpayers' Bill of Rights that, in clear and concise language, sets forth taxpayers' rights and responsibilities and government's responsibilities to deal fairly with taxpayers under the laws of the state. The Taxpayers' Bill of Rights is found in s. 213.015, F.S. It addresses revenue laws administered and enforced by the Department of Revenue, but does not specifically refer to taxpayer rights regarding property tax assessment and collections.

Section 15 of ch. 2000-312, L.O.F., created s.192.015, F.S., the "Florida Taxpayer's Bill of Rights" for property taxes and assessments, and provides that this bill of rights "compiles, in one document, brief but comprehensive statements that summarize the rights and obligations" of government and taxpayers. The section provides that rights set forth in the Bill of Rights are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue.

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

Section 11 of ch. 2000-312, L.O.F., requires the provisions of ch. 2000-312, L.O.F., be reviewed by the Legislature prior to October 1, 2005, and be repealed on that date unless otherwise reenacted by the Legislature.

Unless reenacted, the following provisions of the Florida Statutes will be repealed on October 1, 2005:

- s. 197.182(1)(a) & (b), and (3), F.S., which relates to DOR's authority to order refunds of property taxes;
- s. 120.80(14)(b), F.S., which addresses taxpayer contest proceedings against DOR;
- s. 213.21(2)&(3), F.S., which addresses DOR's authority to enter into informal conference procedures to settle disputes between the department and taxpayers;
- s. 199.185(1), F.S., which relates to intangible personal property tax exemptions;
- s. 125.0104(6), (7) & (10), F.S., which relates to the referendum repeal requirements for the Tourist Development Tax, provides for the automatic expiration of the Tourist Development Tax upon retirement of bonds, and local administration of the Tourist Development Tax and the Tourist Impact Tax;
- s. 212.0305(5)(c), F.S., which relates to auditing of records relating to the self-administration of the Convention Development Tax;
- s. 213.053(7), F.S., which relates to the disclosure of confidential information by DOR;
- s. 212.055(4), (5), & (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
- s. 192.0105, F.S., which provides for a taxpayer bill of rights for property taxes and assessments.

III. Effect of Proposed Changes:

Section 1 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.

Section 2 revives and readopts s. 192.1015, F.S., which provides for the "Florida Taxpayer's Bill of Rights" for property taxes and assessments.

Section 3 provides that the act will take effect upon becoming a law.

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 provide for the automatic expiration of the tourist development tax, unless certain conditions are met.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.