

# 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.)

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Prepared By: Commerce and Consumer Services Committee

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BILL: CS/SB 2520

SPONSOR: Commerce and Consumer Services Committee and Senator Crist

SUBJECT: Tax on Sales, Use, and Other Transactions

DATE: April 19, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barrett	Cooper	CM	Fav/CS
2.	_____	_____	GE	_____
3.	_____	_____	TA	_____
4.	_____	_____	WM	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Effective July 1, 2006, s. 55 of ch. 2002-218, L.O.F., repeals several provisions of law relating to sales tax exemptions for convention halls, exhibition halls, auditoriums, stadiums, theaters, arenas, civic centers, performing arts centers, and publicly owned recreational facilities.

This committee substitute extends the repeal date of those exemptions to July 1, 2009.

This committee substitute also extends, without expiration, provisions that specify that certain sales and admissions taxes are due to the Department of Revenue on the first day of the month following an event. This committee substitute extends the current specification of what constitutes the sale price of admissions.

This committee substitute amends sections 212.031 and 212.04 of the Florida Statutes.

## II. Present Situation:

Effective July 1, 2006, s. 55 of ch. 2002-218, L.O.F., repeals several provisions of law relating to sales tax exemptions on service charges for admissions, labor services, and certain surcharges for certain facilities.

Effective July 1, 2006, s. 55 of ch. 2002-218, L.O.F., repeals s. 212.031(1)(a)12., F.S., providing an exemption from any sales tax to be paid by a concessionaire on property leased from a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility that is renting, leasing, subleasing, or licensing use of the facility to the concessionaire for selling souvenirs, novelties, or other event-related

products. The exemption applies only to that portion of the tax based on a percentage of sales and not based on a fixed price.

Effective July 1, 2006, s. 55 of ch. 2002-218, L.O.F., repeals a provision contained in s. 212.031(3), F.S., requiring that the tax due on the rental, lease, or license for the use of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility for an event not lasting longer than 7 days be collected at the time of the payment for the rental, lease or license but is not due to the Department of Revenue until the first day of the month following the last day of the event for which the payment is held. The payment is considered delinquent on the 21<sup>st</sup> day of that month.

Effective July 1, 2006, s. 55 of ch. 2002-218, L.O.F., repeals s. 212.031(10), F.S., providing a tax exemption for rental or license fees on separately stated charges imposed by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee for food, drink, or services required in connection with a lease or license to use real property. This exemption includes charges for laborers, stagehands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel, advertising, and credit card processing.

Effective July 1, 2006, s. 55 of ch. 2002-218, L.O.F., repeals provisions contained in s. 212.04(1)(b), F.S., providing that for purposes of calculating the admissions tax, the sale price for admission is the price remaining after deduction of federal taxes and state or locally imposed or authorized seat surcharges, taxes, or fees, if any, imposed upon admission, and that the actual sale price does not include separately stated ticket service charges that are imposed and added to a separately stated, established ticket price.

Effective July 1, 2006, s. 55 of ch. 2002-218, L.O.F., repeals s. 212.04(2)(a)b., F.S., prohibiting tax on admission charges to an event that is sponsored 100 percent by a governmental entity, sports authority, or sports commission when held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility. The governmental entity, sports authority, or sports commission must be responsible for 100 percent of the risk of success or failure and must be responsible for 100 percent of the funds at risk for the event and student or faculty talent is not exclusively used. The terms “sports authority” and “sports commission” mean a nonprofit organization that is exempt from federal income tax under s. 501(c) (3) of the Internal Revenue Code and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts.

Effective July 1, 2006, s. 55 of ch. 2002-218, L.O.F., repeals provisions contained in s. 212.04(3), F.S., providing that the tax on the admission to an event scheduled at a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility shall be collected at the time of payment for admission, but is not due to the Department of Revenue until the first day of the month following the actual date of the event, and that the payment will be considered delinquent on the 21<sup>st</sup> day of that month.

### III. Effect of Proposed Changes:

**Section 1** amends s. 212.031, F.S., to extend a sales tax exemption, and to extend a sales tax payment deadline provision.

Specifically, s. 212.031(1)(a)12., F.S., provides that a portion of the payment for property rented for use as a souvenir concessionaire from certain facilities during an event is not subject to sales tax. This section of the committee substitute extends the expiration of this sales tax exemption to July 1, 2009.

This section of the committee substitute also extends, without expiration, a provision that the sales taxes for use of certain facilities for events is due to the Department of Revenue (DOR) on the first day of the month following the event. This provision is located within s. 212.031 (3), F.S., and is scheduled to be repealed on July 1, 2006.

**Section 2** provides that s. 212.031(10), F.S., is not repealed and is readopted.

Section 212.031(10), F.S., is scheduled to be repealed on July 1, 2006. This section of the committee substitute effectively extends, until July 1, 2009, the sales tax exemption for fees imposed by certain facilities on lessees or licensees for food, drinks, or services.

**Section 3** amends s. 212.04, F.S., to extend the current specification of what constitutes the sale price of admissions, to extend a sales tax exemption for certain admission charges, and to extend a sales tax payment deadline provision.

Specifically, s. 212.04(1)(b), F.S., provides that sales tax is due on the sale price or actual value of admissions. This provision is scheduled to be repealed on July 1, 2006. This section of the committee substitute extends, without expiration, the current specification of what constitutes the sale price or actual value of admissions. The sale price or actual value of admissions does not include any service charges, surcharges, or taxes.

Section 212.04(2)(a)2.b., F.S., provides a sales tax exemption for admission charges to events held in certain facilities and sponsored by a governmental entity, sports authority, or sports commission. This exemption is scheduled to be repealed on July 1, 2006. This section of the committee substitute extends the expiration of this sales tax exemption until July 1, 2009.

Section 212.04(3), F.S., provides that the sales taxes on admission to an event at certain facilities is due to DOR on the first day of the month following the event. This section of the committee substitute extends this provision without expiration.

**Section 4** provides an effective date of July 1, 2005.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue.

This committee substitute reduces the authority that counties have to raise revenues with local option sales taxes. The Revenue Estimating Conference estimates the total local impact to be negative \$.9 million. However, since the reduction is less than \$1.8 million per year, it is considered insignificant and therefore exempt from the mandate provision

**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 estimated that the extension of the sales tax exemptions will result in a total negative fiscal impact of \$5.4 million in 2006-2007. This committee substitute will have no fiscal impact in 2005-2006, because the sales tax exemptions are currently in place. (See table below for details)

Fiscal Impact (millions of dollars)

	2005-2006	2006-2007
State Impact	0	(4.5)
Local Impact	0	(.9)
Total Impact	0	(5.4)

**B. Private Sector Impact:**

Those persons eligible for the exemptions will continue to benefit, as they will not be subject to sales taxes on certain items.

**C. Government Sector Impact:**

The Department of Revenue may incur administrative costs associated with the continued administration of the sales tax exemptions.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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