

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 421
SPONSOR(S): Reagan
TIED BILLS:

Tax on Sales, Use, and Other Transactions

IDEN./SIM. BILLS: SB 952

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee	_____	Noriega	Diez-Arguelles
2) Economic Development, Trade & Banking Committee	_____	_____	_____
3) Fiscal Council	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill extends the repeal date for some, and removes from repeal date for other, provisions of law relating to tax exemptions for convention halls, exhibition halls, auditoriums, stadiums, theatres, arenas, civic centers, performing arts centers, and publicly owned recreational facilities.

The Revenue Estimating Conference has estimated that in both FY 2006-07 and FY 2007-08, this bill will have a negative fiscal impact of \$3.8 million to state government and a negative fiscal impact of \$0.9 million to local governments.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: This bill retains certain tax exemptions for certain facilities which are set to expire in July 1, 2006.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Sections 212.031 and 212.04, F.S., contain several sales tax exemptions for certain leases, services, admissions, and fees associated with events at certain facilities. The following sales tax exemptions are scheduled to be repealed on July 1, 2006, pursuant to chapter 2002-218, L.O.F.:

- Section 212.031(1)(a)12., F.S., which provides an exemption from any tax to be paid to a convention hall, exhibition hall, auditorium, stadium, theatre, arena, civic center, performing arts center, or publicly owned recreational facility that is renting, leasing, subleasing, or licensing use of the facility to a concessionaire for the sale of 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;
- Section 212.031(3), F.S., which requires 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. However, the tax 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 21st day of that month;
- Section 212.031(10), F.S., which provides 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;
- Section 212.04(1)(b), F.S., which provides 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 the admissions, 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;
- Section 212.04(2)(a)2.b., F.S., which grants an exemption for 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, theatre, arena, civic center, performing arts center, or publicly owned recreational facility. In order to be eligible, the governmental entity, sports authority, or sports commission must be responsible for: 100 percent of the risk of success or failure of the event, 100 percent of the funds at risk for the event, and must not exclusively use student or faculty talent. 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; and

- Section 212.04(3), F.S., which provides that the tax on the admission to an event scheduled at a convention hall, exhibition hall, auditorium, stadium, theatre, arena, civic center, performing arts center, or publicly owned recreational facility shall be collected at the time of payment for admission. However, the tax 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 21st day of that month.

Proposed Changes

The bill extends the repeal date of the following exemptions until July 1, 2009:

- Section 212.031(1)(a)12., F.S., which provides an exemption for souvenir concessionaires on the portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price;
- Section 212.031(10), F.S., which provides 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; and
- Section 212.04(2)(a)2.b., F.S., which grants an exemption from admissions to events solely dependent on the government entity, sports authority, or sports commission sponsoring the event.

The bill deletes the repeal date permanently for the following exemptions:

- Section 212.031(3), F.S., which requires 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. However, the tax 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 21st day of that month;
- Section 212.04(1)(b), F.S., which provides an exemption from state or locally imposed or authorized seat surcharges, taxes, or fees from the admissions tax; and
- Section 212.04(3), F.S., which provides that the tax on the admission to an event scheduled at a convention hall, exhibition hall, auditorium, stadium, theatre, arena, civic center, performing arts center, or publicly owned recreational facility shall be collected at the time of payment for admission. However, the tax 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 21st day of that month.

C. SECTION DIRECTORY:

- Section 1. Amends s. 212.031(1)(a)12., F.S., extending the repeal of certain tax exemptions from any tax to be paid by certain facilities renting, leasing, subleasing, or licensing to a concessionaire using the facility to sell souvenirs, novelties, or other event-related

products; saving s. 212.031(3), F.S., which addresses when the taxes are due, from repeal.

Section 2. Provides an extension for the repeal of s. 212.031(10), F.S., which addresses an exemption from tax on separately stated charges.

Section 3. Amends s. 212.04(1)(b), F.S., saving from repeal an exemption from admissions; amends s. 212.04(2)(a)2.b., F.S., extending the repeal of an exemption from admissions; saving s. 212.04(3), F.S., which addresses when the taxes are due, from repeal.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on state government:

	<u>2006-07</u>	<u>2007-08</u>
General Revenue	(3.8m)	(3.8m)
State Trust	<u>(Indeterminate)</u>	<u>(Indeterminate)</u>
Total	(3.8m)	(3.8m)

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on local governments:

	<u>2006-07</u>	<u>2007-08</u>
Revenue Sharing	(0.1m)	(0.1m)
Local Gov't. Half Cent	(0.4m)	(0.4m)
Local Option	<u>(0.4m)</u>	<u>(0.4m)</u>
Total Local Impact	(0.9m)	(0.9m)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The facilities that are eligible for the sales tax exemptions addressed by this bill will continue to benefit because they do not have to pay a sales tax on certain items.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill reduces the authority that counties have to raise revenues through local option sales taxes; however, the amount of the reduction is insignificant, and therefore an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.