The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce and Tourism Committee

BILL: CS/SB 466

INTRODUCER: Committee on Commerce and Tourism and Senator Braynon

SUBJECT: Tourist Development Tax

DATE: March 22, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	**Fav/CS**
2.			CA	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [x] Statement of Substantial Changes
B. AMENDMENTS........................ [ ] Technical amendments were recommended
[ ] Amendments were recommended
[ ] Significant amendments were recommended

I. Summary:

Florida statutes allow county governments to levy tourist development taxes on hotel rooms and other transient rental accommodations for specified purposes. The most a county can levy is a 6-percent tax, and only if all the statutory conditions are met. One type of tourist development tax – authorized in s. 125.0104(3)(n), F.S. – allows 65 counties to levy up to an additional 1-percent tax to pay debt service on bonds for the construction, reconstruction, or renovation of professional sports facilities used by franchises in Florida since April 1, 1987.

CS/SB 466:

- Removes a prohibition against Miami-Dade County from levying the additional 1-percent sports facilities tax.
- Allows Miami-Dade County to levy the tax countywide, because also deleted is the prohibition against tourist development taxes being collected in the three Miami-Dade County municipalities that levy the Municipal Resort Tax.
- Specifies that if the revenues generated by this tax are used to finance a privately owned professional sports facility, then private contributions equal to at least 43 percent of the tax levy must be made before or simultaneously with the tax revenues.

- Allows a county to use revenues from the tax to pay debt service on the expansion, reconstruction, or renovation of convention center existing on July, 1, 2011.
- Specifies that if this tax is initially levied on or after January 1, 2012, the tax revenues used for existing convention center improvements, or for tourism promotion, may not exceed 49.9 percent of the total tax revenues received from the tax.
- Modifies the current descriptors of professional sports facilities eligible for the tax revenues so that, if this bill becomes law, a facility must be either publicly owned (but not publicly operated), or on publicly owned land.
- Removes the criterion that the sports franchise benefiting from the facility must have been in Florida since April 1, 1987.
- Specifies that the aforementioned changes to paragraph (n) of s. 125.0104(3), F.S., supersede any contrary provision in s. 125.0104(5), F.S., related to how the funds may be used.

CS/SB 466 substantially amends s. 125.0104, F.S.

II. Present Situation:

Tourist Development Taxes in Florida[1]

Section 125.0104, F.S., authorizes five separate tourist development taxes on transient rental[2] transactions and specifies how they may be used.

Depending on a county's eligibility to levy, the maximum tax rate varies from a minimum of 3 percent to a maximum of 6 percent. The levies may be authorized by vote of the county's governing body or by referendum approval, depending on the specific tax. Generally, the revenues may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance; however, the authorized uses vary according to the particular levy.

Subsection (3) of s. 125.0104, F.S., authorizes the following tourist development taxes:

- The basic tourist development tax may be levied at the rate of 1 or 2 percent by all 67 counties.[3] Currently, 60 counties levy this tax at the full 2-percent rate.[4]
- An additional tourist development tax of 1 percent may be levied.[5] Currently, 43 of the 56 eligible counties levy the tax.[6]
- A professional sports franchise facility tax may be levied up to 1 percent on transient rental transactions.[7] Currently, 34 counties levy this additional tax, although all 67 counties are eligible to levy it.[8]

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[1] Information regarding tourist development taxes was taken from the 2010 Local Government Financial Information Handbook published in October 2010 by the Office of Economic and Demographic Research. Report available at: http://edr.state.fl.us/Content/local-government/reports/lgfih10.pdf.

[2] Pursuant to s. 212.02(10), F.S, "transient rentals" are rentals or leases of accommodations for 6 months or less. Accommodations include stays in hotels, apartment houses, rooming houses, tourist or trailer camps, mobile home parks, recreational vehicle parks, or real property. See also Rule 12A-1.061(2)(f), F.A.C.

[3] Section 125.0104(3)(c), F.S.

[4] FN 1, supra. See pages 260-261.

[5] Section 125.0104(3)(d), F.S.

[6] See FN 4, supra.

[7] Section 125.0104(3)(l), F.S.

[8] See FN 4, supra.

- A high tourism impact county may levy an additional 1 percent on transient rental transactions.[9] Only Broward, Monroe, Orange, Osceola and Walton counties have been designated as high tourism impact counties eligible to impose this tax. Of those five, only Monroe, Orange, and Osceola counties impose the tax.[10]
- An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.[11] This tax is commonly referred to as the "extra penny" for professional sports facilities, and may be levied by counties that already collect the first penny for professional sports facilities. Out of 65 counties eligible to levy this tax, only Broward and 19 other counties do.[12] Miami-Dade and Volusia counties are not eligible to levy this tax.[13]

Specifically, the "extra penny" levy in s. 125.0104(3)(n), F.S., must be approved by a majority-plus-1 vote of the county governing board. It can only be used for the following purposes:

- Pay the debt service on bonds issued to finance:
  - The construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a new professional sports franchise as defined in s. 288.1162, F.S.,[14] or
  - The acquisition, construction, reconstruction, or renovation of a facility either publicly owned and operated, or publicly owned and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds for a retained spring training franchise.
- Promote and advertise tourism within Florida, as well as nationally and internationally. If the revenues raised by the "extra penny" are spent for an activity, service, venue, or event, then one of the main purposes of that activity, service, venue, or event must be the "attraction of tourists."[15]

[9] Section 125.0104(3)(m), F.S.
[10] See FN. 4, supra.
[11] Section 125.0104(3)(n), F.S.
[12] See FN. 4, supra.
[13] Miami-Dade and Volusia counties levy a 3-percent convention development tax, pursuant to s. 212.0305, F.S., and cannot by law levy more than 2 percent in tourist development taxes plus the 1-percent professional sports facility tax. If they were allowed to levy the additional penny for professional sports facilities, their total local-option levies on transient rentals would be 7 percent. Duval County, which levies a 2-percent Consolidated County Convention Center Tax on transient rentals, is specifically allowed in statute to levy the extra penny for pro sports facilities.
[14] Section 288.1162(3)(a), F.S., specifies that "new professional sports franchise" means a professional sports franchise that was not based in this state before April 1, 1987. Seven of the eight professional sports franchises that call Florida home in the regular season began operations in this state after that date. The eighth, the Miami Dolphins, began playing in Florida in 1970.
[15] Section 125.0104(3)(n)2., F.S.

A county that imposes the "extra penny" for a professional sports facility may not expend any ad valorem tax revenues for the acquisition, construction, reconstruction, or renovation of the project.

Municipal Resort Tax[16]

Created in 1969 and subsequently amended four times by the Legislature, the Municipal Resort Tax may be levied at a rate of up to 4 percent on transient rental transactions, and up to 2 percent on the sale of food and beverages consumed in restaurants and bars in certain municipalities whose respective county population fell within specified limits based on the 1960 Census and whose municipal charter specifically provided for the levy of this tax prior to January 1, 1968.

The levy must be adopted by an ordinance approved by the governing body. Revenues can be used for tourism promotion activities, capital construction and maintenance of convention and cultural facilities, and relief of ad valorem taxes used for those purposes.

Municipalities in counties having a population of not less than 330,000 but not more than 340,000 persons, and in counties having a population of more than 900,000, according to the 1960 decennial census, whose charter specifically provided or whose charter was amended prior to January 1, 1968, to allow the levy of this exact tax, are eligible to impose it by ordinance adopted by the governing body.

Currently, only three municipalities – Bal Harbour, Miami Beach, and Surfside, all in Miami-Dade County – are eligible to impose the tax. According to the Department of Revenue, all three municipalities are imposing the tax at the maximum rates.[17]

Pursuant to s. 125.0104(3)(b), F.S., no municipality levying the Municipal Resort Tax may levy tourist development taxes.

Sun Life Stadium

The privately owned Sun Life Stadium (previously known as Joe Robbie Stadium, Pro Player Park, Pro Player Stadium, Dolphin Stadium, Dolphins Stadium, and, most recently, Land Shark Stadium) is a multi-purpose stadium in Miami Gardens, a suburb of Miami. Construction began in 1985, and the first professional football game was played in August 1987. It is the home stadium facility of the Miami Dolphins National Football League team, the Florida Marlins Major League Baseball team, and the University of Miami Hurricanes NCAA football team. It also hosts the annual Orange Bowl college football bowl game.

Costing $115 million to build in the mid-1980s, Sun Life Stadium has been upgraded several times. Additional renovations for the Dolphins' stadium are planned after the Marlins leave after the 2011 season for their own stadium in Little Havana, on the site of the original Orange Bowl stadium that was demolished in 2009 to begin construction on the new facility.[18] Proposed renovations for the Dolphins' stadium include the addition of a roof to shield fans from rain and

[16] FN 1, supra. Information for this section of the analysis is on pages 243-244 of the report.
[17] FN 1, supra. Page 243.
[18] See http://mlb.mlb.com/fla/ballpark/new_ballpark.jsp.

other weather-related elements, and sideline improvements to narrow the field and bring seats closer to the on-field action.[19]

III. Effect of Proposed Changes:

CS/SB 466 makes a number of significant changes to s. 124.0104, F.S., related to usage of the extra penny for sports facilities. It allows Miami-Dade County to levy the tax, bringing its total tourist development/convention center tax rate to 7 percent. If the tax revenues are used to construct, reconstruct, or renovate a professional sports facility, then private contributions equaling at least 43 percent of the tax revenues authorized must be contributed before or simultaneously with the public tax dollars dedicated to the facility. Additionally, the extra penny for pro sports facilities can be used to finance the expansion, renovation, or reconstruction of a convention center existing as of July 1, 2011.

Section 1: Amends s. 125.0104(3)(n), F.S., to:

- Allow a county to levy the tax to pay debt service on bonds to construct, reconstruct, or renovate any professional sports facility that is either publicly owned or is on publicly owned land but operated by a private entity – no matter when the franchise using it began operations in Florida,
- Remove a statutory prohibition against Miami-Dade County levying the tax. This would bring the total local-option taxes on transient rentals in those counties to 7 percent, if their county governing boards voted to levy the extra penny. Approval requires a majority vote-plus-1 in the affirmative. With this law change, only Volusia County would be prohibited from levying the extra penny for professional sports facilities.
- Allow Miami-Dade County to levy the tax countywide, because also deleted is the prohibition against tourist development taxes being collected in the three Miami-Dade County municipalities that currently levy the Municipal Resort Tax.
    - Bonds backed by these tax revenues must be issued no later than December 14, 2015, but can be refunded or refinanced at the issuer's discretion.
    - The tax revenues generated by this extra penny tax can be used to pay debt service on bonds issued pursuant to the s. 125.0104(3), F.S., which includes more than pro sports facilities.
- Allow a county to levy the tax to pay debt service on the expansion, reconstruction, or renovation of convention center, existing on July 1, 2011.
- If this tax is initially levied on or after January 1, 2012, the tax revenues used for existing convention center improvements, or for tourism promotion, may not exceed 49.9 percent of the total tax revenues received from the tax.
- If the tax revenues are used to construct, reconstruct, or renovate a professional sports facility, then private contributions equaling at least 43 percent of the tax revenues authorized must be contribute before or simultaneously with the public tax dollars dedicated to the facility.

These changes to paragraph (n) of s. 125.0104 (3), F.S., supersede any contrary provision in s. 125.0104(5), F.S., related to authorized uses of the tax proceeds. One of the superseded

[19] See http://en.wikipedia.org/wiki/Sun_Life_Stadium.

provisions is that revenues from tourist development taxes can be spent on publicly owned and operated convention centers, sports stadiums and arenas, coliseums, and auditoriums.

Section 2 provides that this act shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If CS/SB 466 becomes law, eligible counties would be allowed to use revenues from the tourist development tax "extra penny" levy under s. 125.0104(3)(n), F.S., to issue bonds to finance the expansion, renovation, or reconstruction of a convention center existing as of July 1, 2011, or to finance construction, reconstruction, or renovation of a privately-owned professional sports facility if it received a substantial private contribution as well. The decision would rest with the county's governing board, implemented by a majority-plus-1 vote in the affirmative.

Also, the bill removes a statutory prohibition against Miami-Dade County from levying the additional pro sports facilities tourist development tax. This action would raise the total local-option taxes on transient rentals in those counties to 7 percent, if their county governing boards voted to levy the extra penny. Additionally, Miami-Dade County would be able to levy this tax countywide, because also deleted is the prohibition against tourist development taxes being collected in the three Miami-Dade County cities that currently levy the Municipal Resort Tax.

B. Private Sector Impact:

Indeterminate but likely positive, depending on the industry sector. The impacts in increased sales of goods and services will depend on a number of highly localized factors, such as proximity of hotels, restaurants, transportation facilities, retail establishments, and other businesses to the renovated pro sports and convention center facilities, and whether the attendees of the events at these facilities live in the area or are out-of-town or out-of-state visitors.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by the Commerce and Tourism Committee on March 22, 2011:
The CS makes a number of changes to the original bill:

- Removed the language that would have created an opportunity for Broward County to use proceeds from its levy of the additional professional sports facility tax on improvements to a stadium in Miami-Dade County, but also would have made it nearly impossible for the 64 other counties currently eligible to levy that tax to do so in the future. Deleting this language also removed the constitutional questions raised by the original bill.
- Reinstated the prohibition against Volusia County levying the extra sports penny.
- Specified that if the tax revenues are used to construct, reconstruct, or renovate a professional sports facility, then private contributions equaling at least 43 percent of the tax revenues authorized must be contribute before or simultaneously with the public tax dollars dedicated to the facility.

B. Amendments:

None.