

**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.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SB 330

INTRODUCER: Senator Simmons and others

SUBJECT: Admissions Tax

DATE: February 18, 2014

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	<b>Favorable</b>
2.	White	Yeatman	CA	<b>Favorable</b>
3.			AFT	
4.			AP	

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**I. Summary:**

SB 330 creates an additional exemption from the tax on admissions for Major League Soccer all-star games. The bill also clarifies the current exemption for events related to the National Basketball Association All-Star weekend.

The Revenue Estimating Conference adopted a zero cash impact estimate, with the recurring impact being negative indeterminate. The estimated impact if an all-star event for either league occurred is negative \$100,000.

**II. Present Situation:**

**State Taxes on Admissions**

Under the Florida Revenue Act of 1949, “admissions” refer to sums of money collected for the privilege of entering any place of amusement, sport, or recreation.<sup>1</sup> Section 212.04, F.S., establishes a taxable privilege for selling or receiving anything of value by way of admissions. Admissions are taxed at 6 percent of the sales price or actual value received. The sales price or actual value of admission is the price remaining after deducting federal taxes, state and local seat surcharges, taxes, or fees imposed upon admission, and ticket office or ticketing service charges.

The statute provides for several events for which tax on admissions is not levied.<sup>2</sup> Related to professional sporting events, the tax is not levied on admissions to the National Football League championship game, admissions to a Major League Baseball (MLB), National Basketball Association (NBA), or National Hockey League all-star game, admissions to the MLB Home

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<sup>1</sup> Section 212.02(1), F.S., provides examples, such as sales of tickets, gate charges, cover charges, box charges, season passes, membership dues, or entrance fees to places such as theaters, shows, exhibitions, games, races, or private recreation clubs.

<sup>2</sup> See s. 212.04(2), F.S.

Run Derby, or admissions to the NBA Rookie Challenge, Celebrity Game, 3-Point Shooting Contest, or Slam Dunk Challenge.<sup>3</sup>

### **Local Government Taxes on Admissions**

Sections 212.054 and 212.055, F.S., authorize Florida counties to charge a discretionary sales surtax, in addition to the state tax, on all transactions subject to the state sales and use tax. Only those surtaxes specifically designated may be levied.<sup>4</sup> The surtax does not apply to a sales amount above \$5,000 on any item of tangible personal property. The maximum discretionary sales surtax that any county can levy depends upon the county's eligibility for the taxes listed in s. 212.055, F.S. Currently, the maximum surtax actually imposed is 1.5 percent in several counties;<sup>5</sup> however, the theoretical maximum rate ranges between 2 percent and 3.5 percent, depending on the specifics of each individual county. In general, the levy of a particular tax is subject to county voter approval.

### **Administration of Taxes**

The Florida Department of Revenue (DOR) is responsible for administering, collecting, and enforcing all sales taxes. Collections of discretionary sales surtaxes received by the DOR are returned monthly to the county imposing the tax. Further, there are several state-shared revenue programs that allocate some portion of the state sales and use tax to local governments. A few revenue sharing programs require as a prerequisite that the county or municipality meet eligibility criteria. While general law restricts the use of some shared revenues, proceeds derived from other shared revenues may be used for the general revenue needs of local governments.<sup>6</sup>

### **Sporting Events – All-Star Games**

The NBA holds an all-star weekend.<sup>7</sup> Events include charity games, a dunk contest, 3-point shot contest, and an all-star game. Since the all-star game was first played in 1951, the game has taken place in Florida only three times – in 1990 in Miami, and in 1992 and 2012 in Orlando. The 2014 NBA all-star weekend will take place in New Orleans, Louisiana. Florida has two NBA teams – the Miami Heat (1988), and the Orlando Magic (1989).

Major League Soccer (MLS) has hosted an all-star game since 1996.<sup>8</sup> The MLS all-star game has only been held in Florida once – in 1998 in Orlando. The 2014 all-star game will be held in Portland, Oregon. Florida has previously been the home to two now-defunct MLS franchises, the Tampa Bay Mutiny (1996 – 2001) and the Miami Fusion F.C. (1998 – 2001).<sup>9</sup> However, in November 2013, Orlando was granted an expansion team for the MLS, called the Orlando City

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<sup>3</sup> Section 212.04(2)(a)4., F.S.

<sup>4</sup> The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 212.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S.

<sup>5</sup> See DOR Form DR-15 DSS, Discretionary Sales Surtax Information, *available at* [http://dor.myflorida.com/dor/forms/current/dr15dss\\_1113.pdf](http://dor.myflorida.com/dor/forms/current/dr15dss_1113.pdf) (last visited Feb. 4, 2014).

<sup>6</sup> For more information see Revenue Estimating Conference, *2013 Florida Tax Handbook*.

<sup>7</sup> NBA, All-Star, *available at* <http://www.nba.com/allstar/> (last visited Feb. 4, 2014).

<sup>8</sup> MLS, All-Star Game, *available at* <http://www.mlssoccer.com/all-star/2013> (last visited Feb. 4, 2014).

<sup>9</sup> MLS, Tampa Bay Mutiny, *available at* <http://www.mlssoccer.com/history/club/tampabay>, and Miami Fusion F.C., *available at* <http://www.mlssoccer.com/history/club/miami>, (last visited Feb. 4, 2014).

Soccer Club, to join the league in 2015.<sup>10</sup> There have also been news reports of a possible expansion team for Miami, with a possible announcement by the MLS in February 2014.<sup>11</sup>

### III. Effect of Proposed Changes:

SB 330 creates an additional exemption from the tax on admissions for Major League Soccer all-star games.

The bill also clarifies the current exemption for events related to the National Basketball Association All-Star weekend. The bill repeals reference to specific event names, and instead exempts NBA all-star events produced by the NBA and “held at a facility such as an arena, convention center, or municipal facility.”

The bill provides an effective date of July 1, 2014.

### IV. Constitutional Issues:

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

Article VII, s. 18, Florida Constitution, excuses counties and municipalities from complying with laws requiring them to spend funds or to take an action unless certain conditions are met.

Subsection (b) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce county or municipal aggregate revenue generating authority as it existed on February 1, 1989. The exception to this prohibition is if the Legislature passes such a law by 2/3 of the membership of each chamber.

Subsection (c) of the provision prohibits the Legislature from “enacting, amending, or repealing any general law if the anticipated effect” is to reduce the percentage of a state tax shared with counties and municipalities. The exception to this prohibition is if the Legislature passes such a law by 2/3 of the membership of each chamber.

Subsection (d) provides an exemption from the prohibitions. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 are exempt (the estimated population as of April 1, 2013, is about 19.3 million).<sup>12</sup>

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<sup>10</sup> MLS, “Major League Soccer names Orlando City SC as 21<sup>st</sup> franchise, set for 2015 debut,” *available at* <http://www.mlssoccer.com/news/article/2013/11/19/major-league-soccer-names-orlando-city-21st-franchise-set-2015-debut> (last visited Feb. 4, 2014).

<sup>11</sup> For example, see Davis, Craig, Sun-Sentinel, “Miami may be on verge of getting MLS team,” *available at* <http://www.sun-sentinel.com/sports/soccer/fl-mls-decision-miami-february-0117-20140116,0,3028261.story> (last visited Feb. 4, 2014).

<sup>12</sup> Office of Economic and Demographic Research, Florida Population Estimates for Counties and Municipalities, April 1, 2013, *available at* [http://edr.state.fl.us/Content/population-demographics/data/2013\\_Pop\\_Estimates.pdf](http://edr.state.fl.us/Content/population-demographics/data/2013_Pop_Estimates.pdf) (last visited Feb. 4, 2014).

The Revenue Estimating Conference estimated that the new exemptions created by this bill will have a negative indeterminate fiscal impact on local governments. If either all-star event occurs in this state, the estimated total impact is negative \$100,000.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The Revenue Estimating Conference considered this bill on January 17, 2014, and adopted a zero cash impact estimate, with the recurring impact being negative indeterminate. The estimated impact of an all-star event in Florida for either league is negative \$100,000.<sup>13</sup>

**B. Private Sector Impact:**

Individuals attending these sporting events will not have to pay sales tax on the tickets they purchase. Additionally, the venues or teams hosting these events will not need to collect sales tax on the tickets sold to such events.

Generally, organizers of these events set the price of admission and print admission tickets. The price printed on the ticket is the actual amount paid by an attendee. Consequently, any sales tax due is currently borne by the tournament organizer, the host organization, or facility. The existence of a sales tax exemption for these tickets may make a Florida locale vying to bring such an event to Florida more competitive in comparison with other locations.

**C. Government Sector Impact:**

The DOR has indicated that the provisions of the bill would have an insignificant impact on their operations.<sup>14</sup>

**VI. Technical Deficiencies:**

None.

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<sup>13</sup> Revenue Estimating Conference, Analysis HB 231/SB 330, January 17, 2014, *available at* <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/page70-72.pdf> (last visited 1/27/2014).

<sup>14</sup> DOR, 2014 Bill Analysis SB 330 (December 31, 2013).

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 212.04(2)(a) of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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