

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 Committee on Community Affairs

BILL: CS/SB 1520

INTRODUCER: Community Affairs Committee and Senator Gaetz

SUBJECT: Tourist Development Taxes

DATE: February 10, 2016

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Present | Yeatman | CA | Fav/CS |
| 2. | | | ATD | |
| 3. | | | FP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1520 authorizes a county located adjacent to the Gulf of Mexico or the Atlantic Ocean to use up to 10 percent of the revenue received from existing transient rental taxes to reimburse expenses incurred in providing public safety services. Public safety services include emergency medical services and law enforcement services that are needed to address impacts related to increased tourism and visitors in an area. To receive reimbursement, the county must:

- Generate a minimum of \$10 million in annual proceeds from any tax, or any combination of taxes, authorized pursuant to the Local Option Tax Development Act in s. 125.0104, F.S.;
- Have at least three municipalities;
- Have an estimated population of less than 225,000, excluding the inmate population; and
- Not receive revenues from taxes levied pursuant to s. 125.0108, F.S.

The board of county commissioners must approve reimbursement by majority vote upon receipt of a recommendation from the tourist development council.

II. Present Situation:

Local option tourist taxes are significant revenue sources to Florida's county governments and represent important funding mechanisms for a variety of tourism-related expenditures such as beach and shoreline maintenance, construction of convention centers and professional sports franchise facilities, and tourism promotion.¹

¹ Florida Legislative Committee on Intergovernmental Relations, Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10 (December 2009), available at <http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf> (last visited Feb. 10, 2016).

The Local Option Tourist Development Act² authorizes counties to levy five separate tourist development taxes on transient rental transactions. Depending on a county's eligibility to levy, the 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 authority or referendum approval. The revenues generated by the tax may be used in various ways to promote tourism, including capital construction of tourism-related facilities. The authorized uses of each local option tax vary according to the particular levy. The following taxes may be levied under the Local Option Tourist Development Act:

- The tourist development tax may be levied at the rate of 1 or 2 percent.³
- An additional tourist development tax of 1 percent may be levied by counties that have previously levied a tourist development tax at the 1 or 2 percent rate for at least 3 years.⁴
- A professional sports franchise facility tax may be levied up to an additional 1 percent.⁵
- 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.⁶
- A high tourism impact tax may be levied at an additional 1 percent.⁷

Revenues received by a county from a tax levied under s. 125.0104(3)(c) and (d), F.S., must be used for purposes listed in s. 125.0104(5), F.S. These purposes are:

- The acquisition, construction, extension, enlargement, remodeling, repair, or improvement of:
 - A convention center, sports stadium, sports arena, coliseum, or auditorium that is publicly owned and operated; or
 - An aquarium or a museum that is publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.
- Promotion of a zoo.
- Promotion and advertisement of tourism in the state.
- Funding of convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies, or by contract with chambers of commerce or similar associations in the county.
- In counties with populations less than 100,000, up to 10 percent of tourist development tax revenues may be used for financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.

² Section 125.0104, F.S.

³ Section 125.0104(3)(c), F.S. All 62 counties that levy this tax do so at a rate of 2 percent. Office of Economic & Demographic Research (EDR), Local Option Tourist / Food & Beverage Tax Rates, *available at* <http://edr.state.fl.us/Content/local-government/data/county-municipal/> (last visited Feb. 10, 2016).

⁴ Section 125.0104(3)(d), F.S. Forty-eight of the 59 eligible counties levy this tax. Florida Revenue Estimating Conference, 2016 Florida Tax Handbook, p. 268.

⁵ Section 125.0104(3)(l), F.S. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers and to promote and advertise tourism. Thirty-nine of the 67 eligible counties levy this additional tax. *Id.*

⁶ Section 125.0104(3)(n) F.S. Twenty-four of the 65 eligible counties levy the additional professional sports franchise facility tax. *Id.*

⁷ Section 125.0104(3)(m), F.S. Of the seven counties eligible to levy this tax, only Monroe, Orange, Osceola, and Palm Beach levy it. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds.

- In counties with populations less than 750,000, tourist development tax revenue may be used for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement, maintenance, operation, or promotion of zoos, fishing piers, or nature centers which are publicly owned and operated or owned and operated by a not-for-profit organization and open to the public.
- Securing revenue bonds issued by the county for the acquisition, construction, extension, enlargement, remodeling, repair, or improvement of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, aquarium, or a museum or financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control.

The use of tourist development tax revenue for any purpose not expressly authorized in statute is prohibited.⁸

Section 125.0104(10), F.S., authorizes a county levying taxes on transient rentals to self-administer the tax, if the county adopts an ordinance providing for the local collection and administration of the tax. A county that chooses to self-administer the tax must choose whether to assume all responsibility for auditing the records and accounts of dealers and assessing, collecting, and enforcing payments of delinquent taxes, or to delegate this authority to the Department of Revenue.

The Attorney General previously opined that Nassau County was not authorized by s. 125.0104, F.S., to use tourist development tax revenues to fund additional law enforcement patrols or lifeguards on the beach.⁹

Tourist Impact Tax - Section 125.0108, F.S.

Any county creating a land authority under s. 380.0663(1), F.S., is authorized to levy a 1 percent tax on transient rental facilities within the county area that is designated as an area of critical state concern under Chapter 380, F.S. If the area(s) of critical state concern are greater than 50 percent of the county's total land area, the tax may be levied countywide.

The funds are used to buy property in the area of critical state concern and to offset the loss of ad valorem taxes due to those land acquisitions.

Designated areas of critical state concern include the Big Cypress Area (mainly in Collier County), the Green Swamp Area (in central Florida), the Florida Keys Area (in south Florida), and the Apalachicola Bay Area (in Franklin County). Only Monroe County levies the Tourist Impact Tax.¹⁰

⁸ Section 125.0104(5)(d), F.S.

⁹ Op. Atty Gen. Fla. 90-55 (1990).

¹⁰ Fl. Dep't of Revenue, County Local Option Transient Tax Rates, DR-15TDT.

III. Effect of Proposed Changes:

Section 1 amends s. 125.0104, F.S., to authorize a county located adjacent to the Gulf of Mexico or the Atlantic Ocean to use up to 10 percent of the revenue received from existing transient rental taxes to reimburse expenses incurred in providing public safety services. Public safety services include emergency medical services and law enforcement services that are needed to address impacts related to increased tourism and visitors in an area. If taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:

- Generate a minimum of \$10 million in annual proceeds from any tax, or any combination of taxes, authorized pursuant to the Local Option Tax Development Act in s. 125.0104, F.S.;
- Have at least three municipalities;
- Have an estimated population of less than 225,000, excluding the inmate population; and
- Not receive revenues from taxes levied pursuant to s. 125.0108, F.S. Section 125.0108, F.S., authorizes any county creating a land authority pursuant to s. 380.0063(1), F.S., to levy a 1 percent tax, subject to referendum approval, on transient rental facilities within the county area designated as being of critical state concern pursuant to ch. 380, F.S.

The board of county commissioners must approve reimbursement by majority vote upon receipt of a recommendation from the tourist development council.

Section 2 provides an effective date of July 1, 2016.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill authorizes affected counties to use an existing source of revenue to fund public safety services. In the alternative, these services likely would continue to be funded by county general revenue funds.¹¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 125.0104 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Community Affairs on February 16, 2016:

- Authorizes a county located adjacent to the Gulf of Mexico or the Atlantic Ocean to use up to 10 percent of the revenue received from existing transient rental taxes to reimburse expenses incurred in providing public safety services. Public safety services include emergency medical services and law enforcement services that are needed to address impacts related to increased tourism and visitors in an area. If taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:
 - Generate a minimum of \$10 million in annual proceeds from any tax, or any combination of taxes, authorized pursuant to the Local Option Tax Development Act in s. 125.0104, F.S.;
 - Have at least three municipalities;
 - Have an estimated population of less than 225,000, excluding the inmate population; and
 - Not receive revenues from taxes levied pursuant to s. 125.0108, F.S.
- Requires the board of county commissioners to approve reimbursement by majority vote upon receipt of a recommendation from the tourist development council.

¹¹ Ad valorem property taxes are a significant source for a county's general revenue fund.

B. Amendments:

None.

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