

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 585 Tourist Development Tax
SPONSOR(S): Fine and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism & Gaming Control Subcommittee	9 Y, 4 N	Bowen	Barry
2) Ways & Means Committee	13 Y, 4 N	Dugan	Langston
3) Commerce Committee			

SUMMARY ANALYSIS

State law currently authorizes counties to levy local option tourist development taxes as a funding mechanism for a variety of tourism-related expenditures such as tourism promotion, beach and shoreline maintenance, and construction of convention centers and professional sports franchise facilities.

The bill expands the permissible uses of tourist development tax revenues by authorizing counties to use such revenues in connection with improving or bringing into service public facilities within the boundaries of the county or subcounty special taxing district if the expenditure is deemed necessary to increase tourist-related business activities by the county tourist development council.

“Public facilities” is defined to mean major capital improvements that have a life expectancy of five or more years, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, and pedestrian facilities.

In addition, the bill authorizes the use of tourist development tax revenues to finance estuary or lagoon improvements.

The bill appears to have no fiscal impact on state or local government revenues.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Local Option Tourist Development Act¹ authorizes counties to levy five separate taxes on transient rental² transactions (“tourist development taxes” or “TDT”). Depending on a county’s eligibility to levy such taxes, the maximum tax rate varies from a minimum of three percent to a maximum of six percent:

- The original TDT may be levied at the rate of 1 or 2 percent (s. 125.0104(3)(c), F.S.).³
- An additional 1 percent tax may be levied by counties who have previously levied a TDT at the 1 or 2 percent rate for at least three years.⁴
- A high tourism impact tax may be levied at an additional 1 percent.⁵
- A professional sports franchise facility tax may be levied up to an additional 1 percent.⁶
- 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.⁷

Each county that levies the original 1 or 2 percent tax is required to have a “tourist development council”.⁸ The tourist development council is a group of electors from the county that are appointed by the county governing authority. The tourist development council, among other duties, makes recommendations to the county governing authority for the effective operation of the special projects or for uses of the tourist development tax revenue. The requirement to have a tourist development council only applies to the levy of the original 1 or 2 percent tax.

Procedure

The five tourist development levies may be authorized by vote of the county’s governing authority or may require voter approval of a countywide referendum, depending on the type of levy.⁹ For example, the levy of the original 1 or 2 percent levy requires voter approval in a referendum while the other levies only require authorization by vote of the county’s governing authority.

Upon voter approval, each county proposing to levy the original 1 or 2 percent tax must adopt an ordinance for the levy and imposition of the tax.¹⁰ Prior to the enactment of the ordinance, the tourist development council must prepare and submit to the county’s governing authority for its approval a plan for tourist development,¹¹ and the plan must be adopted as part of the ordinance levying the tax.¹²

¹ Section 125.0104, F.S.

² Section 125.0104(3)(a)(1), F.S. considers “transient rental” to be the rental or lease of any accommodation for a term of 6 months or less.

³ Section 125.0104(3)(c), F.S. Sixty-three counties levy this tax, all 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 Dec. 19, 2017).

⁴ Section 125.0104(3)(d), F.S. Fifty-one of the eligible 59 counties levy this tax. *Id.*

⁵ Section 125.0104(3)(m), F.S. Five of the eight eligible counties levy this tax. *Id.*

⁶ 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 or professional sports franchises, and convention centers and to promote and advertise tourism. Forty-three of the 67 eligible counties levy this additional tax. *Id.*

⁷ Section 125.0104(3)(n) F.S. Twenty-nine of the eligible 65 counties levy the additional professional sports franchise facility tax. *Id.*

⁸ s. 125.0104(4)(e), F.S.

⁹ Section 125.0104(3)(d). F.S.

¹⁰ Section 125.0104(4)(a), F.S.

¹¹ s. 125.0104(4), F.S.

The plan for tourist development must set forth the anticipated net tax revenue to be derived by the county for the two years following the tax levy as well as indicate the tax district in which the tourist development tax is proposed. In addition, the plan provides a list, in order of priority, of the proposed uses of the tax revenue by specific project or use as well as the approximate cost or expense allocation for each specific project or use.¹³

After enactment of the ordinance levying and imposing the original 1 or 2 percent tax, the plan of tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.¹⁴

Revenue Use

The revenues generated by tourist development taxes may be used by county governments in various ways to promote tourism, including tourism marketing and capital construction of tourism-related facilities.¹⁵ The authorized uses of each local option tax vary according to the particular levy. Revenues received by a county from a tax levied under s. 125.0104(3)(c) and (d), F.S. (the original 1 or 2 percent levy and the additional 1 percent levy), must be used only for purposes listed in s. 125.0104(5), F.S. These purposes are:

- 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 that is publicly owned and operated or owned and operated by a not-for-profit organization, or promotion of a zoo.
- Promotion and advertising 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.
- 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 TDT revenue for any purpose not expressly authorized in statute is prohibited.¹⁶

¹² See s. 125.0104(4), F.S. The provisions found in ss. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

¹³ See s. 125.0104(4), F.S. The provisions found in ss. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

¹⁴ See s. 125.0104(4), F.S. The provisions found in ss. 125.0104(4)(a)-(d), F.S., do not apply to the high tourism impact tax, the professional sports franchise facility tax, or the additional professional sports franchise facility tax.

¹⁵ 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 Dec. 19, 2017).

¹⁶ Section 125.0104(5)(d), F.S.

Administration

Section 125.0104(10), F.S., authorizes a county levying TDTs 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 taxes 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.

Proposed Changes

The bill authorizes additional purposes for which revenues received by a county through the TDT may be expended. It allows counties to use TDT revenues in connection with developing or operating public facilities within the boundaries of the county or subcounty special taxing district in which the tax is levied, if the public facilities are needed to increase tourist-related business activities in the county or subcounty special district and are recommended by the county tourist development council. TDT revenues may also be used for any related land acquisition, land improvement, design, and engineering costs and all other professional and related costs required to bring public facilities into service.

“Public facilities” is defined to mean major capital improvements that have a life expectancy of 5 or more years, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, and pedestrian facilities.

In addition, the bill authorizes the use of tax revenues to finance estuary or lagoon improvements.

B. SECTION DIRECTORY:

Section 1: Amends s. 125.0104, F.S., to allow counties imposing the tourist development tax to use such tax revenue for expenditures related to public facilities needed to increase tourist-related business activities in the county.

Section 2: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill authorizes, but does not require, affected counties to use an existing source of revenue to fund expenditures for public facilities.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES