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 Commerce and Tourism

BILL:	SB 1708
INTRODUCER:	Senator Rouson
SUBJECT:	Tourist Development Councils
DATE:	March 15, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	McKay	CM	**Pre-meeting**
2.			CA	
3.			RC	

I. Summary:

SB 1708 permits counties with a population of 900,000 or greater to form more than one tourism development council. The bill allows counties who form multiple tourism development councils to do so with membership compositions at the discretion of the governing board of the county.

The bill takes effect July 1, 2019.

II. Present Situation:

Tourist Development Taxes

Florida law permits counties to impose local option taxes on short-term[1] rentals or leases of accommodations.[2] The taxes are generally referred to as "tourist development taxes," but consist of several separate tax levies. The taxes include:

- 1 or 2 Percent Tax:[3] This tax may be levied by the county's governing board at a rate of 1 or 2 percent on the total amount charged for transient rental transactions.
- Additional 1 Percent Tax:[4] This tax may be levied by an extraordinary vote of a county's governing board, in addition to the 1 or 2 percent tax on the total amount charged for transient rental transactions. To be eligible to levy the tax, a county must have levied the 1 or 2 percent tax for at least 3 years.

[1] Section 125.0104(3)(a), F.S. provides that the tax applies to rentals or leases of 6 months or less.
[2] Section 125.0104, F.S.
[3] Section 125.0104(3)(c), F.S.
[4] Section 125.0104(3)(d), F.S.

- High Tourism Impact Tax:[5] By extraordinary vote of the governing board of the county, a county with high tourism impact may levy an additional 1 percent tax on the total amount charged for transient rental transactions.[6]
- Professional Sports Franchise Facility Tax:[7] In addition to any other tourist development taxes, a 1 percent tax on the total amount charged for transient rental transactions may be levied to pay debt service on bonds issued to finance professional sports franchise facilities, retained spring training franchise facilities, and convention centers. These funds may also be used to promote tourism in the state.
- Additional Professional Sports Franchise Facility Tax:[8] A county that levies the professional sports franchise facility tax may levy an additional 1 percent tax to be used for the same purposes. This tax must be approved by a majority plus one vote of the membership of the board of county commissioners.

Depending on a county's eligibility, the maximum tax rate varies from 3 to 6 percent. The table below displays the five local option tourist development taxes available to counties, the number of counties eligible to levy a specific tourist development tax, and the number of counties currently levying such tax.[9]

	Original Tax (1% or 2%)	Additional Tax (1%)	Professional Sports Franchise Facility Tax (up to 1%)	High Tourism Impact Tax (1%)	Additional Professional Sports Franchise Facility Tax (up to 1%)
Eligible to Levy:	67	59	67	9	65
Levying:	63	53	44	6	30

These local option taxes may be administered by the Department of Revenue or by one or more units of local government. These taxes may be levied within a subcounty special district. If the tax is levied in a subcounty special district, the additional taxes must be levied only in that district.[10]

As a requirement for adopting tourist development taxes, a county's tourist development council[11] must prepare a plan for tourist development and present it before the governing board of the county. The plan must include the anticipated revenue derived from the tax for the first 24 months of implementation, the tax district where the tax will be imposed, and a list prioritizing the uses of the revenue. The county's governing board must approve any changes to the plan after the levy has been enacted.[12]

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[5] Section 125.0104(3)(m), F.S.
[6] A county may be designated as having a "high tourism impact" by the Department of Revenue as provided by s. 125.0104(3)(m)2, F.S. The tax is levied by Monroe, Orange, Osceola, Palm Beach, and Pinellas counties. Broward, Lee, and Walton counties are eligible to levy it.
[7] Section 125.0104(3)(l), F.S.
[8] Section 125.0104(3)(n), F.S.
[9] Office of Economic and Demographic Research, *2018 Local Option Tourist/Food and Beverage/Tax Rates in Florida's Counties*, *available at* http://edr.state.fl.us/content/local-government/data/county-municipal/2018LOTTrates.pdf, (published August 23, 2018).
[10] *See* ss. 125.0104(3)(b) and (d), F.S.
[11] Also referred to as a "tourism" development council.
[12] *See* ss. 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.

Local option tourist development tax revenues may be used for capital construction of tourist-related facilities, tourism promotion, and beach or shoreline maintenance. More specifically, the revenues derived from tourist development taxes are authorized to be used to:

- Acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:
  - Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums; or
  - Aquariums and museums that are publicly owned and operated, or owned and operated by a non-profit organization that is open to the public;
- Promote zoological parks that are publicly owned and operated or owned and operated by a non-profit organization that is open to the public;
- Promote and advertise tourism in the state;
- Fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies; or
- Finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control. [13]

County Tourism Development Councils

The governing board of each county that levies tourism development taxes must form a tourism development council. Section 125.0104(4)(e), F.S., provides the authority and requirements for county tourism development councils and their memberships. Requirements include:

- The council must be called " (name of county) Tourist Development Council";
- The council shall be composed of nine members appointed by the governing board of the county;
- A member of the county governing board shall serve as a member of the council;
- Two members of the council must be elected municipal officials;
- Six members of the council must be involved in the tourism industry, of whom no less than three and no more than four shall be owners or operators of motels, hotels, recreational vehicles parks, or other tourist accommodations in the county;
- All members of the council shall be electors of the county;
- The governing board of the county may elect a chair for the council or allow the council to elect its own chair;
- The chair shall be appointed or elected annually and may be reappointed or elected;
- Members of the council shall serve staggered 4 year terms;
- The council shall meet at least once each quarter;
- The council shall recommend to the governing board of the county special projects and uses for tourist development tax revenue;
- The council shall continuously review expenditures of revenues from the tourist development taxes; and
- The council shall report unauthorized/questionable expenditures from the tourist development tax revenues to the county governing board and Department of Revenue for their review.

[13] Section 125.0104(5)(a), F.S.

County Population Estimates

The provisions put forth in SB 1708 apply to counties with a population of 900,000 or more according to the latest decennial census. According to the last census in 2010 the following six counties have populations of 900,000 or more:[14]

1. Miami-Dade, population 2,496,435
2. Broward, population 1,748,066
3. Palm Beach, population 1,320,134
4. Hillsborough, population 1,299,226
5. Orange, population 1,145,956
6. Pinellas, population 916,542

According to the latest population estimates by the Office of Economic and Development Research (EDR), seven counties will have a population of 900,000 or more by the next census in 2020. Those seven counties are as follows:

1. Miami-Dade, population 2,779,322
2. Broward, population 1,897,976
3. Palm Beach, population 1,433,417
4. Hillsborough, population 1,408,864
5. Orange, population 1,349,597
6. Pinellas, population 970,532
7. Duval, population 952,861[15]

III. Effect of Proposed Changes:

SB 1708 allows counties that levy tourist development taxes and have a population of 900,000 or greater according to the latest decennial census to form more than one tourism development council. Once a county has elected to form more than one tourism development council, their councils become exempt from the membership composition requirements set forth in s. 125.0104(4)(e), F.S.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[14] *See* Office of Economic and Demographic Research, http://edr.state.fl.us/Content/population-demographics/data/index-censusdata.cfm (last visited March 15, 2019).

[15] Office of Economic and Demographic Research, *The Florida Legislature Econographic News,* 2019 Volume 1, available at http://edr.state.fl.us/Content/population-demographics/reports/econographicnews-2019v1.pdf (last visited March 15, 2019).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not address how tourist development tax revenue would be apportioned in the counties that create more than one tourism development council.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 125.0104(4)(c), F.S., requires a county that is considering the levying of tourist development taxes to form a tourism development council prior to levying the tax. It is the tourism development council's responsibility to present to a plan for tourist development which includes anticipated tourist development tax revenues and expense allocations to the county governing board. The county governing board shall adopt the plan as part of the ordinance levying the tax.[16] The bill does not rectify the creation of additional tourism development councils with this subsection's requirement for the council to exist prior to the levying of tourist development taxes.

The bill absolves counties with more than one tourism development council from meeting the membership composition requirements for tourist development councils as laid out in s. 125.0104(4)(e), F.S. This language is vague and opens s. 125.0104(4)(e), F.S., to varying interpretations. The appointment or election of the tourism development council's chair, whether

[16] Section 125.0104(4)(d), F.S.

the chair may be reappointed or re-elected, the duration of member terms, and whether the terms are staggered is open to interpretation in the bill's current form.

VIII. Statutes Affected:

This bill substantially amends section 125.0104 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.