HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 673 Tourist Development Taxes
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee, Shoaf and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1542

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	16 Y, 2 N, As CS	Walsh	Keating
2) Local Administration & Veterans Affairs Subcommittee			
3) Ways & Means Committee			
4) Commerce Committee			

SUMMARY ANALYSIS

The Local Option Tourist Development Act authorizes counties to levy five separate taxes on transient rental transactions (tourist development taxes or TDTs), including:

- The original TDT, which may be levied at the rate of 1 or 2 percent.
- An additional 1 percent tax, which may be levied by counties who have previously levied the original TDT at the 1 or 2 percent rate for at least three years.
- A high tourism impact tax, which may be levied at an additional 1 percent.
- A professional sports franchise facility tax, which may be levied up to an additional 1 percent.
- An additional professional sports franchise facility tax no greater than 1 percent, which may be imposed by a county that has already levied the professional sports franchise facility tax

Counties must meet certain criteria and follow specific procedures in order to levy each of the different TDTs. Current law authorizes counties to levy TDTs as a mechanism for funding a variety of tourist-related uses, including tourism promotion and the financing and construction of public facilities needed to increase tourist-related business activities in the county, beach restoration and maintenance projects, and convention centers and professional sports franchise facilities. Certain qualifying counties may use up to ten percent of TDT revenues to reimburse their expenses to provide public safety services.

Fiscally constrained counties are counties entirely within a rural area of opportunity or where a 1 mill levy would raise no more than $5 million in annual tax revenue.

The bill allows a county that is located adjacent to the Gulf of Mexico or Atlantic Ocean and is designated as a fiscally constrained county, as defined above, to use up to 10 percent of TDT revenue received to reimburse expenses for public safety services to address the impacts of increased tourism and visitors. The bill provides that counties and municipalities may not use the taxes to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department.

The fiscally constrained counties located adjacent to the Gulf of Mexico or Atlantic Ocean whom the bill may benefit include: Dixie, Franklin, Gulf, Jefferson, Levy, Taylor, and Wakulla.

The bill does not appear to impact state or local government revenues or expenditures. See Fiscal Comments.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Tourist Development Taxes

The Local Option Tourist Development Act[1] authorizes counties to levy five separate taxes on transient rental[2] transactions (tourist development taxes or TDTs). Depending on a county's eligibility to levy such taxes, the maximum potential tax rate varies:

- The original TDT may be levied at the rate of 1 or 2 percent.[3]
- An additional 1 percent tax may be levied by counties who have previously levied the original 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]

TDT Process

Each county that levies the original 1 or 2 percent TDT is required to have a tourist development council.[8] The tourist development council is a group of residents from the county who are appointed by the county governing board.[9] The tourist development council, among other duties, makes recommendations to the county governing board for the effective operation of special projects or for uses of the TDT revenue.[10]

Prior to the authorization of the original 1 or 2 percent TDT, the levy must be approved by a countywide referendum,[11] and additional TDT levies must be authorized by a vote of the county's governing board or by voter approval in a countywide referendum.[12] Each county proposing to levy the original 1 or 2 percent tax must then adopt an ordinance for the levy and imposition of the tax,[13] which must include a

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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 six months or less.

3 Section 125.0104(3)(c), F.S. All sixty-seven of Florida's counties are eligible to levy this tax, but only sixty-two counties have done so, all at a rate of 2 percent. Office of Economic & Demographic Research (EDR), *County Tax Rates: CY 2007-2022*, available at http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm (last visited Feb. 4, 2022). These counties are estimated to realize $445 million in revenue from these taxes in the 2021-22 fiscal year. EDR, *2021 Local Government Financial Information Handbook* (November 2021), p. 255, http://edr.state.fl.us/content/local-government/reports/lgfih21.pdf (last visited Feb. 4, 2022).

4 Section 125.0104(3)(d), F.S. Fifty-six of the eligible fifty-nine counties levy this tax, with an estimated 2021-22 state fiscal year collection of $185 million in revenue. EDR, *2021 Local Government Financial Information Handbook*, *supra* note 3, at 259.

5 Section 125.0104(3)(m), F.S. Eight of the nine eligible counties levy this tax, with an estimated 2021-22 state fiscal year collection of $102 million in revenue. *Id.* at 265.

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-five of the sixty-seven eligible counties levy this additional tax, with an estimated 2021-22 state fiscal year collection of $205 million in revenue. *Id.* at 263.

7 Section 125.0104(3)(n), F.S. Thirty-one counties levy the additional professional sports franchise facility tax, with an estimated 2021-22 state fiscal year collection of $150 million in revenue. *Id.* at 269.

8 Section 125.0104(4)(e), F.S.

9 *Id.*

10 *Id.*

11 Section 125.0104(6), F.S.

12 Section 125.0104(3)(d), F.S.

13 S. 125.0104(4)(a), F.S.

plan for tourist development prepared by the tourist development council.[14] The plan for tourist development must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, as well as a list of the proposed uses of the tax and the approximate cost for each project or use.[15] The plan for 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.[16]

TDT Uses

Current law authorizes counties to levy and spend TDTs as a mechanism for funding a variety of tourist-related uses, including tourism promotion and the financing and construction of public facilities needed to increase tourist-related business activities in the county, beach restoration and maintenance projects, and convention centers and professional sports franchise facilities.[17] More specifically, the revenues derived from TDTs may be used for:[18]

- 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.
- Financing beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river.[19]
- In counties with populations less than 950,000, 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.[20]
- 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.

In addition, up to 10 percent of the tax revenue received by a county located adjacent to the Gulf of Mexico or the Atlantic Ocean may be used to reimburse for expenses incurred in providing public safety services[21] that are needed to address impacts related to increased tourism and visitors to an area. However, a county or municipality that does so may not use these funds to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department.[22]

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[14] S. 125.0104(4), F.S.
[15] *See* s. 125.0104(4), F.S.
[16] *See* s. 125.0104(4), F.S. The provisions found in s. 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.
[17] Florida Legislative Committee on Intergovernmental Relations, *Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10* (December 2009), http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf (last visited Feb. 4, 2022).
[18] S. 125.0104, F.S.
[19] 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. *See* s. 125.0104(5)(a), F.S.
[20] S. 125.0104(5)(b), F.S.
[21] Public safety services include emergency medical services as defined in s. 401.107(3), F.S., and law enforcement services. S. 125.0104(5)(c), F.S.
[22] *Id.*

Current law does not allow a county adjacent to the Gulf of Mexico or the Atlantic Ocean to reimburse for public safety service expenses using 10 percent of TDT revenue when a county receives revenue from taxes levied pursuant to a tourist impact tax within an area of critical state concern,[23] or if a county does not meet all of the following criteria:

- Generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;
- Have at least three municipalities; or
- Have an estimated population of less than 225,000.[24]

Revenues received by a county from the original 1 percent levy or the additional 1 percent levy 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 to promote and advertise tourism. The original 1 percent levy may also be used to operate or maintain a convention center.[25]

The use of TDT revenue for any purpose not expressly authorized in statute is expressly prohibited.[26]

Fiscally Constrained Counties

Fiscally Constrained Counties are counties entirely within a rural area of opportunity or where a 1 mill levy would raise no more than $5 million in annual tax revenue.[27] A rural area of opportunity is a rural community[28] or region that has been adversely affected by an extraordinary economic event, severe distress, natural disaster, or that presents a unique economic development opportunity of regional impact, as designated by the Governor.[29] Florida's fiscally constrained counties are: Baker, Bradford, Calhoun, Columbia, Desoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla and Washington.[30]

Effect of the Bill

The bill allows a county that is located adjacent to the Gulf of Mexico or Atlantic Ocean and is designated as a fiscally constrained county, as defined by current law, to use up to 10 percent of TDT revenue received to reimburse expenses for public safety services that are needed to address impacts related to increased tourism and visitors to an area.

The bill provides that counties and municipalities who opt to use 10 percent of TDT revenues to reimburse for expenses incurred for public safety services may not use this money to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department.

Under the bill, qualifying counties may utilize the 10 percent of TDT revenue to reimburse for expenses for public safety services even if they do not meet the following requirements currently in statute: generating $10 million in annual TDT proceeds; having at least 3 municipalities; and having a population less than 225,000.

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[23] *See* S. 125.0108, F.S.
[24] S. 125.0104(5)(c), F.S.
[25] S. 125.0104(5)(d). F.S.
[26] S. 125.0104(5)(e), F.S.
[27] S. 218.67(1), F.S.
[28] A "rural community" as the term relates to counties means a county with a population of 75,000 or fewer, or a county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer. *See* s. 288.0656(1)(e), F.S.
[29] S. 288.0656(1)(d), F.S.
[30] Florida Department of Revenue, *Fiscally Constrained Counties*, https://floridarevenue.com/property/Documents/fcco081210.pdf (last visited Feb. 4, 2022).

The fiscally constrained counties located adjacent to the Gulf of Mexico or Atlantic Ocean which the bill may benefit include: Dixie, Franklin, Gulf, Jefferson, Levy, Taylor, and Wakulla.[31]

B. SECTION DIRECTORY:

Section 1: Amends s. 125.0104, F.S., relating to tourist development tax; procedure for levying; authorized uses; referendum; enforcement.

Section 2: Provides an effective date of July 1, 2022.

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. See Fiscal Comments.

2. Expenditures:

   None. See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill authorizes certain counties to use existing TDT funds for the additional purpose of providing public safety services. This may encourage additional spending for public safety services in those counties but decrease spending of TDT funds for other purposes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

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[31] These counties may not have previously qualified to use ten percent of TDT funds for public safety purposes because none of the counties generated more than $10 million in TDT proceeds. *See* EDR, *2021 Local Government Financial Information Handbook*, *supra* note 3, at 260-61.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 8, 2022, the Tourism, Infrastructure & Energy Subcommittee considered a proposed committee substitute (PCS) for the bill with an amendment and reported the bill favorably as a committee substitute.

The PCS as amended:

- Provided that a fiscally constrained county located adjacent to the Gulf of Mexico or Atlantic Ocean may use up to a certain percentage of TDT revenues received to reimburse for expenses incurred in providing public safety purposes, even if a county does not meet the requirements to do so under current law.
- Capped the percentage of TDT revenues that fiscally constrained counties may use to reimburse for public safety services at 10 percent.
- Clarified that a fiscally constrained county that uses up to 10 percent of TDT revenue received to reimburse expenses for public safety services must do so for such services that are needed to address impacts related to increased tourism and visitors to an area.
- Clarified that counties who opt to use 10 percent of TDT revenues to reimburse for expenses incurred for public safety services may not use this money to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department.
- Removed a provision of the bill that increased the amount a county that meets certain criteria under current law can use to reimburse for expenses incurred in providing public safety services from 10 percent to 20 percent.
- Removed a provision of the bill that allowed a county that meets certain criteria under current law to use up to 20 percent of TDT revenue to reimburse for expenses incurred in providing tourism training programs.

This analysis is drafted to the committee substitute as approved by the Tourism, Infrastructure & Energy Subcommittee.