

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 1748

INTRODUCER: Senator Brodeur

SUBJECT: Tourist Development Tax

DATE: January 22, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1748 prohibits a tourist development council’s plan for tourist development, which is required for the allocation of tourist development tax revenue, from allocating more than 25 percent of the tax revenue received for a fiscal year to fund an individual project unless the governing board of the county approves the use by a supermajority vote.

The bill takes effect July 1, 2024.

II. Present Situation:

Tourist Development Taxes

Pursuant to the Local Option Tourist Development Act,¹ counties are authorized to levy five separate taxes on transient rental² 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

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 67 of Florida’s counties are eligible to levy this tax, but only 62 counties have done so, all at a rate of 2 percent. Office of Economic and Demographic Research (EDR), *2024 Local Option Tourist Tax Rates*, <http://edr.state.fl.us/Content/local-government/data/county-municipal/2024LOTTRates.pdf> (last visited Jan 22, 2024). These counties are estimated to realize \$583 million in revenue from these taxes in the 2023-2024 fiscal year. EDR *2023 Florida Tax Handbook*, p. 289, <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2023.pdf> (last visited Jan. 22, 2024).

⁴ Section 125.0104(3)(d), F.S. Fifty-six of the eligible 59 counties levy this tax, with an estimated 2023-2024 state fiscal year collection of \$254 million in revenue. EDR *2023 Florida Tax Handbook*, *supra* note 3 at.293.

- 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 consisting of county residents who are appointed by the county governing board.⁸ The tourist development council makes recommendations to the county governing board for the effective operation of special projects or for uses of the TDT revenue.⁹

Prior to the authorization of the original 1 or 2 percent TDT, the levy must be approved by a countywide referendum held at a general election,¹⁰ and additional TDT levies must be authorized by a vote of the county's governing board or by voter approval in a countywide referendum.¹¹ 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,¹² which must include a plan for tourist development prepared by the tourist development council.¹³ The plan must include the anticipated net tax revenue to be derived by the county for the two years following the tax levy, the tax district in which the enactment or renewal of the ordinance levying and imposing the TDT is proposed; and a list of the proposed uses of the tax and the approximate cost for each project or use.¹⁴ The plan must also include the approximate cost or expense allocation for each specific project or special use.¹⁵ The county governing board must adopt the plan as part of the ordinance levying the tax. The plan 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

The revenues derived from TDTs may be used for:¹⁷

⁵ Section 125.0104(3)(m), F.S. Ten of the 14 eligible counties levy this tax with an estimated 2023-2024 state fiscal collection of \$161 million in revenue. EDR 2023 Florida Tax Handbook, *supra* note 3 at 300.

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-six of the 67 counties levy this additional tax, with an estimated 2023-2024 state fiscal year collection of \$259 million in revenue. EDR 2023 Florida Tax Handbook, *supra* note 3 at 297.

⁷ Section 125.0104(3)(n), F.S. Thirty-six of the eligible 65 counties levy the additional professional sports franchise facility tax, with an estimated 2023-2024 state fiscal year collection of \$226 million in revenue. EDR 2023 Florida Tax Handbook, *supra* note 3 at 303.

⁸ Section 125.0104(4)(e), F.S.

⁹ *Id.*

¹⁰ Section 125.0104(6), F.S.

¹¹ Section 125.0104(3)(d), F.S.

¹² Section 125.0104(4)(a), F.S.

¹³ Section 125.0104(4), F.S.

¹⁴ Section 125.0104(4)(c), F.S.

¹⁵ *Id.*

¹⁶ Section 125.0104(4)(d), 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 Section 125.0104(5), F.S.

- 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.
- Promoting and advertising 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.¹⁸
- 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-private organization and open to the public.¹⁹
- 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.

III. Effect of Proposed Changes:

The bill amends s. 125.0104, F.S., to prohibit a tourist development plan from allocating more than 25 percent of the tax revenue received for a fiscal year to fund an individual project unless the governing board of the county approves the use by a supermajority vote.

The bill takes effect July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, section 18 of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature to pass legislation requiring counties and municipalities to spend funds, limiting their ability to raise revenue, or reducing the percentage of a state tax shared with them. This bill does not require counties or municipalities to spend funds, limit their authority to raise revenue, or reduce the percentage of a state tax shared with them as specified in Article VII, section 18 of the Florida Constitution. Therefore, the provisions of Article VII, section 18 of the Florida Constitution do not apply.

¹⁸ In counties with populations less than 100,000, up to 10 percent of TDT revenues may be used for financing beach park facilities. *See* s. 125.0104(5)(a), F.S.

¹⁹ Section 125.0104(5)(b), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise a state tax or fee. Therefore, the requirements of Art. VII, s. 19 of the Florida Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

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 Changes:**

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

None.

B. Amendments:

None.

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